

SUMMARY REPORT

PENN HILLS SCHOOL DISTRICT

March 2003

INTRODUCTION AND BACKGROUND

In 2002, the Department of the Auditor General (the Department) received complaints concerning alleged financial mismanagement and other improprieties at Penn Hills School District (PHSD). This office conducted an investigation, which included reviews of PHSD and vendor records and interviews of PHSD staff, several PHSD board members and representatives of vendors. Some of the complaints have been addressed by the school district itself independently of our investigation. The results of our investigation are summarized below. A copy of the draft report was sent to the PHSD on February 7, 2003, to provide an opportunity for a response. On March 4, 2003, the superintendent wrote to inform the Department that the school board did not wish to file a response. We received responses on behalf of, and from, several individual school board members. Information provided in the responses is included in relevant parts of the report or is summarized in a separate Responses section, together with the Department's comments.

SUMMARY

The summary is organized by reference to specific complaints. Specific recommendations are presented in italics.

1. It was alleged that a board member improperly obtained bulk food items from the PHSD food services department. Prior to our investigation, the PHSD board directed the solicitor to conduct an internal investigation of the allegation. While our inquiry was underway, we were given a copy of the solicitor's May 14, 2002, report and recommendations. Based on the information we obtained during our investigation, it appears that:
 - The PHSD food services department sold food to school booster groups and the Parent-Teachers' Association (PTA) for a number of years. The food services department also sold food in bulk to individuals, including teachers and administrators. The food services director, the business manager and several board members were aware of it. According to the current superintendent, PHSD did not have a bulk food sales policy in place during that time.
 - A PHSD board member began obtaining bulk food from the PHSD food services department in April 2000. The food was used for lunches in a church pre-school that also provides day care services. The PHSD board member is an administrative employee of the pre-school and prepares food for the pre-school program as an independent private catering business. According to the board member, the PHSD superintendent at that time approved the purchases.

- According to PHSD food services department records, the board member purchased approximately \$4,814 worth of food from PHSD between April 2000 and March 2001. She obtained additional food during the 2001-2002 school year but did not pay for it until March 22, 2002, at which time she paid approximately \$1,471 to PHSD.
- According to the food services director, she did not monitor the board member's account and did not realize that the board member was that far behind in paying for the food. The board member's previous payments were made in cash through a cash register at a middle school cafeteria.
- In connection with the solicitor's investigation and report, PHSD adopted a policy concerning sales of PHSD food. The new policy provides for bulk food sales only to community organizations, prohibits bulk food sales to individuals, requires pre-approval of sales by the superintendent, prohibits payment in cash, requires payments to be made at the food services director's office and prohibits purchasers from obtaining additional bulk food if payment is not made within 30 days.

Conclusions and Recommendation

The Public School Code prohibits a school director (i.e., board member) from engaging as a private person in any business transaction with the school district in which he or she is elected or appointed. 24 P.S. § 3-324. By obtaining bulk food from PHSD, the board member, as well as the school district, failed to comply with Section 3-324, regardless of whether or not the school district received payment for the food or the superintendent approved the transactions.

By allowing bulk food sales to organizations and individuals without established policies and procedures, or effective oversight, PHSD failed to exercise proper management of its facilities and supplies. The recently adopted policy is an appropriate step on the part of PHSD toward eliminating questionable practices concerning bulk food sales. If fully implemented and monitored, the new policy should prevent further similar questionable activities

It is recommended that PHSD should monitor closely the food services department's activities and ensure that all board members and administrators are aware of Section 3-324.

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

2. It was alleged that a board member failed to disclose a private business in the annual Statements of Financial Interest (SFI) filed pursuant to the Public Official and Employees Ethics Act (the Ethics Act).¹ A board member did not disclose an interest in a private catering business (see No. 1 above) in her annual SFI for 1998, 2000 and 2001. According to the board member, she has contacted the State Ethics Commission concerning the matter and was told to provide the appropriate disclosure by amending the forms. Copies of the amended forms were given to OSI on December 31, 2002.

Conclusions and Recommendation

The board member appears to now be in compliance with the Ethics Act's disclosure requirements. *PHSD should institute procedures to ensure that all board members are aware of the Ethics Act's financial disclosure requirements.*

As stated above, a copy of the report will be provided to the State Ethics Commission for review.

3. Allegations were made that the business manager and a board member, in separate instances, had misused PHSD equipment. The business manager told OSI that he took a PHSD "Bobcat" tractor and used it at his residence, where it broke down and required repairs made under the warranty. A board member stated that she used PHSD heating trays for food catering at PHSD functions. According to the business manager, PHSD has a policy through which school district property is loaned to employees, including such items as chairs for events and the bus garage as a place for work on the employees' personal vehicles (employees are required to use their own tools while working on their vehicles).

Conclusions and Recommendation

The specific matters mentioned in the complaints appear to have been minor or related to PHSD activities. The "policy" described by the business manager is questionable and could be subject to abuse and financial loss to PHSD, if not properly managed and monitored, and made subject to board approval. *It is recommended that the PHSD board review the policy and, if approved by the board, appropriate procedures be adopted to protect the school district's property.*

4. It was alleged that a mower and a tractor were purchased by PHSD but that there are no records concerning the equipment. The complaint did not provide any specific information to identify the items in question. The business manager stated that PHSD conducts an annual inventory of its equipment. There was no evidence that equipment is missing or unaccounted for.

¹ 65 Pa. C.S. §§ 1101-1113.

5. It was alleged that the business manager receives a monthly annuity payment from PHSD and that, beginning with the 2001-2002 school year, he received an annual salary increase, both of which are, allegedly, not reflected on all payroll reports. According to information provided to OSI, payroll amounts are verified by the school district's independent auditing firm. The business manager received annuity payments and a 2001-2002 school year salary increase. Both are included in the auditor's report of the business manager's total annual salary for the period. The annuity payments are made to an investment firm and are listed in the school district's payroll records. The annuity is treated as deferred compensation. It is provided for in the business manager's employment contract and shown in PHSD tax records. We found no evidence of impropriety.
6. Several allegations were received concerning contracting/bidding:
 - a. It was alleged that a board member threatened to withhold her vote to approve the purchase of two vehicles by PHSD from the low bidder unless she received preferential treatment from the vehicle dealer.

The business manager told OSI that the vehicles in question were purchased through an approved contractor list administered through the Central Westmoreland Council of Governments (CWCOG). He said he did not recall that the board member asked for special treatment from the dealer in return for her vote of approval. The former superintendent told OSI that he "heard" that the board member told the dealer she would not approve the purchase if she did not get the price she wanted in regard to a private vehicle purchase. OSI interviewed a representative of the dealer. He confirmed that the vehicles were purchased through the CWCOG contract. He had no knowledge of any sale to the board member.

The board member told OSI that she was involved in a dispute with the dealer concerning the term of a warranty on a vehicle purchased by a member of the board member's family and that the dispute was resolved after the board member obtained the services of an attorney. The board member denied that she threatened to cancel a sale by the dealer to PHSD.

Conclusions

There was insufficient evidence to warrant a finding of criminal conduct or other wrongdoing in connection with the purchase of the vehicles. The report will be provided to the Allegheny County District Attorney's office and the State Ethics Commission for their information and further review if warranted.

- b. It was alleged that a maintenance supply vendor obtained contracts with PHSD because a PHSD board member was employed by the vendor. According to the board member, she worked for the vendor for about nine

months (approximately June 2000 to April 2001). She was not an officer of the business and did not set policy or establish prices. She stated that the firm's sales manager asked her how the vendor would go about getting business from PHSD; she told him to contact the business office and submit a proposal. The board member also said that, on the basis of advice from the PHSD solicitor, she understood that she was not barred from participating and voting on board matters involving the vendor.

According to PHSD records, PHSD purchased items from the vendor during the 2000-2001, 2001-2002 and 2002-2003 school years. The total amount of the purchases to date is about \$67,548. The first order was on October 6, 2000. Most of the purchases were for small quantities of supplies in amounts of less than \$500. PHSD made purchases totaling \$6,333.50 from the vendor during the time the board member was employed by the vendor. The board member reported her employment with the vendor on her Ethics Act SFI for the period. There were two purchases, in the amount of \$4,559.25 and \$4,306.25, in June 2001. We found no records of an overall purchasing agreement between PHSD and the vendor, or of bids or price quotes obtained in connection with the purchases. We found no evidence of improper influence or other questionable actions by the board member.

Conclusions

There was no evidence of wrongdoing on the part of the board member in connection with the purchases. The purchases in June 2001 may have been made in violation of the Public School Code's requirement that written or telephone price quotes be requested from at least three qualified vendors for all purchases of supplies that exceed \$4,000 and that written records be kept of such quotes or of the absence of qualified vendors when quotes are not obtained. 24 P.S. § 8-807.1. We found no record of an opinion or advice from the solicitor concerning the propriety of the board member participating in board matters relating to the vendor.

As stated previously, a copy of this report will be provided to the State Ethics Commission for review.

- c. It was reported to OSI that the PHSD solicitor has been directed to conduct an internal investigation of alleged "piecemealing" (i.e., dividing up charges for work to stay below the statutory minimum threshold requirement to use competitive bidding or obtain price quotes from three qualified vendors) in connection with construction of a pole barn, additions to two school buildings, and lighting for a football field. Due to the solicitor's ongoing internal investigation, we deferred taking any further action concerning the matter at this time. The results of the

solicitor's inquiry should be made available to the Department's auditors in connection with the next regular audit of the school district.

- d. It was alleged that a board member was responsible for bid-rigging in connection with the hiring of a school photographer. OSI learned that the school photographer is chosen by the PHSD Parent Teachers Association (PTA), not by the school district, and that the costs are paid by the parents. Since the activity is not paid for with school district funds, the Public School Code's requirements concerning procurement and bidding do not apply to the selection process. The complaint should be directed to the attention of the PTA for whatever action that organization may consider appropriate.

Recommendation

Overall, with regard to the alleged contracting/bidding irregularities, it is recommended that PHSD establish regular monitoring and oversight of contracting on the part of the school district to ensure compliance with Public School Code and PHSD requirements.

7. We received an allegation of grade tampering on the part of a board member. The alleged incident took place in the 1995-1996 school year. The allegation could not be confirmed. Based on interviews, it appears that a student's grade was changed. According to the superintendent during that time, the change was warranted due to the school district's failure to follow the student's Individualized Education Program (IEP). The board member denied that there had been any grade tampering.

Conclusion

The report will be referred to PDE for its information and further review of the matter if warranted.

8. It was alleged that the PHSD food services director made purchases of gifts for staff members with PHSD funds without paying reimbursement and used a phone card purchased with a PHSD credit card without having to submit itemized bills. We found no documentation or other evidence to support the allegations.

The food services manager said that the food services department uses a petty cash fund with a balance of about \$300 for last minute requests and specialty items; obtains gift certificates used as rewards to employees for referrals of new cafeteria employees; and has used Sam's Club for purchases of specialty items. She said that she used a phone card to pay for calls to the school while out of the office. She did not keep logs of the calls.

Conclusions and Recommendation

We found no evidence to confirm that the food services director misused PHSD funds or property. *It is recommended that PHSD establish appropriate policies and procedures for purchases of gift certificates, employee rewards and use of phone cards, and that such policies and procedures be subject to board approval.*

9. During the investigation, it was alleged that, in several cases, board members did not pay timely reimbursement to PHSD for the cost of airline tickets of guests accompanying the board members on travel to conventions which the board members were authorized to attend.

This matter is being referred to the Department's Bureau of School Audits to be considered in connection with the next regular audit of PHSD.

Recommendation

It is recommended that PHSD establish specific time periods during which board members are required to pay reimbursement of travel and other expenses.

RESPONSES

As stated in the Introduction and Background, the PHSD school board declined to submit a response. However, as noted in the report, PHSD has taken positive corrective steps in regard to the bulk food sales issue. The Department will also continue to monitor the school district's current and future corrective actions as part of its regular audits.

Several board members, as individuals, have communicated to the Department that all policy implications of the allegation have been reviewed and corrected or will be addressed in the immediate future by PHSD.

Counsel for the individual board member who made the bulk food purchases that were a subject of the report (see pp. 1-2) submitted the following:

- The superintendent stated that no improprieties were found and that the board member had paid for all of the food.
- The board member was authorized by the superintendent to make the purchases.
- As a result of amendments to Section 3-324 of the Public School Code in June 2001, the purchase of items by a school board member from a school district was excluded from the activities prohibited by the statute.
- Referral of issues related to possible violations of the Ethics Act is unnecessary because the board member has filed amended SFI forms with the State Ethics Commission.

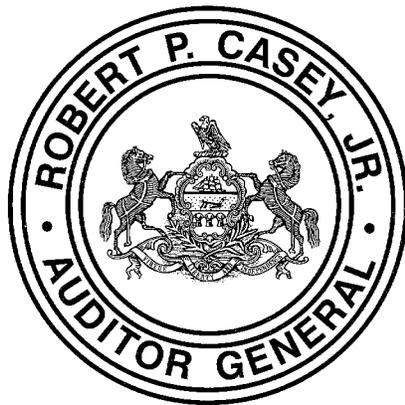
THE DEPARTMENT OF THE AUDITOR GENERAL'S COMMENTS

Counsel's submission accurately states the results of the school district's report of its internal audit/investigation. However, the school district's report did not consider the question of whether bulk sales of food to a school board member were prohibited by the Public School Code. Also, noted in our report, the superintendent does not have authority to waive the Code's prohibition of such transactions.

We disagree with counsel's interpretation of the 2001 amendment to Section 3-324. The amendment states that it is not a violation of Section 3-324 for a school district to contract for the purchase of goods or services from a business with which a school director is associated. It says nothing about sales by the school district. The amendment does not make the type of transaction that occurred here permissible. Furthermore, the amendment also specifically states that the contracting is only allowed to the extent permitted by and in compliance with the Ethics Act. At the time of the bulk food purchases, the school board member in the case had not disclosed her interest in the

private catering business as required by the Ethics Act. Amended disclosure forms were filed in December 2002 (see p.3 of this report).

The State Ethics Commission is the appropriate agency to make final determinations regarding violations of and compliance with the Ethics Act. For that reason, the final report, including all of the information submitted by counsel for the school board member, will be sent to the Commission for review.



REPORT DISTRIBUTION LIST

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

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