



**CARBONDALE AREA SCHOOL DISTRICT
LACKAWANNA COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT**

OCTOBER 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
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Mr. Gary Smedley, Board President
Carbondale Area School District
101 Brooklyn Street
Carbondale, Pennsylvania 18407

Dear Governor Corbett and Mr. Smedley:

We conducted a performance audit of the Carbondale 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 February 19, 2010 through April 24, 2013, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2012, 2011, 2010, and 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 significant noncompliance with relevant requirements, as detailed in the three audit findings and one observation within this report. A summary of the results is presented in the Executive Summary section of the audit report. These findings and observation include recommendations aimed at the District and a number of different government entities, including the Pennsylvania Department of Education.

Our audit findings, observation, 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,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale".

EUGENE A. DEPASQUALE
Auditor General

October 30, 2013

cc: **CARBONDALE 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 Carbondale Area School District (District). 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 February 19, 2010 through April 24, 2013, 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 2011-12, 2010-11, 2009-10, and 2008-09 school years.

District Background

The District encompasses approximately 19 square miles. According to 2010 federal census data it serves a resident population of 13,862. According to District officials, the District provided basic educational services to 1,615 pupils through the employment of 121 teachers, 94 full-time and part-time support personnel, and 6 administrators during the 2011-12 school year. Lastly, the District received \$11 million in state funding in the 2011-12 school year.

Audit Conclusion and Results

Our audit found significant noncompliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, as detailed in the three audit findings and one observation within this report.

Finding No. 1: Errors in Reporting Membership for Children Placed in Private Homes Resulted in an Underpayment of \$80,067.

Our audit of the Carbondale Area School District's (District) pupil membership reports submitted to the Pennsylvania Department of Education by the District for the 2010-11 and 2009-10 school years found reporting errors for children placed in private homes and a lack of internal controls resulting in underpayments of \$36,917 for the 2010-11 school year and \$43,150 for the 2009-10 school year (see page 7).

Finding No. 2: The District Educated Non-Resident Students for Free, Resulting in \$150,571 in Lost Tuition Revenue.

Our audit of the Carbondale Area School District's (District) child accounting records found that between the 2008-09 and 2012-13 school years the District educated seven students living outside the District's boundaries without requiring them to pay tuition. The administration made this decision without the approval of the District's Board of School Directors. This decision resulted in a loss of revenue of \$150,571 for the 2008-09 through 2011-12 school years and an estimated loss of revenue of \$60,159 for the 2012-13 school year (see page 10).

Finding No. 3: The Board of School Directors Violated the Public School Code by Prematurely Terminating the Former Superintendent's Contract.

The Carbondale Area School District Board of School Directors (Board) accepted the resignation of the former Superintendent in order to enter into a new Agreement. The new Agreement had a term of five years, from September 10, 2007 through September 9, 2012.

Although the resignation of the Superintendent created a vacancy in the office, the vacancy was conditional upon the Superintendent receiving a new Agreement. Thus, the Board circumvented Section 1073(a) of the Public School Code requiring the Board to enter into a contract with the Superintendent during the last year of the Agreement and to serve a term of three to five years (see page 13).

Observation: Board Approved Generous Retirement Packages for a Former Superintendent and Two Former Principals Totaling At Least \$690,466.

As part of our audit, we reviewed the Carbondale Area School District's (District) Employment Agreement with its former Superintendent and the District's Act 93 Professional Compensation Plan, which outlines the benefits for all other District administrators. We found that the District's Board of School Directors had approved contracts that provided administrative employees with excessive compensation and retirement benefits (see page 15).

Status of Prior Audit Findings and Observations.

With regard to the status of our prior audit recommendations to the Carbondale Area School District (District) from an audit we released on April 25, 2012, we found that the District had taken appropriate corrective action in implementing our recommendations pertaining to errors in reporting pupil transportation and inadequate documentation (see page 21), unmonitored intermediate unit system access and logical access control weaknesses (see page 22), and conflict of interest resulting in ethics violations by the former transportation coordinator (see page 23).

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 February 19, 2010 through April 24, 2013, except for the verification of professional employee certification which was performed for the period July 1, 2012 through December 19, 2012.

Regarding state subsidies and reimbursements, our audit covered the 2011-12, 2010-11, 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. 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 their 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 votes made by the District's Board of School Directors free from apparent conflicts of interest?
- ✓ 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, 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, 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 control 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 25, 2012, we reviewed the District's response to PDE dated March 20, 2013. We then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding No. 1

Errors in Reporting Membership for Children Placed in Private Homes Resulted in an Underpayment of \$80,067

Criteria relevant to the finding:

Pupil membership classifications must be maintained and reported in accordance with the Pennsylvania Department of Education's (PDE) guidelines and instructions, since membership is a major factor in determining state subsidies and reimbursements. Beginning in 2009-10, PDE required that child accounting data be collected in a database called the Pennsylvania Information Management System (PIMS).

According to PDE's *PIMS User Manual*, all Pennsylvania local education agencies must submit data templates in PIMS to report child accounting data. PIMS data templates define fields that must be reported. Four important data elements from the Child Accounting perspective are: District Code of Residence; Funding District Code; Residence Status Code; and Sending Charter School Code. In addition, other important fields used in calculating state education subsidies are: Student Status; Gender Code; Ethnic Code Short; Poverty Code; Special Education; Limited English Proficiency Participation; Migrant Status; and Location Code of Residence. Therefore, PDE requires that student records are complete with these data fields.

The Pennsylvania Department of Education (PDE) bases all local education agencies' (LEA) state subsidy calculations on the student record data it receives in the Pennsylvania Information Management System (PIMS). PIMS is a statewide longitudinal data system or "data warehouse," designed to manage and analyze individual student data for each student served by Pennsylvania's Pre-K through Grade 12 public education systems.

PDE began calculating the LEA's state subsidy using the data that LEAs enter into PIMS beginning in the 2009-10 school year. Therefore, it is vitally important that the student information entered into this system is accurate, complete, and valid. LEAs must have strong internal controls in place to ensure the integrity of this data and to mitigate the risk of erroneous reporting. Without such controls, the LEA cannot be assured it receives the proper state subsidy.

Our audit of pupil membership reports submitted to PDE by the Carbondale Area School District (District) for the 2010-11 and 2009-10 school years found reporting errors for children placed in private homes (foster children) and a lack of internal controls, resulting in underpayments to the District of \$36,917 for the 2010-11 school year and \$43,150 for the 2009-10 school year.

The District's membership days for foster children during the 2010-11 and 2009-10 school years were correctly coded in PIMS as non-resident days. However the funding district and educating district for these students were the same. The PIMS system rejects any record that has these fields as the same district. As a result, the District's non-resident students were not uploaded, causing the days to not be reported. Additional errors in membership days were due to District personnel not reporting days for some students at all. These errors resulted in an understatement of 352 days for elementary students and 650 days for secondary students during the 2009-10 school year.

*Criteria relevant to the finding
(continued):*

According to the federal Government Accountability Office's (GAO) (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.

Membership days for the 2010-11 school year were understated by 180 days for elementary students and 545 days for secondary students.

District personnel misunderstood the PIMS guidelines, which caused the reporting errors. PDE has been provided a report detailing the errors for use in recalculating the District's reimbursement.

The auditor reviewed the subsequent year report for 2011-12 and found similar errors. District personnel contacted PDE and found they were able to submit revised reports and corrected the nonresident membership days.

It is the responsibility of District management to have internal policies and procedures in place to ensure that student data is accurately collected and submitted to PDE. Without such internal controls, the District cannot be assured that its student data is accurate or that it is receiving the appropriate subsidy. For example, if District personnel had reconciled the PIMS reports with the information in the District's student information system, they may have seen that the non-resident students had not been uploaded into PIMS. This error could have been corrected before the information was submitted to PDE for payment.

Recommendations

The *Carbondale Area School District* should:

1. Establish internal controls that include reconciliations of the data that is uploaded into PDE's PIMS system with the information in the District's student information system.
2. Request additional training from PDE to ensure that the personnel tasked with PIMS reporting thoroughly understand PDE's guidelines and instructions.
3. Strengthen controls to ensure pupil membership is reported in accordance with PDE guidelines and instructions.
4. Compare letters for children placed in private homes with District reports to ensure that student membership is properly classified.

5. Perform an internal review of membership reports and summaries prior to submission of final reports to PDE.

The *Pennsylvania Department of Education* should:

6. Adjust the District's allocations to resolve the underpayment of \$80,067.

Management Response

Management stated the following:

“The District concurs with the finding of the Auditor General’s Office involving membership issues from this time frame due to the complexities of the change-over in the child accounting reporting method to the PIMS system from the CAD system.”

Auditor Conclusion

While we acknowledge that the transition to the PIMS system for student reporting was difficult, that is all the more reason for the District to establish appropriate internal controls over the collection and submission of the data. The finding will stand as written.

Finding No. 2

The District Educated Non-Resident Students for Free, Resulting in \$150,571 in Lost Tuition Revenue

Criteria relevant to the finding:

Section 1316 of the Public School Code (PSC) provides, in part:

The board of school directors of any school district may permit any non-resident pupils to attend the public schools in its District upon such terms as it may determine, subject to the provisions of this act.

Section 2561(5) of the PSC, provides:

A school District shall compute the tuition charges for pupils who are residents of another school District. . . . At the end of each school year, the tuition charges shall again be computed and be based on the actual expenses for the school year immediately preceding and the tuition charges for non-resident pupils shall then be adjusted in accordance with this latter computation. The school District in which the non-resident pupil is a legal resident shall pay the tuition charges in accordance with the computation based upon these actual expenses.

District Policy No. 202 states, in part:

The Board shall operate district schools for the benefit of students resident in this district who are eligible for attendance.

The Board may permit the admission of nonresident students in accordance with terms of this policy.

Our audit of the Carbondale Area School District's (District) child accounting records found that the District provided tuition free education for seven ineligible non-resident students from the 2008-09 through 2012-13 school years without the Board of School Directors' (Board) approval. This resulted in a loss of revenue of \$150,571 for the 2008-09 through 2011-12 school years and an estimated loss of revenue of \$60,159 for the 2012-13 school year.

Six of the non-resident students were children of teachers employed by the District. A non-resident student is a student educated by a district whose parents or legal guardian resides in another district. Section 2561 of the Public School Code (PSC) governs tuition charges for pupils attending classes from other districts.

For three of these six students, District personnel accepted inadequate and outdated documentation to indicate the students were residents of the District. For example, two of the teachers provided documentation that their children lived at their grandparents' home without the required 1302 affidavit. This occurred even when the District maintained personnel records for these teachers with their correct addresses showing that they lived within other districts. The other three students' records showed an address that appeared to be within the District, but further review revealed they were actually part of another district. Personnel records, tax bills, and voter registration records were used to determine the parents' actual addresses.

The other student was the child of a former administrator who was eligible under a District policy that permitted the child to attend school in the District free of charge until she retired at the end of the 2011-12 school year. However, the District continued to educate the student tuition-free for the 2012-13 school year after the administrator had retired.

Criteria relevant to the finding (continued):

In accordance with Section 1302 of the PSC, the Board shall require that appropriate legal documentation showing dependency or guardianship or a sworn statement of residential support be filed with the Board Secretary before an eligible nonresident student may be accepted as a student in the district schools.

The Board may require a resident to submit additional reasonable information to substantiate a sworn statement, in accordance with guidelines issued by the Pennsylvania Department of Education.

The Board reserves the right to verify claims of residency, dependency, and guardianship and to remove from school attendance a nonresident student whose claim is invalid.

The Superintendent shall develop procedures for the enrollment of nonresident children which: 1. Admit such students only on proper application and submission of required documentation by the parent or guardian. 2. Verify claims of residency.

The Superintendent shall recommend to the Board for its approval the admission of qualified applicants.

Board Policy No. 607 states:

In accordance with § 1316 of the PSC: when the district receives students who are residents of another school district, it shall assess tuition charges in accordance with the school code. Tuition shall be assessed for those students whose attendance has been approved by the Board, in accordance with policy.

When a student attends more than one week, the sender will be charged for a full month of tuition.

The District's Professional Compensation Plan (Act 93), effective November 19, 2012 through June 30, 2013, states the following provision will apply to all members of the Act 93 plan:

“The District will permit the admission of non-resident students who are children of full-time employees of the District as outlined in PDE child accounting regulations. Such admitted students will not be required to pay school district tuition.”

The errors in determining residency, and the resulting uncollected tuition, were caused by District personnel's failure to take adequate measures to verify residency of the students at the time of registration and the lack of Board approval of the tuition waivers, resulting in a loss of tuition revenue of \$50,438, \$40,881, \$30,459, and \$28,793 for the 2011-12, 2010-11, 2009-10, and 2008-09 school years, respectively

Tuition loss for the 2012-13 school year is estimated to be \$60,159 based on the tuition rate used for the 2011-12 school year since the tuition rate for the 2012-13 school year is not available at this time.

Furthermore, five additional students received tuition waivers because they were children of administrators covered under the Act 93. Board approval was again not obtained to waive tuition for these students.

Although Section 1316 of the PSC allows the Board to waive tuition rates, there is no provision in the District's Board Policy No. 607 entitled *Tuition Income*, No. 202 entitled *Eligibility of Nonresident Students*, nor was there Board approval noted in the board meeting minutes to substantiate the tuition waivers.

Management has the responsibility for the establishment and maintenance of internal controls in order to provide reasonable assurance that the Board is aware of the cost to educate the nonresident children of District teachers and the effect the waivers have on the District's budget prior to educating those students. In addition, the information in these arrangements should be more transparent to the public so that the taxpayers can consider such information when determining whether the Board has made decisions in the best interest of the District, the taxpayers, and the

students. The taxpayers have the right to expect that their hard-earned money will be spent on the education of resident District students and not for non-resident students for which taxes are being paid to other districts by those student's parents.

District personnel have been provided a report detailing the cost of the tuition waivers to the District.

Recommendations

The *Carbondale Area School District* should:

1. Strengthen internal control procedures for determining student residency.
2. Receive Board approval for each tuition waiver prior to educating a non-resident student free of charge.
3. Implement a Board policy to address tuition waivers, specifically, waivers for teachers' children.
4. Consult with the District solicitor to determine the teachers' and administrators' financial responsibility for past tuition of \$150,571 and the projected 2012-13 tuition of approximately \$60,159 not collected by the District.

Management Response

Management waived the opportunity to reply at this time.

Finding No. 3

The Board of School Directors Violated the Public School Code by Prematurely Terminating the Former Superintendent's Contract

Criteria relevant to the finding:

Section 1073(a) of the Public School Code, 24 P.S. § 10-1073(a) (as last amended by Act 141 of 2012, effective September 10, 2012), provides:

“(a) The board of school directors of each school district shall meet at its regular place of meeting, during **the last year of the term** of the district superintendent or at any other time when a vacancy shall occur in the office of district superintendent, at an hour previously fixed by the board. The secretary of each board of school directors shall mail to each member thereof at least five days beforehand, a notice of the time, place and purpose of such meeting. **At such meeting** the board shall elect or approve a properly qualified district superintendent to enter into a contract to serve a term of three to five years from the first day of July next following his election or from a time mutually agreed upon by the duly elected district superintendent and the board of school directors. The contract shall be subject to the act of February 14, 2008 (P.L. 6, No. 3), known as the “Right-to-Know Law.” [Emphases added.]

Our review of the Carbondale Area School District (District) former Superintendent's (Superintendent) Employment Agreement (Agreement) revealed that on June 14, 2004, the Board of School Directors (Board) entered into an Agreement with an individual to serve as the District Superintendent. The Agreement had a term of five years, beginning July 1, 2004 and ending no later than June 30, 2009.

At the August 20, 2007 board meeting, the Board approved the extension of the former Superintendent's Agreement for an additional five years, under the same terms of the current Agreement that was not scheduled to end until June 30, 2009.

At the September 10, 2007 board meeting, the District's solicitor addressed the public regarding the Agreement. He indicated that because there was still nearly two years left on the original contract, the August 20, 2007 motion would have extended the former Superintendent's Agreement beyond the five years, which was not permissible. Therefore, in order to convey the intentions of the Board to give the former Superintendent a new five-year contract, the attorney recommended the former Superintendent resign from the current contract and have the Board make a new motion to appoint him to a new five-year contract effective September 10, 2007, at the same salary and terms of his current Agreement.

At the same board meeting, the Board accepted the former Superintendent's resignation and entered into a new Agreement with him under the same salary and terms of his current Agreement. The new Agreement had a term of five years, from September 10, 2007 through September 9, 2012.

Although the resignation of the former Superintendent created a vacancy in the office, the vacancy was conditional upon the former Superintendent receiving a new Agreement. Thus, the Board circumvented Section 1073(a) of the Pennsylvania School Code (PSC) requiring the Board to enter into a contract with the former

Superintendent during the last year of the Agreement and to serve a term of three to five years.

The five (of nine total) Board members that made and seconded the motions resulting in the approval of the early renewal of the Agreement, the resignation of the former Superintendent, and the approval of the subsequent Agreement were not re-elected in the May 2007 primary election. Therefore, their vote on the new Agreement bound the successor board to their decision, which did not allow the opportunity for the successor board to act on the original agreement during the last year it was in place, in accordance with the PSC.

Recommendations

The *Carbondale Area School District* should:

Only approve renewals of contracts or agreements entirely consistent with Section 1073(a) of the PSC, which requires that an agreement only be extended during the last year of the term of the District superintendent and to serve a term of three to five years.

Management Response

Management stated the following:

“The Board of Directors approved the motions upon review and advice of the District’s solicitor at that time. This is a legal conclusion that is outside the scope of the District Administration’s purview and is germane to the School District’s Board of Education.”

Auditor Conclusion

Although the District disagreed with the finding, Section 1073(a) of the PSC requires that an agreement only be extended during the last year of the term of the District superintendent and to serve a term of three to five years. Therefore, the finding will stand as written.

Observation

Board Approved Generous Retirement Packages for a Former Superintendent and Two Former Principals Totaling At Least \$690,466

Criteria relevant to the observation:

Section 1073(a) of the Public School Code (PSC), 4 P.S. § 10-1073(a), requires school districts to enter into three-to-five-year employment contracts with their superintendents.

Section 1073 of the PSC, 4 P.S. § 10-1073, as amended by Act 141 of 2012, effective September 10, 2012, states, in part:

(e) The following shall apply:

(2) A contract for the employment of a district superintendent or assistant district superintendent shall do all of the following:

(ix) Limit compensation for unused sick leave in new employment contracts entered into after the effective date of this subsection for district superintendents or assistant district superintendents who have no prior experience as a district superintendent or assistant district superintendent to the maximum compensation for unused sick leave under the school district's administrator compensation plan under Section 1164 in effect at the time of the contract.

As part of our audit, we reviewed the Carbondale Area School District's (District) Employment Agreement (Agreement) with its former Superintendent and the District's Act 93 Professional Compensation Plan (Act 93 Plan), which outlines the benefits for all other District administrators. We found that the District's Board of School Directors (Board) had approved contracts that provided administrative employees with excessive compensation and retirement benefits.

Former Superintendent

The Board entered into an Agreement with its former Superintendent on September 10, 2007. The Agreement had a term of five years, from September 10, 2007 through September 9, 2012. For the last year of the contract, September 10, 2011 through September 9, 2012, the former Superintendent's annual compensation was \$140,722, plus \$17,594 that the District paid into a 457(b) deferred compensation plan. The Agreement also provided the former Superintendent with a variety of additional benefits. As outlined below, several of these benefits permitted the former Superintendent to substantially increase his retirement package.

Benefit Expansion Clause: According to the Agreement, the former Superintendent was entitled to all benefits, including salary increases, provided to any other employee in the District. This provision allowed the former Superintendent to increase the value of some of the benefits outlined in the Agreement. For example, the Agreement stated that he would receive a \$150,000 Executive Life Insurance Policy. However, the Act 93 Plan, effective from July 1, 2009 through June 30, 2012, provided the District's administrators with a \$200,000 Executive Life Insurance policy, and the teacher's contract provided for a \$60,000 simple term life insurance policy. Technically, under the terms of the Agreement, the District was obligated to provide the former Superintendent with each one of these policies, for a total of \$410,000 in life insurance coverage. This would have been a significant added cost to the District, if the former Superintendent had not agreed to receive only the \$200,000

Executive Life Insurance Policy offered to the District's other administrators under the Act 93 Plan.

Unused Vacation and Personal Days Accumulate as Sick Leave: The Agreement states that any unused vacation and personal days were to be converted to sick leave and accumulated from year to year. The Agreement also stated that when the former Superintendent ended his employment with the District, he would be paid \$150 for each unused sick, personal, or vacation day. The District's Act 93 Plan also permitted administrators to convert unused vacation days to sick days, and receive payment for those days at their daily rate. These provisions allowed the former Superintendent to accumulate an unlimited amount of leave and to significantly increase the likelihood that the District would pay him a significant sum of money at the termination of his employment.

Early Retirement Incentive: According to the Agreement, if the Superintendent retired prior to the age of 65, he would receive several additional benefits.

- An early retirement bonus of seventy-five percent (75%) of his salary in the final year of the Agreement, to be paid in four equal installments.
- A payment equal to the 457(b) contribution in the final year of the Agreement that be deposited into a 457(b) program for five years following retirement.
- Continued medical, dental, prescription and life insurance coverage for the former Superintendent and his spouse at no cost until the former Superintendent reaches age 65.

The former Superintendent retired effective June 30, 2012. Per the Agreement, the District paid him the following:

Former Superintendent's Retirement Package	
*Early Retirement Bonus	\$118,737
**Early Retirement Annuity Bonus	\$87,970
684 Unused Sick Days @ \$150 Per Day	\$102,600
Health Coverage For Former Superintendent and Spouse Until 65	\$66,523
Total Payment	\$375,830
*This amount will be paid over four years in four equal installments.	
**This amount will be paid over five years in five equal installments.	

Per the Agreement, the District will also continue to pay the \$744 annual premiums on the Superintendent's \$200,000 life insurance policy for the rest of his life (these premiums could rise as high as \$57,337 per year if the former Superintendent lives to age 88.)

Furthermore, the former Superintendent substantially benefited from the provision in his contract that made him eligible for all other Districts employees. Specifically, when the former Superintendent ended his employment with the District, the Agreement entitled him to receive payment for all unused leave at a rate of \$150 per day. However, under the Act 93 Plan, he was also able to cash out unused vacation time and be paid at his daily. The former Superintendent took advantage of that benefit on June 15, 2012, when the District paid him for 31 unused vacation days at his daily rate of \$608.87 totaling \$18,875¹. If the former Superintendent had held those 31 vacation days until his retirement 15 days later on June 30, 2012, his payment for those days would have been \$4,650.

Two Former Principals

Our audit also found that the District's former Principal and a former Vice Principal received excessive compensation and retirement packages as a result of the District's approved Act 93 Plan. Like the former Superintendent's Agreement, the Act 93 Plan entitled both the former principals to:

- Receive all fringe benefits provided to any other employees of the District.
- Convert unused vacation days to sick days and receive payment for those days at their daily rate.
- Accumulate an unlimited amount of unused sick leave.
- Payment on a \$200,000 life insurance policy for life.
- Payment for a percentage of their salary as an incentive for retiring before age 65.

Both the former Principal and former Vice Principal retired from the District effective June 30, 2012. As a result of the

¹The daily rate is the annual salary of \$140,722.45, plus the annuity compensation of \$17,594 divided by 260 work days.

provisions of the Act 93 Plan, the District paid them the following:

Former Principal's Retirement Package	
*Early Retirement Bonus 36% of Final Salary	\$44,575
395 Unused Sick Days @ \$115 Per Day	\$45,425
Health Coverage For Former Principal & Spouse Until 65	\$66,523
<i>Total Benefit</i>	\$156,523
*This amount will be paid over four years in four equal installments.	

Former Vice Principal's Retirement Package	
*Early Retirement Bonus 90% of Final Salary	\$90,338
285 Unused Sick Days @ \$115 Per Day	\$32,775
Health Insurance Buy-Out of Former Vice Principal Over 10 years	\$35,000
<i>Total Benefit</i>	\$158,113
*This amount will be paid over four years in four equal installments.	

In addition, both administrators obtained payment for vacation days at their daily rate, rather than the retirement rate of \$115, by cashing those days in immediately prior to their retirement. The former Principal was paid for 16 vacation days at the daily rate of \$386.06 on June 7, 2012, for a total of \$7,768. The former Vice Principal was paid for 33 vacation days at the daily rate of \$386.06 for a total of \$12,740.

Furthermore, under the Act 93 Plan, the District will also continue to pay the former administrator's annual premiums on their \$200,000 life insurance policies for life (this could cost the District as much as \$82,902 per year if the Principal and Vice Principal both live to age 88).

The Board's decision to approve the generous terms in the former Superintendent's Agreement and its Act 93 Plan was not in the best interest of the taxpayers. The Board created excessive compensation and retirement packages by making the former Superintendent and the District's administrators eligible for all benefits provided to other District employees and permitting them to accumulate an unlimited number of sick days. Likewise, the early

retirement incentives available to these employees significantly increased the payouts that the District will be responsible for over the next four to five years.

Retirement Compensation Packages	
Former Superintendent	\$375,830
Former Principal	156,523
Former Vice Principal	158,113
Total:	\$690,466

The approximately \$690,466, in retirement compensation that the District’s Board contractually agreed to pay to the former Superintendent and to its administrators should have been spent on the education of the District’s students. In addition, this amount could continue to rise in the future, and as a result, the District will be required to pay off these excessive retirement packages for years to come. Furthermore, the District’s taxpayers had already met their obligations for funding the retirement of these individuals through the District’s regular payments to the Public School Employees’ Retirement System, which guaranteed them a state pension.

Recommendations

The *Carbondale Area School District* should:

1. Consider the taxpayers’ expectation that their money will be used for the education of the District’s children when negotiating employee agreements.
2. Ensure all of the District’s employment agreements are as transparent as possible, so that the District’s taxpayers can evaluate their appropriateness.
3. Ensure that any future contractual obligations for a superintendent who terminates an employment contract early for any reason only receive partial benefits and that the Board not make any commitments that would obligate the Public School Employee’ Retirement System, an insurer, or any other third party.
4. Require that the District’s solicitor provide the Board with the detailed overview of the Section 1073 revisions to the PSC (Act 141 of 2012), effective September 10, 2012, regarding contracts for the employment of a district superintendent, as well as the

explicit objective performance standards for district superintendents in Section 1073.1 of the PSC, added by Act 82 of 2012 and Act 141.

5. Ensure that the District's solicitor more closely review all future contracts to make certain that the District is not giving out benefits to top administrators that are in excess of fair and reasonable benefits and that the contracts are written in plain language in the areas pertaining to leave payouts and life insurance policies.

Management Response

Management stated the following:

“The District paid the terms of the contractual obligations [to] the former superintendent and other administrators based upon the approved terms and conditions approved by the Board of School Directors at a public School Board meeting.

Management is in contact with its insurance agent to review life insurance policy alternatives to mitigate the financial burden on the District.”

Auditor Conclusion

Excessive compensation and retirement packages are not in the best interest of taxpayers. In addition, these contracts should be more transparent to the public and written in plain language. Particularly, given that the General Assembly has provided for more explicit contract requirements and objective performance standards in Act 82 of 2012 and Act 141 of 2012 (effective September 10, 2013), it is evident that any terms and conditions in future school contracts for superintendents must be entirely consistent with these new requirements.

Status of Prior Audit Findings and Observations

Our prior audit of the Carbondale Area School District (District), released on April 25, 2012, resulted in one finding and two observations. The finding pertained to errors in reporting pupil transportation and inadequate documentation. The first observation pertained to unmonitored intermediate unit (IU) system access and logical access control weaknesses, and the second pertained to a conflict of interest resulting in ethics violations by the former transportation coordinator. 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 finding and observations. As shown below, we found that the District did implement our recommendations related to errors in reporting pupil transportation and inadequate documentation, unmonitored IU system access and logical access control weaknesses, and conflict of interest resulting in ethics violations by the former transportation coordinator.

Auditor General Performance Audit Report Released on April 25, 2012

Finding: **Errors in Reporting Pupil Transportation Data Resulted in a Reimbursement Net Overpayment of \$14,185 and Inadequate Documentation Supporting Contracted Pupil Transportation Subsidies of \$336,459**

Finding Summary: Inaccurate pupil transportation data submitted to PDE for the 2006-07 school year resulted in a net overpayment of pupil transportation reimbursement of \$12,645 and a nonpublic pupil transportation reimbursement overpayment of \$1,540.

Furthermore, District personnel did not maintain adequate documentation to support the contracted pupil transportation reports for the 2007-08 school year as required by Chapter 23 of the State Board of Regulations.

Recommendations: Our audit finding recommended that the District:

1. Implement procedures to ensure that bus information, pupils transported, and number of days transported are accurately recorded and reported to PDE.
2. Verify accuracy of the number of nonpublic children for which transportation was provided prior to submitting reports to PDE.
3. Require the transportation coordinator to maintain all supporting records in compliance with Section 23.4 of the State Board of Education Regulations.

4. Review reports submitted to PDE for subsequent years and revise, if necessary.

We also recommended that PDE:

5. Adjust the District's allocations to recover the net overpayment of \$14,185.
6. Require the District to maintain sufficient evidence to ensure proper justification of state funds.

Current Status:

During our current audit, we found that the District did implement the recommendations by developing procedures to ensure adequate documentation is maintained and the proper reporting of transportation data to PDE.

PDE has not adjusted the District's allocations to recover the \$14,185 overpayment.

Observation No. 1: Unmonitored Intermediate Unit System Access and Logical Access Control Weaknesses

Observation

Summary:

The District uses software purchased from an IU for its critical student accounting applications (membership and attendance). Additionally, the District's entire computer system, including all its data and the above software are maintained on the IU's servers, which are physically located at the IU. The District has remote access into the IU's network servers, with the IU providing system maintenance and support.

Recommendations:

Our audit observation recommended that the District:

1. Ensure that the District's Acceptable Use Policy includes provisions for authentication (password security and syntax requirements).
2. Establish separate information technology policies and procedures for controlling the activities of the IU and have the IU sign this policy, or the District should require the IU to sign the District's Acceptable Use Policy.
3. Generate monitoring reports (including firewall logs) of IU and employee access and activity on their system. Monitoring reports should include the date, time, and reason for access, change(s) made and who made the change(s). The District should review these reports to determine that the access was appropriate and that data was not

improperly altered. The District should also ensure it is maintaining evidence to support this monitoring and review.

Current Status: During our current audit, we found that the District did implement the recommendations by improving policies and procedures.

Observation No. 2: Conflict of Interest Resulted in Ethics Violations by Former Transportation Coordinator

Observation Summary:

During the period March 1, 2008 to June 30, 2009, the District employed an individual as a part-time transportation coordinator (transportation coordinator). While employed by the District, the individual was also employed at Lakeland School District as their transportation coordinator. District personnel were aware that he was working for both districts. In his role as transportation director for both districts, he steered approximately \$450,000 in van contracts to his girlfriend with whom he shared a residence. His participation in the selection, recommendation, and awarding of the van contracts at a time when he had a reasonable expectation that he would receive financial benefit from the contracts violated the Ethics Act.

In addition, on June 25, 2009, the District entered into a five-year \$4.8 million contract with a transportation company owned by the transportation coordinator. On June 30, 2009, five days after the District entered into the contract with his transportation company, he resigned. According to the Department of State records, his transportation company was not created until July 7, 2009, 12 days after the contract was awarded.

Recommendations: Our audit observation recommended that the District:

1. Ensure that the provisions of the Ethics Act are followed.
2. Require the former transportation coordinator to file his Statement of Financial Interests (SFI) for 2009 calendar year.
3. Consider routinely seeking competitive bids for the District's transportation services to ensure the lowest reasonable cost to the District and its taxpayers.

The *Pennsylvania State Ethics Commission* should:

4. Review the five-year contract with the former transportation coordinator's company to determine if more ethics violations have occurred.

Current Status:

During our current audit, we found that the District did implement the recommendations. The Pennsylvania State Ethics Commission conducted an investigation based on our audit of the Lakeland School District. On March 25, 2010, as a result of the investigation, the individual was fined \$49,529, the minimum amount that the Commission concluded he gained from the contracts with his girlfriend's company at both districts. In addition to the fine, the State Ethics Commission issued an order that prohibits him from seeking or holding any position of public office or public employment in which he would possess actual or implied authority to recommend, discuss, approve, or supervise contracts. The Office of Attorney General is reviewing the ethics violations. Its review could lead to criminal charges.

The District rescinded the contract on August 24, 2009, with the former transportation coordinator's company when a lawsuit was filed against the District alleging it improperly awarded the contract. After rescinding the contract, the District immediately advertised for transportation services, and, on September 2, 2009, the District awarded the contract again to the former transportation coordinator's company. The company submitted the lowest bid. Because the contract did not take effect until September 8, 2009, the District had to secure transportation services to ensure pupil transportation from the beginning of the school year to September 8, 2009. The former transportation coordinator's company was the only one to submit a timely bid for those services. Therefore, the District awarded it the contract in the amount of \$31,735.

The District has not received the transportation coordinators 2009 SFIs after requests sent via certified mail. However, this would have been included in the State Ethics Commission investigation.

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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