

PERFORMANCE AUDIT

Crestwood School District Luzerne County, Pennsylvania

May 2019



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

Mr. Joseph Rasmus, Acting Superintendent
Crestwood School District
281 South Mountain Boulevard
Mountain Top, Pennsylvania 18707

Mr. William Jones, Board President
Crestwood School District
281 South Mountain Boulevard
Mountain Top, Pennsylvania 18707

Dear Mr. Rasmus and Mr. Jones:

Our performance audit of the Crestwood School District (District) evaluated the application of best practices in the area of contracting for student transportation. In addition, this audit determined the District's compliance with certain relevant state laws, regulations, contracts, and administrative procedures (relevant requirements). This audit covered the period July 1, 2013 through June 30, 2017, except as otherwise indicated in the audit scope, objective, and methodology section of the report. The audit was conducted pursuant to Sections 402 and 403 of The Fiscal Code (72 P.S. §§ 402 and 403), and in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the 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.

Our audit found that the District applied best practices in the area listed above and complied, in all significant respects, with relevant requirements, except as detailed in our two findings noted in this audit report. A summary of the results is presented in the Executive Summary section of the audit report.

We also evaluated the application of best practices in the area of school safety. Due to the sensitive nature of this issue and the need for the results of this review to be confidential, we did not include the results in this report. However, we communicated the results of our review of school safety to District officials, the Pennsylvania Department of Education, and other appropriate officials as deemed necessary.

Mr. Joseph Rasmus

Mr. William Jones

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Our audit findings and recommendations have been discussed with the District's management, and their responses are included in the audit report. We believe the implementation of our recommendations will improve the District's operations and facilitate compliance with legal and relevant requirements. We appreciate the District's cooperation during the course of the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eugene A. DePasquale
Auditor General

April 8, 2019

cc: **CRESTWOOD 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 Crestwood School District (District). Our audit sought to answer certain questions regarding the District's application of best practices and compliance with certain relevant state laws, regulations, contracts, and administrative procedures.

Our audit scope covered the period July 1, 2013 through June 30, 2017, except as otherwise indicated in the audit scope, objectives, and methodology section of the report (see Appendix).

Audit Conclusion and Results

Our audit found that the District applied best practices and complied, in all significant respects, with certain relevant state laws, regulations, contracts, and administrative procedures, except for two findings.

Finding No. 1: The District Failed in Its Legal Duty to Ensure Its Contracted Bus Drivers Were Qualified and Cleared to Transport Students, Putting Them at Risk of Harm and Costing Them Lost School Days.

When we requested documentation supporting the District's contracted drivers' qualifications and clearances—mandated by law, its associated regulations, and the Pennsylvania Department of Education's guidance document to be monitored and maintained by the District—officials stated that they did not maintain these records for its transportation contractors. Not only did the District fail to obtain and review the

clearances, we found that the contractor did not have all the required documents for each of the drivers (see page 10).

Finding No. 2: The Board Executed a Transportation Agreement with Automatic Renewals, Resulting in a 20-Year Contract and a Base Rate with Annul Fixed Increases.

In 2016, the District entered into what was essentially a 20-year contract with its primary transportation vendor. In addition to the length of the contract, the contract contained other unfavorable terms for the District. The contract contained automatic price increases tied to a base rate, insufficient justification of a fuel surcharge, and offered "First Right of Refusal" to the contractor (see page 19).

Status of Prior Audit Findings and Observations.

There were no findings or observations in our prior audit report.

Background Information

School Characteristics 2017-18 School Year ^A	
County	Luzerne
Total Square Miles	100
Number of School Buildings	4
Total Teachers	164
Total Full or Part-Time Support Staff	124
Total Administrators	14
Total Enrollment for Most Recent School Year	2,809
Intermediate Unit Number	18
District Vo-Tech School	Wilkes-Barre Career and Technology Center

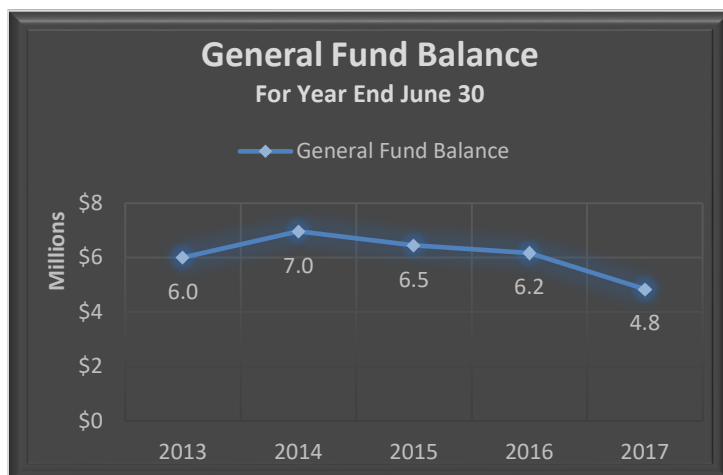
A - Source: Information provided by the District administration and is unaudited.

Mission Statement^A

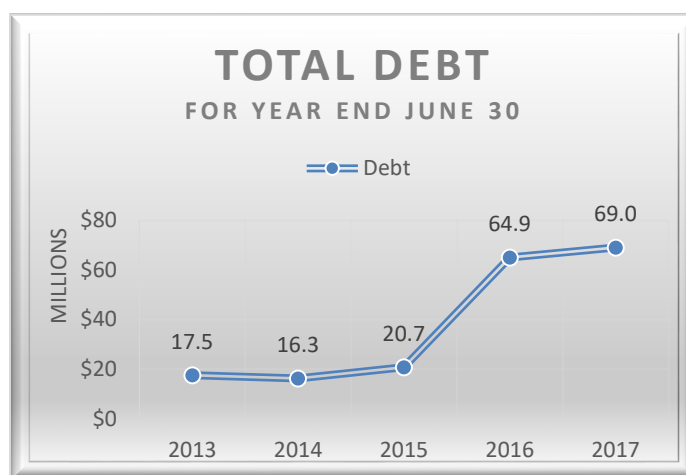
The mission of the Crestwood School District is to support personalized learning so students are college and career ready upon graduation.

Financial Information

The following pages contain financial information about the Crestwood School District (District) obtained from annual financial data reported to the Pennsylvania Department of Education (PDE) and available on the PDE's public website. This information was not audited and is presented for informational purposes only.

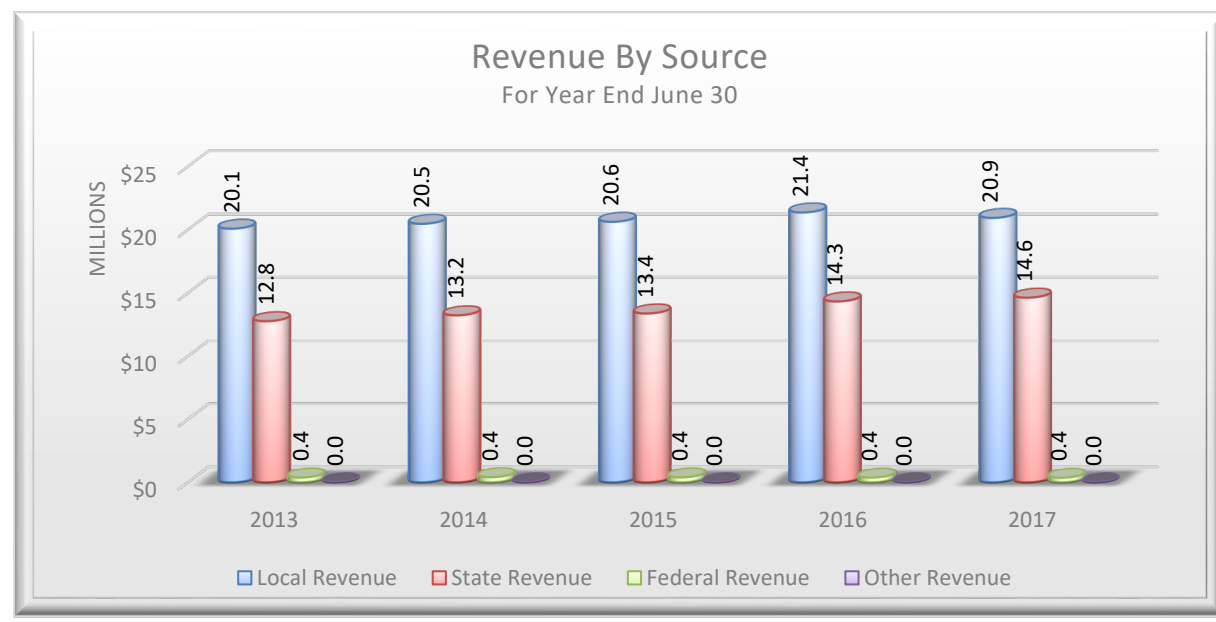
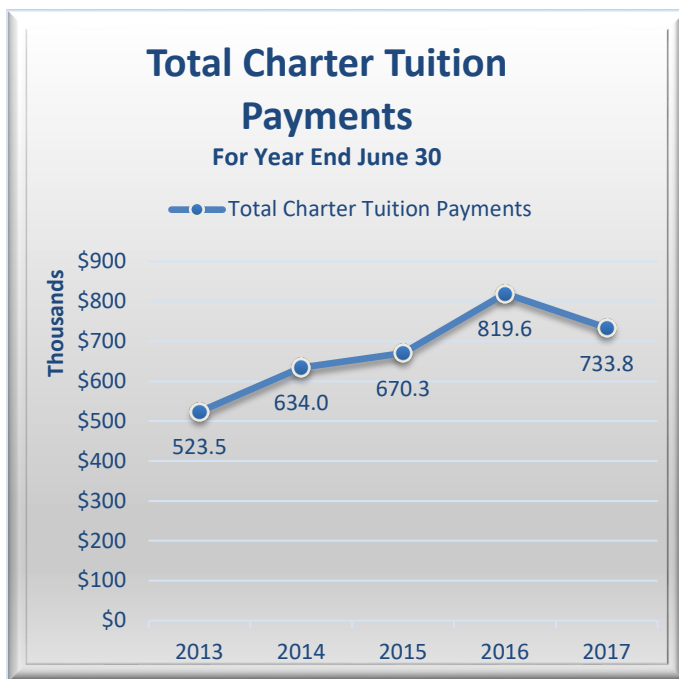
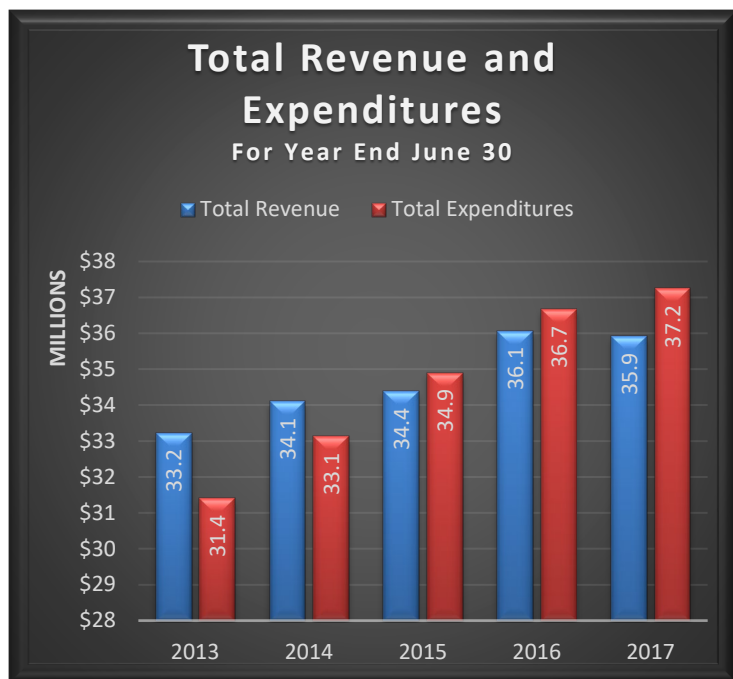


Note: General Fund Balance is comprised of the District's Committed, Assigned and Unassigned Fund Balances.



Note: Total Debt is comprised of Short-Term Borrowing, General Obligation Bonds, Authority Building Obligations, Other Long-Term Debt, Other Post-Employment Benefits, Compensated Absences and Net Pension Liability.

Financial Information Continued



Academic Information

The graphs on the following pages present School Performance Profile (SPP) scores, Pennsylvania System of School Assessment (PSSA) scores, Keystone Exam results, and 4-Year Cohort Graduation Rates for the District obtained from the PDE's data files for the 2014-15, 2015-16 and 2016-17 school years.¹ These scores are provided in the District's audit report for **informational purposes only**, and they were not audited by our Department. Please note that if one of the District's schools did not receive a score in a particular category and year presented below, the school will not be listed in the corresponding graph.² Finally, benchmarks noted in the following graphs represent the statewide average of all public school buildings in the Commonwealth that received a score in the category and year noted.³

What is a SPP score?

A SPP score serves as a benchmark for schools to reflect on successes, achievements, and yearly growth. The PDE issues a SPP score using a 0-100 scale for all school buildings in the Commonwealth annually, which is calculated based on standardized testing (i.e., PSSA and Keystone exam scores), student improvement, advance course offerings, and attendance and graduation rates. Generally speaking, a SPP score of 70 or above is considered to be a passing rate.

The PDE started issuing a SPP score for all public school buildings beginning with the 2012-13 school year. For the 2014-15 school year, the PDE only issued SPP scores for high schools taking the Keystone Exams as scores for elementary and middle schools were put on hold due to changes with PSSA testing.⁴ The PDE resumed issuing a SPP score for all schools for the 2015-16 school year.

What is the Keystone Exam?

The Keystone Exam measures student proficiency at the end of specific courses, such as Algebra I, Literature, and Biology. The Keystone Exam was intended to be a graduation requirement starting with the class of 2017, but that requirement has been put on hold until the 2020-21 school year.⁵ In the meantime, the exam is still given as a standardized assessment and results are included in the calculation of SPP scores. The Keystone Exam is scored using the same four performance levels as the PSSAs, and the goal is to score Proficient or Advanced for each course requiring the test.

¹ The PDE is the sole source of academic data presented in this report. All academic data was obtained from the PDE's publically available website.

² The PDE's data does not provide any further information regarding the reason a score was not published for a specific school. However, readers can refer to the PDE's website for general information regarding the issuance of academic scores.

³ Statewide averages were calculated by our Department based on individual school building scores for all public schools in the Commonwealth, including district schools, charters schools, and cyber charter schools.

⁴ According to the PDE, SPP scores for elementary and middle schools were put on hold for the 2014-15 school year due to the state's major overhaul of the PSSA exams to align with PA Core standards and an unprecedented drop in public schools' PSSA scores that year. Since PSSA scores are an important factor in the SPP calculation, the state decided not to use PSSA scores to calculate a SPP score for elementary and middle schools for the 2014-15 school year. Only high schools using the Keystone Exam as the standardized testing component received a SPP score.

⁵ Act 39 of 2018, effective July 1, 2018, amended the Public School Code to further delay the use of Keystone Exams as a graduation requirement for an additional year until the 2020-21 school year. *See* 24 P.S. § 1-121(b)(1).

What is the PSSA?

The PSSA is an annual, standardized test given across the Commonwealth to students in grades 3 through 8 in core subject areas, including English and Math. The PSSAs help Pennsylvania meet federal and state requirements and inform instructional practices, as well as provide educators, stakeholders, and policymakers with important information about the state's students and schools.

The 2014-15 school year marked the first year that PSSA testing was aligned to the more rigorous PA Core Standards.⁶ The state uses a grading system with scoring ranges that place an individual student's performance into one of four performance levels: Below Basic, Basic, Proficient, and Advanced. The state's goal is for students to score Proficient or Advanced on the exam in each subject area.

What is a 4-Year Cohort Graduation Rate?

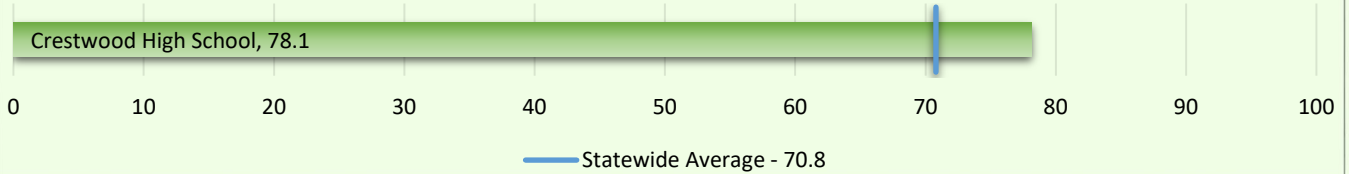
The PDE collects enrollment and graduate data for all Pennsylvania public schools, which is used to calculate graduation rates. Cohort graduation rates are a calculation of the percentage of students who have graduated with a regular high school diploma within a designated number of years since the student first entered high school. The rate is determined for a cohort of students who have all entered high school for the first time during the same school year. Data specific to the 4-year cohort graduation rate is presented in the graph.⁷

⁶ The PDE has determined that PSSA scores issued beginning with the 2014-15 school year and after are not comparable to prior years due to restructuring of the exam.

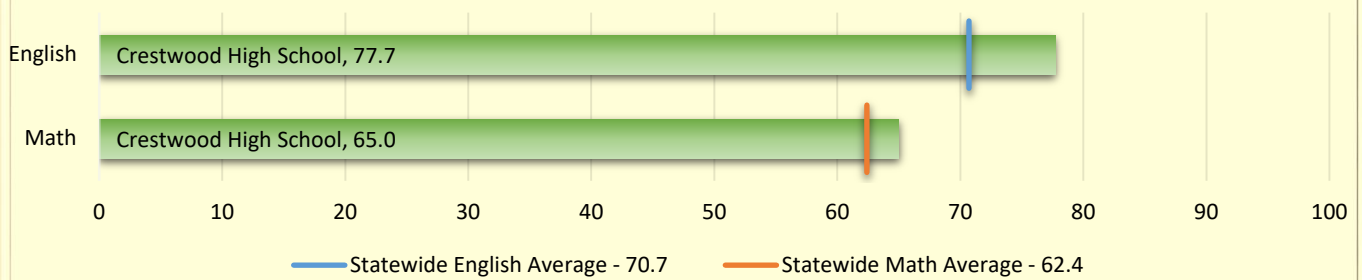
⁷ The PDE also calculates 5-year and 6-year cohort graduation rates. Please visit the PDE's website for additional information: <http://www.education.pa.gov/Data-and-Statistics/Pages/Cohort-Graduation-Rate-.aspx>.

2014-15 Academic Data
School Scores Compared to Statewide Averages

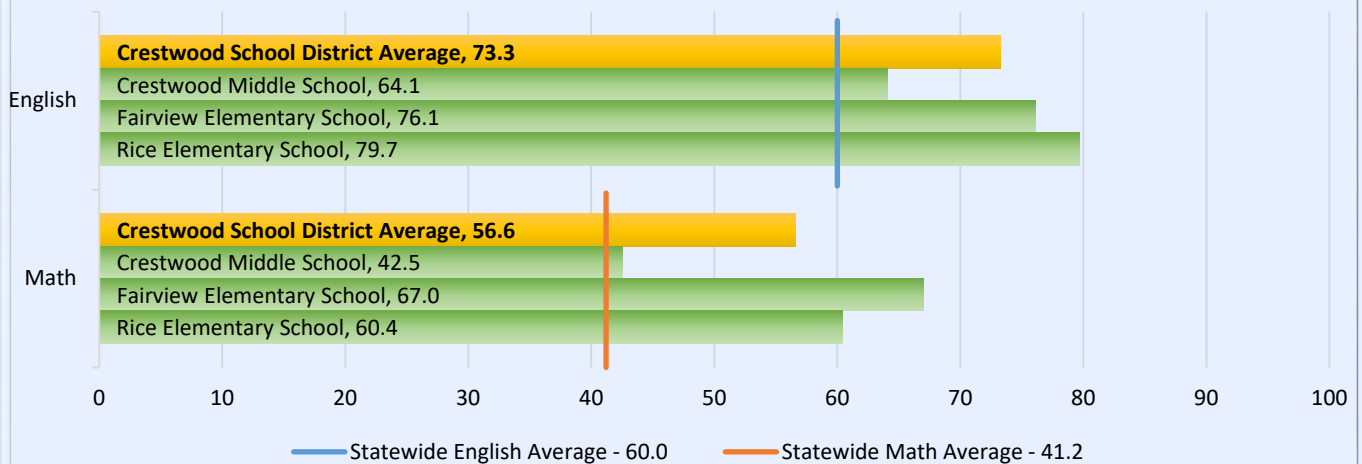
2014-15 SPP Scores



2014-15 Keystone % Advanced or Proficient

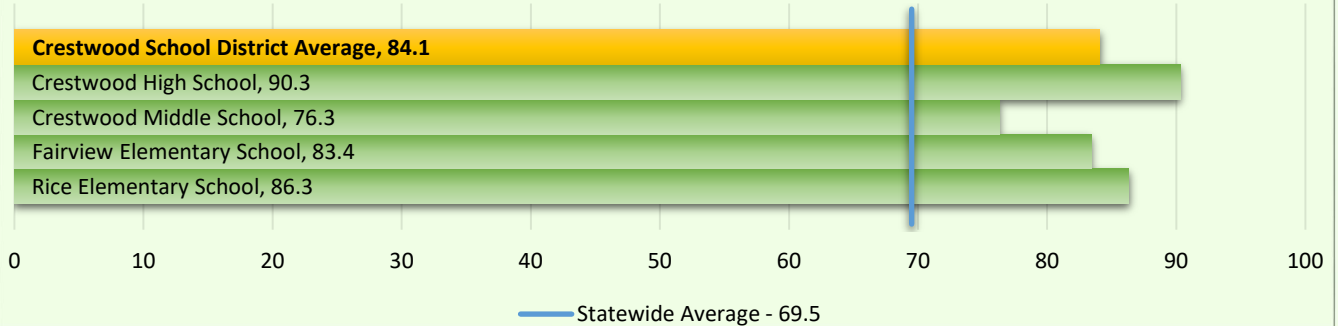


2014-15 PSSA % Advanced or Proficient

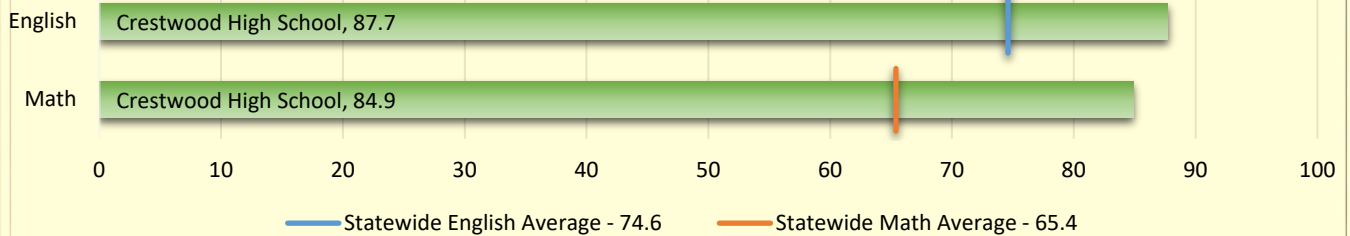


2015-16 Academic Data
School Scores Compared to Statewide Averages

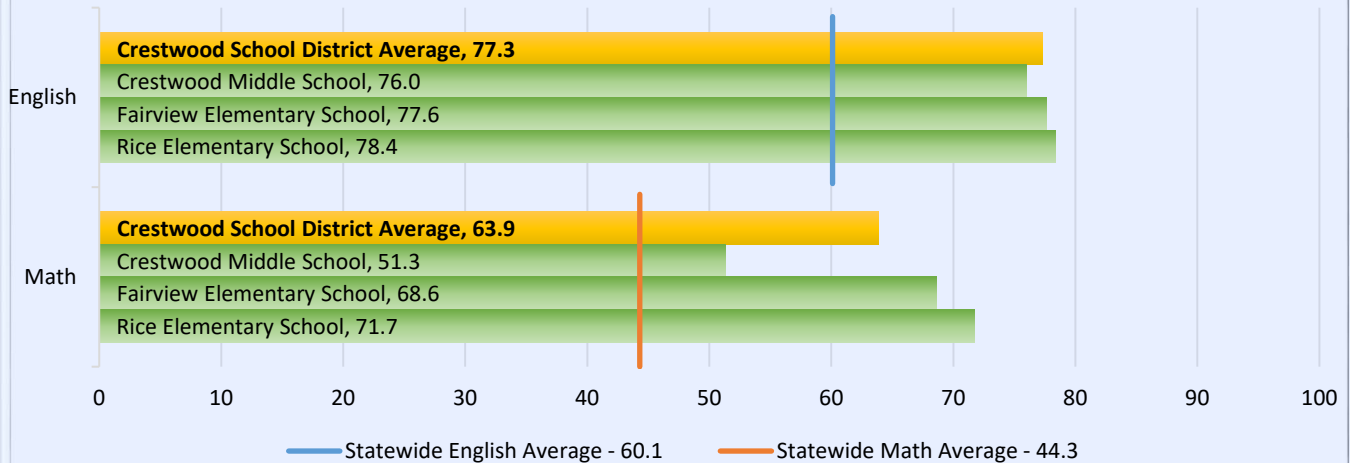
2015-16 SPP Scores



2015-16 Keystone % Advanced or Proficient

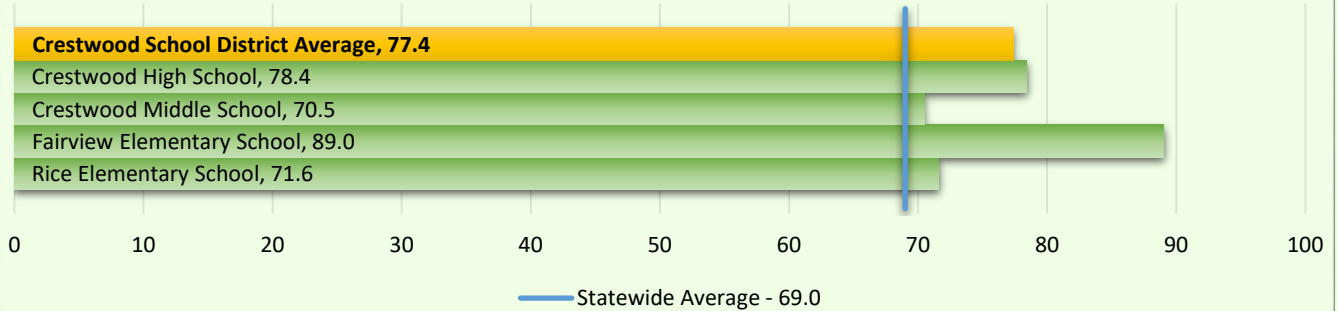


2015-16 PSSA % Advanced or Proficient

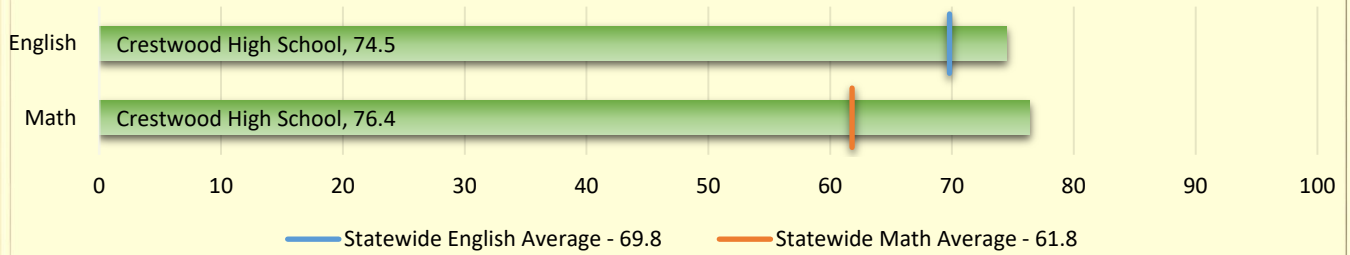


2016-17 Academic Data
School Scores Compared to Statewide Averages

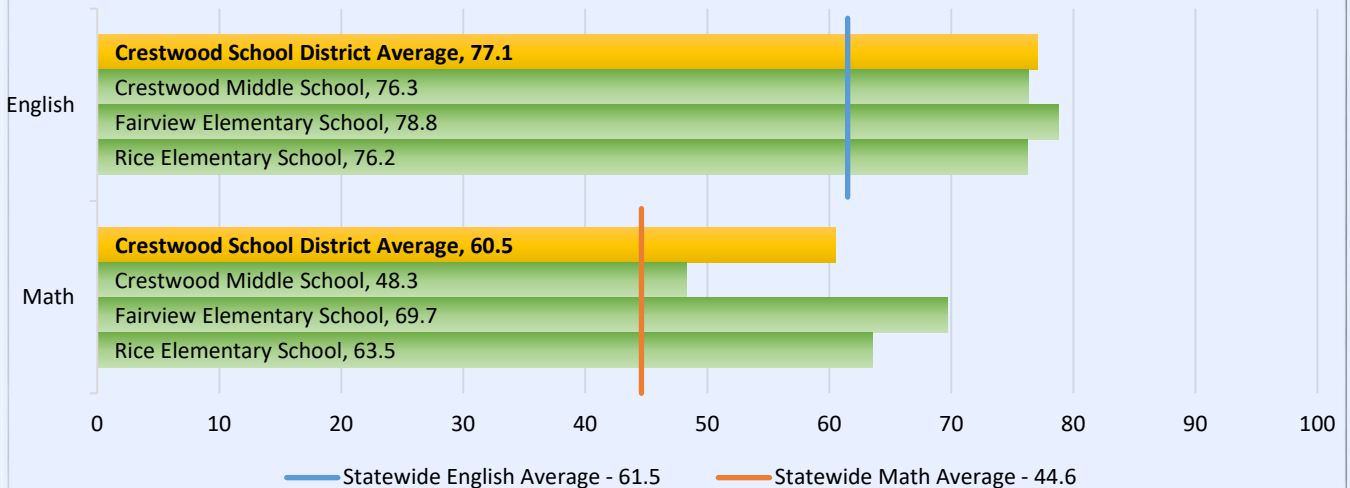
2016-17 SPP Scores



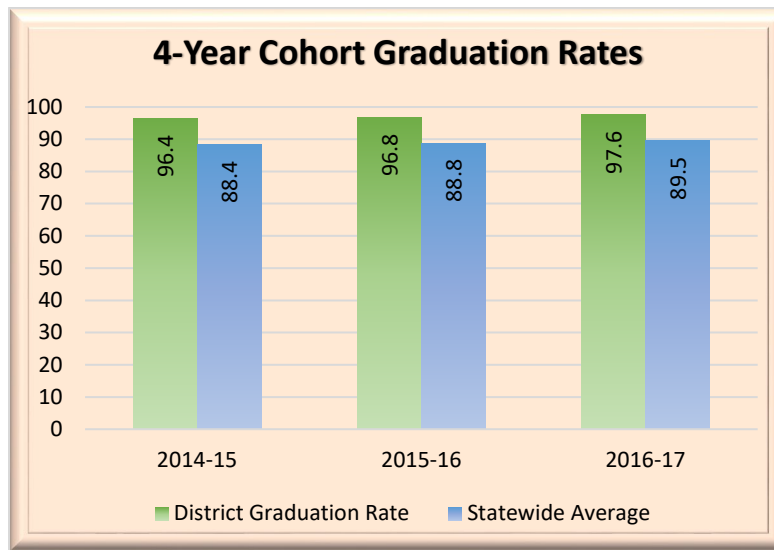
2016-17 Keystone % Advanced or Proficient



2016-17 PSSA % Advanced or Proficient



Graduation Data
District Graduation Rates Compared to Statewide Averages



Findings

Finding No. 1

The District Failed in Its Legal Duty to Ensure Its Contracted Bus Drivers Were Qualified and Cleared to Transport Students, Putting Them at Risk of Harm and Costing Them Lost School Days

Criteria relevant to the finding:

Chapter 23 (relating to Pupil Transportation) of the State Board of Education regulations, among other provisions, provides that the board of directors of a school district is responsible for the selection and approval of eligible operators who qualify under the law and regulations. *See*, in particular, 22 Pa. Code § 23.4(2).

Section 111 of the Public School Code (PSC) requires state and federal criminal background checks and Section 6344(a.1)(1) of the Child Protective Services Law (CPSL) requires a child abuse clearance. *See* 24 P.S. § 1-111 and 23 Pa.C.S. § 6344(a.1)(1), as amended.

Criminal Background Checks

Sections 111(b) and (c.1) of the PSC require prospective school employees who have direct contact with children, including independent contractors and their employees, to submit a report of criminal history record information obtained from the Pennsylvania State Police, as well as a report of Federal criminal history record information obtained from the Federal Bureau of Investigation. Furthermore, administrators are required to maintain copies of required information. *See* 24 P.S. § 1-111(b) and (c.1).

In October 2018, we obtained two lists of bus drivers authorized to transport students during the 2018-19 school year. One list was for a primary contractor and another for a secondary contractor. When we requested the documentation supporting the drivers' qualifications and clearances—mandated by law, its associated regulations, and the Pennsylvania Department of Education's (PDE) guidance document to be monitored and maintained by the Crestwood Area School District (District)—officials stated that they did not maintain these records for either contractor.

District officials then sought to obtain the records from both contractors. The secondary contractor provided complete records for all of its drivers. However, District officials learned that the documentation maintained by the primary contractor was seriously deficient to support whether its drivers were qualified and cleared to transport students. **The primary contractor did not have copies of the required drivers' licenses for more than two-thirds of its 46 drivers.**

Due to the uncertainty of whether the primary contractor's drivers had the required qualifications and clearances, the District shut down school for two days and, on a third day, delayed the start of school for two hours. The shut-down occurred because District officials wanted to ensure that there were no unqualified drivers transporting students. Eventually, this failure by the District to provide legally-mandated oversight of transportation services resulted in the Board of School Directors (Board) putting

*Criteria relevant to the finding
(continued):*

Child Abuse Clearance

Section 6344(c)(1) of the CPSL provides that, “[i]n no case shall an administrator hire or approve an applicant where the department has verified that the applicant is named in the Statewide database as the perpetrator of a **founded report** [of child abuse] committed within the **five-year period** immediately preceding verification.” [Emphasis added.]

Section 6344(b)(3) of the CPSL requires, in part, that, “The applicant shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check...” (Act 153 of 2014). Further, Section 6344.4 of the CPSL now requires recertification of the required state and federal background checks and the child abuse clearance every 60 months. *See* 23 Pa.C.S. §§ 6344(b)(3) and (c)(1) and 6344.4.

Section 111(e) of the PSC lists convictions for certain criminal offenses that require an absolute ban to employment. Section 111(f.1) to the PSC requires that a ten, five, or three year *look-back period* for certain convictions be met before an individual is eligible for employment. *See* 24 P.S. § 1-111(e) and (f.1).

Section 111(a.1)(1) specifies that bus drivers employed by a school entity through an independent contractor who have direct contact with children must also comply with Section 111 of the PSC. *See* 24 P.S. § 1-111(a.1)(1).

the Superintendent and the Director of Operations on paid leave pending the results of an internal investigation.⁸ The lack of oversight by the District not only resulted in lost education days and turnover of its administrative leadership, it also put District students at risk of harm.

Requirements

Regardless of whether they hire their own drivers or use a contractor’s drivers, school districts are required to verify and have on file a copy of the following documents for each employed or contracted driver *before* he or she is authorized to transport students:

1. Driver qualification credentials, including:
 - a. Valid commercial driver’s license with an “S” endorsement, permitting the operation of a school bus.
 - b. Annual physical examination.⁹
2. Criminal history reports/clearances:
 - a. State Criminal History Record.
 - b. Federal Criminal History Record, based on a full set of fingerprints.
 - c. PA Child Abuse History Clearance.
 - d. Arrest/Conviction Report and Certification Form (PDE-6004).¹⁰

⁸ As of January 17, 2019, both the Superintendent and the Director of Operations were no longer working at the District.

⁹ Vehicle Code, 75 Pa.C.S. §§ 1508.1 (relating to Physical examinations) and 1509 (relating to Qualifications for school bus driver endorsement).

¹⁰ See criteria box for the legal and regulatory provisions that apply in the Public School Code and Child Protective Services Law.

Criteria relevant to the finding (continued):

Section 111(c.4) further requires administrators to review the reports and determine if the reports disclose information that may require further action. *See* 24 P.S. § 1-111(c.4).

Administrators are also required to review the required documentation according to Section 111(g)(1) of the PSC. This section provides that an administrator, or other person responsible for employment decisions in a school or institution under this section who willfully fails to comply with the provisions of this section commits a violation of this act, subject to a hearing conducted by the Pennsylvania Department of Education (PDE), and shall be subject to a civil penalty up to \$2,500. *See* 24 P.S. § 1-111(g)(1).

Missing Qualifications Records, Criminal History Records, and Clearances

Since the District did not maintain driver records, we obtained records from the primary contractor. We reviewed the records and found that **those records were incomplete for 41 of 46 drivers, or 89 percent of all drivers**. For example, we found the following missing records:

- 30 drivers were missing a valid driver's license with the required "S" endorsement.
- 31 were missing the physical examination record.
- 22 were missing the Arrest/Conviction Report and Certification Form (PDE-6004).
- 10 were missing the Federal Criminal History Record.
- 9 were missing the PA Child Abuse History Clearance.
- 5 were missing the State Criminal History Record.

If the District had maintained the drivers' records and monitored their qualifications and clearances as required, it could have avoided the closing of school for two days and other repercussions of its lack of involvement regarding this important, regulated safety matter. Instead, the incomplete files put the District in noncompliance with the Public School Code (PSC), the Child Protective Services Law (CPSL), the State Vehicle Code, the State Board of Education regulations, and the PDE guidance document.

During the school shut-down, the District and the contractor worked with the drivers and the applicable state agencies and were able to obtain all of the required records within just two days. Our review of the previously missing clearances disclosed that none of the drivers were determined to be ineligible to transport students. The next section addresses specifically how the District failed to monitor drivers and oversee its contractors to ensure students' safety.

A Flawed Transportation Policy, Lack of Oversight, and Contractor Noncompliance

The District's Policy No. 810, *Transportation*, was last revised in 2009, nearly ten years ago and was outdated and inconsistent with current law and its associated regulations, including the PSC and the CPSL. For example, it did not include the requirements for the completion of the driver-certified "Arrest/Conviction Report and Certification

*Criteria relevant to the finding
(continued):*

Effective September 28, 2011, the General Assembly added Section 111(j)(2) to the PSC pursuant to Act 24 to require all *current* school employees to submit an “Arrest/Conviction Report and Certification Form” (PDE-6004 Form) to their administration indicating whether or not they have ever been arrested or convicted of any Section 111(e) criminal offenses by December 27, 2011. Then, effective July 1, 2012, Section 111(j)(2) was further amended by Act 82 to require all *prospective* employees to submit the PDE-6004 Form to their administrator prior to employment and added the criminal offenses found in Section 111(f.1) of the PSC to the form. Further, retroactively effective on December 31, 2015, Section 111(j)(2) was amended by Act 4 of 2016 to require that the PDE-6004 Form include a certification of whether or not an employee was named as a perpetrator of a founded report of child abuse within the past five years as defined by the CPSL. See 24 P.S. §1-111(f.1) and (j)(2) (Act of 24 of 2011, Act 82 of 2012, and Act 4 of 2016) and PDE-6004 Form instructions.

Section 8.2 of Title 22, Chapter 8 (relating to Criminal Background Checks) of the State Board of Education regulations requires, in part, “(a) School entities shall require a criminal history background check **prior to hiring an applicant or accepting the services of a contractor**, if the applicant, contractor or contractor’s employees would have direct contact with children.” [Emphasis added]. See 22 Pa. Code § 8.2(a).

Form (PDE-6004),” which went into effect on September 28, 2011. Moreover, not only was the policy outdated, the District also, by *not* monitoring drivers and contractors, **did not comply with its own policy**, which stated:

A school bus driver shall not be employed until s/he has complied with the mandatory background check requirements for criminal history and child abuse [*sic*] and the district and contractor have evaluated the results of that screening process.

Further, the policy required drivers and the contractors “to inform the district in writing immediately, per contract, whether or not they or any of their employees” were charged with criminal offenses or convicted of crimes that would bar employment or render them unsuitable to have direct contact with students. Since the District did not have any standard procedures to monitor contracted drivers for compliance with these requirements, it failed to comply with both the law and its own policy.

The District’s contract with the primary contractor also contained provisions requiring drivers to be qualified and cleared in accordance with laws and regulations and requiring the contractor to notify the District of any violations of law. However, the primary contractor, by not maintaining complete and proper records, failed to comply with the contract’s requirements to ensure its drivers were in compliance with the applicable laws and regulations. So too, the District failed to monitor the primary contractor’s compliance with those provisions of the contract. Ultimately, the failures of both the contractor and the District put students at risk of harm.

Finally, for the 2018-19 school year, we noted that the District’s Board approved the lists of drivers for both of its transportation contractors; however, it appears that the Board placed too much reliance on the District administrators for actually monitoring its contractors and ensuring that all drivers were qualified and appropriately cleared before transporting District students. As the ultimate oversight body of the District, the Board should have implemented some procedure to verify that the administrators were monitoring the contractors.

*Criteria relevant to the finding
(continued):*

Section 23.4 of Title 22, Chapter 23 (relating to Pupil Transportation) of the State Board of Education regulations provide that the board of directors of a school district is responsible for the selection and approval of eligible operators who qualify under the law and regulations. *See* 22 Pa. Code § 23.4(2).

Conclusion

When it came to providing student transportation services and protecting the safety of students, both the District and its primary contractor failed to comply with all applicable laws, regulations, the PDE's guidance document, board policy, and their own joint contract. Their failures resulted in lost school days, contributed to turnover of administrative leadership, and caused an unnecessarily increased risk of students being harmed. The Board's lack of involvement in providing governance over the administration with regard to student transportation and safety allowed this risky, and wholly avoidable, situation to occur.

Although the District worked with its primary contractor to obtain all of the requisite documentation for all of its drivers, its outdated board policy, its lack of standard written procedures for monitoring drivers, and its ineffective oversight procedures increases the risk of the same situation recurring.

Recommendations

The *Crestwood School District* should:

1. Promptly update its transportation policy to address the current requirements of all laws, regulations, and the PDE guidance document governing the transportation and student safety of all District students. This policy should clearly establish the District's and the Board's legal duty to ensure that drivers are qualified and have obtained all clearances—regardless of whether they are employed by contractors—before the District authorizes them to transport District students.
2. Promptly develop and implement formal written procedures requiring the District to provide routine and ongoing monitoring of driver records. These procedures should ensure that all drivers are properly qualified and cleared *before* authorizing them to have direct contact with students. The procedures should also require the administration to attest in an open and public meeting before the Board that the list of drivers provided for approval contains only drivers for whom the District has obtained *all* of the required records.

3. Provide training on Section 111 of the PSC, as well as the relevant provisions of the CPSL, the state Vehicle Code, the State Board of Education regulations, and the PDE guidance document. This training should be provided for all District employees responsible for maintaining up-to-date personnel files for contracted drivers *and* for those in charge of reviewing qualifications and clearances *prior* to authorizing drivers to transport students.

Management Response

District management provided the following response:

“The administration of the Crestwood School District has reviewed the draft findings contained within the Department of the Auditor General Bureau of School Audits’ preliminary report that was furnished to the district on March 12, 2019. Within the preliminary report, the Auditor General finds that the ‘The District Failed in Its Legal Duty to Ensure its Contracted Bus Drivers Were Qualified and Cleared to Transport Students, Putting Them at Risk of Harm and Costing Them Lost School Days.’ However, the finding that the board did not hold administration accountable for monitoring the ensuring clearances is erroneous. Rather, the Crestwood Board of Education severed its relationship of two district administrators as a result. The finding that the Board placed too much reliance on its Administrators to monitor clearances is not a fair statement as the Board employed two (2) administrators at well over \$100,000 each in salary to monitor clearances and when the Board discovered the issue it promptly took action. Lastly, the legal conclusion that copies of clearances must be on site is not an accurate statement of the law as the statute cited specifically only requires the District to maintain ‘employees’ records, it only requires ‘contractors’ to ‘produce’ such records. Additionally, as the auditors confirmed during the exit-interview, the District performed admirably during the two (2) day shutdown to remedy the situation. Acknowledging receipt of these findings, the Crestwood School District and its designees have committed themselves to a series of corrective action steps.

“Consistent with the Auditor General’s Draft Finding #1, the CSD concludes that when representatives from the Office of the Auditor General requested documentation to

corroborate the qualifications and clearances of contracted bus operators, the district was unable to furnish them accordingly. In an effort to produce the prerequisite credentials, CSD administration requested the specific information from its primary and secondary transportation contractors. While the secondary contractor produced the required documentation consistent with PA Public School Code, the Child Protected Services Law, the PA Vehicle Code, the State Board of Education regulations, and PDE guidance documents, the primary contractor provided documentation which was incomplete and inconsistent with the aforementioned statutes and regulations. Specifically, the information furnished by the district as it relates to the primary contractor possessed the following deficiencies: 30 drivers did not possess the 'S' endorsement; 31 drivers did not have up to date physical examination records; 22 drivers did not possess PDE Form 6004: Arrest/Conviction Report; 10 Drivers did not possess the Federal Criminal History Record; 9 drivers did not possess the PA Child Abuse History Clearance; and 5 drivers did not possess the PA Criminal History Record. When the deficiencies were understood, the district closed school operations for two days and operated on a two hour delay on a third day in October 2018. Prior to the students' return to school, the district was able to ascertain all prerequisite credentials and clearances for all bus operators.

“The administration of the Crestwood School District acknowledges that the district did not meet the following expectations: 1.) To ensure the required credentials including driver licenses and annual physical examinations for all contracted bus operators; 2.) To ensure criminal history reports and PDE mandated clearances for all contracted bus operators where up to date; 3.) Moreover, the district recognizes that at the time of the audit, CSD Board Policy 810 had not been updated since 2009; 4.) Furthermore, the district recognizes that the practices and procedures maintained with regards to the oversight of bus operation was inconsistent with district policy, PA School Code, Child Protected Services Law, PA Vehicle Code, State Board of Education regulations, and PDE guidance documents as well.

“In order to address the previously described deficiencies: The Crestwood School District has undertaken the following corrective action steps:

- 1) The Crestwood Policy Committee has reviewed and updated Board Policies: 810 Volume III, 810.1, and 810.3 to ensure that all transportation policies are consistent with current laws and regulations and has recommended that Board of Education review and adopt the said policies on March 21, 2019;
- 2) The Crestwood Board of Education placed both the Superintendent of Schools and Chief of District Operations on administrative leave while conducting an internal investigation;
- 3) Subsequent to an internal investigation, the Superintendent and the Chief of District Operations who were responsible to supervise and oversee district transportation at the onset of the 2018-19 school year are no longer employed by the Crestwood School District;
- 4) On November 20, 2018, the Crestwood School District Board of Education (BOE) terminated the transportation contract with its primary busing contractor with an effective date of February 1, 2019. On January 17, 2019, the CSD BOE amended previous board action to terminate their respective primary transportation contractor and extend the date of termination to June 30, 2019;
- 5) The CSD is currently reviewing proposals from numerous prospective transportation contractors in an effort to identify a transportation contractor for the 2019-20 school year;
- 6) The CSD BOE is developing written procedures which specifically outline the processes undertaken with regards to the submission of current clearances and credentials for prospective district employees at the time of hire and throughout their employment within the district; and lastly
- 7) The CSD will develop a professional development schedule which outlines ongoing and regular training of all district employees responsible for updating personnel files for contracted transportation operators. The district will train the aforementioned staff on Section 111 of the PA School Code, the relevant provisions of the CPSL, the state vehicle code, state board of regulations, and the PDE guidance document in order to ensure that the district procedures and practices are not only in compliance with prerequisite laws, statutes, and regulations, but also maintain the safety and welfare for all Crestwood students.”

Auditor Conclusion

In its response, the District agreed with the deficiencies noted in the finding and acknowledged that it failed to meet expectations with regard to ensuring that all bus drivers are qualified and cleared to transport District students.

With regard to the assertion that we were erroneous in our conclusion that the Board placed too much reliance on the administrators and did not hold them accountable, we stand by our conclusion. While we agree that the administrators have the responsibility for the day-to-day operations, it is the Board that has the ultimate oversight authority. The Board should implement some type of monitoring procedures and periodic reports of compliance to ensure that the administrators are faithfully carrying out their duties. In any case, we commend the Board for taking appropriate actions once the issue was brought to its attention.

Further, we noted that the District disagrees with our statement that the law requires school district administrators to maintain qualification and clearance documents for contracted employees. We respectfully disagree with the District's interpretation of Section 111 of the PSC. To further ensure that our position is accurate, we contacted the PDE and obtained confirmation that school districts are required to maintain clearance documentation for both its own employees and for contracted employees. Nonetheless, we are pleased that the District has agreed to maintain these records going forward.

Overall, the District's corrective action plan appears to address our specific recommendations. We will review the actions taken by the District during our next audit.

Finding No. 2

The Board Executed a Transportation Agreement with Automatic Renewals, Resulting in a 20-Year Contract and a Base Rate with Annual Fixed Increases

Criteria relevant to the finding:

Section 427 (relating to Duties of president) of the PSC states, in part: “[t]he [P]resident shall be executive officer of the board of school directors and as such he, together with the secretary, when directed by the board, shall execute any and all deeds, contracts, warrants to tax collectors, reports, and other papers pertaining to the business of the board, requiring the signature of the president.” See 24 P.S. § 4-427

Section 2541 (relating to Payments on account of pupil transportation) of the PSC states that school districts shall be paid by the Commonwealth for every school year for costs related to pupil transportation. See 24 P.S. § 25-2541.

Daily miles traveled, the greatest number of pupils transported, days of service, and contractor cost are an integral part of the transportation reimbursement calculation. These factors must be reported accurately to the PDE in order to receive the correct reimbursement.

Chapter 23 (relating to Pupil Transportation) of the State Board of Education Regulations provides that a school district’s board of directors is responsible for the negotiation and execution of contracts or agreements with contractors, drivers of District vehicles, and common carriers. See 22 Pa. Code Chapter 23.

In 2016, the District solicited a public request for proposals for its contracted transportation services. It received three proposals, one of which was from its decades-long primary transportation vendor. The Board awarded the contract to a new vendor because it submitted the lowest cost proposal.

Just before the start of the 2016-17 school year, the new vendor informed the District that it was unable to hire a sufficient number of drivers to fulfill the contract requirements. The Board had to terminate that contract and quickly make arrangements with another vendor for student transportation. The Board ended up executing another contract with its long-time transportation vendor. However, the new contract with the long-time vendor contained terms that were not only different from what it had proposed as part of the competitive bidding process, those terms were unfavorable and potentially costly to the District.

The Undesirable New Contract Terms

The new contract terms, which were not in the original proposal submitted by the long-time vendor, were disadvantageous to the District and are summarized as follows:

1. The new 5-year contract included three separate 5-year automatic extensions, which essentially resulted in a 20-year contract. A contract allowing for so many automatic renewals prevents the District from seeking competitive pricing and potentially hampers it from getting enhanced quality of service over the length of the contract.
2. The long-time transportation vendor was also afforded a “First Right of Refusal” to enter into a contract with the District under the same terms and conditions set

*Criteria relevant to the finding
(continued):*

Section 23.4 (relating to Responsibilities of the district board of school directors) of the regulations states as follows, in part: “The board of directors of a school district is responsible for all aspects of pupil transportation programs, including the following: . . . (2) The selection and approval of appropriate vehicles for use in district service and eligible operators who qualify under the law and regulations . . . (7) The negotiation and execution of contracts or agreements with contractors, drivers of district’s vehicles and common carriers and submission of pertinent documents to the Department for approval of operation.” See 22 Pa. Code § 23.4(3) and (7). (Emphasis added.)

The PDE’s “final formula allowance” provides for a per-vehicle allowance based on the year of manufacture of the vehicle chassis, the approved seating capacity, number of trips the vehicle operates, the number of days pupils were transported, the approved daily miles driven, any excess hours, and the greatest number of pupils transported. The final formula allowance is adjusted annually by an inflationary cost index.

The District receives the lesser of the final formula allowance for the vehicles or the actual amount paid to the contractor, multiplied by the District’s aid ratio.

forth in any proposed contract with another busing company.¹¹ This clause gave an unfair advantage to the long-time vendor, which may discourage competitors from bidding. It may also encourage price fixing between vendors, since the District often used a secondary vendor. Ultimately, however, it discourages the long-time vendor from making a good faith effort to propose the best prices and services it can offer the District as part of a bid or proposal process.

3. The new contract also established a base rate of more than \$2 million, plus “charter services and fuel surcharges.” When asked how the base rate was determined, District officials stated that they took the total amount paid to the vendor for the 2015-16 school year and increased it by 3 percent. The District was unable to provide any further analysis to justify how the more than \$2 million base rate was determined. Furthermore, the contract established compounding annual increases of 3 percent to the base rate. This automatic price increase disregards factors directly affecting costs such as the number of days transportation was provided, the number of vehicles used, miles driven, the number of students transported, or changes in relevant cost indices over the 20-year contract.

The addition of payment terms using this base rate is critical because the original proposal by this transportation provider tied the price of the transportation services to the reimbursement provided by the PDE. This reimbursement is based on a formula found in the PSC that accounts for direct cost factors, such as number of students, miles driven, etc. (See criteria box.) Using a base rate with fixed annual increases is potentially more favorable to the long-time vendor.

4. The new contract also levied a fuel surcharge to be reimbursed monthly by the District to the vendor. However, the cost components and fees associated with the newly added \$2 million base price were not sufficiently defined by the contract to justify the

¹¹ In other words, if the long-time vendor terminated the contract and the District negotiated an agreement with another vendor, then the long-time vendor would have the option to review the proposal and decide if it wanted to continue providing transportation services to the District under the terms set forth in the proposal by a new vendor.

*Criteria relevant to the finding
(continued):*

In order to foster the best combination of pricing and quality of goods and services, best business practices, particularly with regard to the use of public funds, commonly recommend the following:

1. Public solicitation of bids or proposals in procuring goods and services.

The avoidance of automatic contract renewal and right of first refusal clauses.

surcharge, leaving the District at risk of paying too much to the vendor.

According to the District's solicitor, the District was in a poor negotiating position due to executing the contract in the "11th hour." The District agreed to the three automatic 5-year extensions in exchange for a reduced increase to the base rate in years three, four, and five of the first contract term.¹² While it appears that the District attempted to mitigate the short-term financial impacts of the contract, it did not fully account for the potential long-term negative financial impact of a 20-year contract.

Conclusion

When a new transportation vendor was unable to provide the required services, the District executed a contract with its previous decades-long transportation vendor just three days before the start of the school year. This vendor imposed new contract terms that were not a part of its original proposal for the contract and were unfavorable to the District.

On October 25, 2018, the District informed the long-time vendor in writing that the District was terminating the contract because of the vendor's failure to ensure its drivers were qualified and cleared, which caused a two-day school closure (see Finding No. 1 on page 10 of this report).¹³ Since the vendor breached its 20-Year contract, the District may now have the opportunity to minimize the negative financial impact of the contract and either solicit public bids again or at least negotiate better terms.

Recommendations

The *Crestwood School District* should:

1. Review and update its transportation contracting procedures to 1) consider the solicitation of public bids or proposals prior to the end of each contract term; 2) prohibit automatic contract renewal and right of first refusal clauses; 3) document the calculation and

¹² The vendor requested and received a 3 percent increase to the base rate in years one and two and then a 5 percent increase in years three, four, and five. The executed contract provided for annual 3 percent increases for all years.

¹³ According to District officials, the long-time vendor is providing transportation services through the end of the 2018-19 school year.

justification when utilizing a base rate for payment terms; and 4) prohibit automatic price increases unless contract provisions are added allowing for price adjustments when fuel costs decrease and/or other cost efficiencies can be achieved.

Management Response

District management provided the following response:

“The administration of the Crestwood School District has reviewed the draft findings contained within the Department of the Auditor General Bureau of School Audits’ preliminary report that was furnished to the district on March 12, 2019. Within the preliminary report, the Auditor General finds that the “Board executed a Transportation Agreement with Automatic Renewals, Resulting in a 20 Year Contract and a Base Rate with Annual Fixed Increases.” The Crestwood School District acknowledges the receipt of these findings.

“First by way of background and omitted from the findings is the fact that in 2009, the District issued an RFP for bus services, with the low response being approximately 2.4 million dollars. The Board rejected all responses and negotiated with its then and current vender a lower rate. Accordingly, the current contractual rate is less than the lowest 2009 RFP response. In 2016, the Board again tried to do the right thing by issuing an RFP. Specifically, the Crestwood School District Board of Education did its due diligence in awarding the original 2016 Request for Proposal (RFP) to the transportation provider that submitted the most cost effective proposal.

“Furthermore, the calculation of the base rate which was provided to the auditors was based upon the previous year’s payment. The vender after execution of the contract sought additional monies as it had under set the base rate by approximately \$30,000.00. The District rejected such request as the Auditors were informed.

“Finally, as the Auditors recognized at the exit interview, the contract with fixed annual increases could also be more favorable to the District than to its long term vendor. In consideration of the concerns which have been communicated to the district, the district administrative

team and its designees have committed themselves to a series of corrective action steps.

“Consistent with the Auditor General’s Draft Finding #2, the CSD concludes that when the newly attained transportation contractor was unable to provide the personnel necessary to fulfill its contractual obligations, it executed a contract with its previous primary bus contractor that possessed terms not included within their previously submitted proposal. Due to the fact that the 2016-17 school year was about to begin, the CSD board of education felt compelled to execute a contract with their previous bus contractor in order to ensure that transportation services were in place for students beginning with the first day of school. The unfavorable terms of the contract include, but are not limited to: 1) Three automatic five year extensions; 2) First right of refusal to enter into a contract with CSD at the terms and conditions set forth in a contract with any proposed contractor; and 3) A base rate that exceeds 2 million dollars + charter fees and fuel surcharges. The CSD recognizes the aforementioned terms limit its ability to ascertain the most competitive pricing and sustain high quality transportation services.

“As a result of the bus contractor failing to provide the Crestwood School District with up-to-date and required clearances for its bus operators, the district closed school for two days. On October 25, 2018, the Crestwood School District notified the bus contractor of its intention to terminate the contract.

“In order to ensure the district ascertains a transportation contract which yields competitive pricing and optimal safety and dependability for students and their families, the Crestwood School District will:

- 1) Request proposals from various transportation vendors with the intent of identifying a new transportation contractor to provide busing for the 2019-20 school year; 2) Establish contract terms which include but are not limited to providing updated clearances and credentials for all bus operators prior to the start of every school year;
- 3) Establish contract terms which include, but are not limited to enabling the Crestwood School District to determine all bus routes and control efficiency planning;
- 4) Establish contract terms which include, but are not limited to prohibiting automatic contract renewals and automatic price increases without specified basis;

- 5) Establish contract terms which include, but are not limited to the transportation contractor submitting all transportation data necessary to maintain regular and up-to-date calculations for reimbursement and district accounting; and
- 6) Identify a transportation contractor who will utilize a district-approved transportation management platform to ensure the highest standard of student safety.”

Auditor Conclusion

We are pleased that the District agrees the contract, as executed, was not entirely favorable to the District. We commend the District for seeking bids for its transportation services; however, it should ensure that the agreed upon terms are within the best interests of the District.

Overall, the District’s corrective action plan appears to address our recommendations. We will review the actions taken by the District during our next audit.

Status of Prior Audit Findings and Observations

Our prior audit of the Crestwood School District resulted in no findings or observations.

Appendix: Audit Scope, Objectives, and Methodology

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 (PDE), and other concerned entities.

Our audit, conducted under authority of Sections 402 and 403 of The Fiscal Code,¹⁴ is not a substitute for the local annual financial 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. Those standards require that we plan and perform the 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.

Scope

Overall, our audit covered the period July 1, 2013 through June 30, 2017. In addition, the scope of each individual audit objective is detailed on the next page.

The Crestwood School District's (District) management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the District is in compliance with certain relevant state laws, regulations, contracts, and administrative procedures (relevant requirements).¹⁵ In conducting our audit, we obtained an understanding of the District's internal controls, including any information technology controls, which we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal controls that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

¹⁴ 72 P.S. §§ 402 and 403.

¹⁵ 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; and compliance with certain relevant state laws, regulations, contracts, and administrative procedures.

Objectives/Methodology

In order to properly plan our audit and to guide us in selecting objectives, we reviewed pertinent laws and regulations, board meeting minutes, academic performance data, annual financial reports, annual budgets, new or amended policies and procedures, and the independent audit report of the District's basic financial statements for the fiscal years July 1, 2013 through June 30, 2017. We also determined if the District had key personnel or software vendor changes since the prior audit.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws, regulations, third-party studies, and best business practices. Our audit focused on the District's efficiency and effectiveness in the following areas:

- ✓ Bus Driver Requirements
- ✓ Transportation Operations
- ✓ Administrator Separations
- ✓ School Safety

As we conducted our audit procedures, we sought to determine answers to the following questions, which served as our audit objectives:

- ✓ Did the District ensure that bus drivers transporting District students had the required driver's license, physical exam, training, background checks, and clearances as outlined in applicable laws?¹⁶ Also, did the District have written policies and procedures governing the hiring of new bus drivers that would, when followed, provide reasonable assurance of compliance with applicable laws?
 - To address this objective, we reviewed all 72 contracted bus and van drivers transporting District students as of September 27, 2018. We reviewed documentation to determine if the District complied with the requirements for bus and van drivers. We also determined if the District had a board policy and written procedures governing the review of bus and van driver requirements prior to transporting District students. We also determined if the District had written policies and procedures governing the hiring of bus drivers and if those procedures, when followed, ensure compliance with bus driver hiring requirements. See Finding No. 1 on page 10 of this report for the results of our review for this objective.
- ✓ Did the District act in the best interest of the taxpayers when the District entered into its 2016 contract for transportation services with its primary contractor?
 - To address this objective, we reviewed a variety of documentation including the 2016 Request for Proposals for primary transportation services, the District's

¹⁶ 24 P.S. § 1-111, 23 Pa.C.S. § 6344(a.1), 24 P.S. § 2070.1a *et seq.*, 75 Pa.C.S. §§ 1508.1 and 1509, and 22 *Pa. Code Chapter 8*.

transportation contract and invoices with its primary vendors during the 2016-17 and 2017-18 school years, and board meeting minutes. Additionally, we interviewed District officials who were involved in the procurement and payments of the primary transportation vendor. See Finding No. 2 on page 19 of this report for the results of our review for this objective.

- ✓ 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 employment contract(s) comply with the Public School Code¹⁷ and Public School Employees' Retirement System guidelines?
 - To address this objective, we reviewed contracts, settlement agreements, board meeting minutes, board policies, and payroll records for both administrators who separated employment with the District during the period July 1, 2013 through January 31, 2019. Our review of this objective did not disclose any reportable issues.
- ✓ Did the District take actions to ensure it provided a safe school environment?¹⁸
 - To address this objective, we reviewed a variety of documentation including, safety plans, training schedules, fire drill schedules, anti-bullying policies, and after action reports. In addition, we conducted on-site reviews at three out of the District's four school buildings (one from each education level)¹⁹ to assess whether the District had implemented basic safety practices.²⁰ Due to the sensitive nature of school safety, the results of our review of this objective area are not described in our audit report. The results of our review of school safety are shared with District officials, the PDE, and other appropriate agencies deemed necessary.

¹⁷ 24 P.S. § 10-1073(e)(2)(v).

¹⁸ 24 P.S. § 13-1301-A *et seq.*

¹⁹ Basic safety practices evaluated were building security, bullying prevention, visitor procedures, risk and vulnerability assessments, and preparedness

²⁰ The elementary building selected for the on-site review was chosen based on its location which was closer to the main campus. Audit sampling methodology was not applied to achieve this test objective; accordingly, the results of this audit procedure are not, and should not be, projected to population.

Distribution List

This report was initially distributed to the Superintendent of the District, the Board of School Directors, and the following stakeholders:

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