

DELAWARE COUNTY INTERMEDIATE UNIT #25

DELAWARE COUNTY, PENNSYLVANIA

PERFORMANCE AUDIT REPORT

OCTOBER 2011



The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120

Mr. Edward J. Cardow, Board President  
Delaware County Intermediate Unit #25  
200 Yale Avenue  
Morton, Pennsylvania 19070

Dear Governor Corbett and Mr. Cardow:

We conducted a performance audit of the Delaware County Intermediate Unit #25 (DCIU) to determine its compliance with applicable state laws, regulations, contracts, grant requirements and administrative procedures. Our audit covered the period June 30, 2008 through October 15, 2010, except as otherwise indicated in the report. Additionally, the compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2008 and June 30, 2007. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the DCIU complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except as detailed in one finding noted in this report. In addition, we identified one matter unrelated to compliance that is reported as an observation. A summary of these results is presented in the Executive Summary section of the audit report.

Our audit finding, observation and recommendations have been discussed with DCIU's management and their responses are included in the audit report. We believe the implementation of our recommendations will improve DCIU's operations and facilitate compliance with legal and administrative requirements.

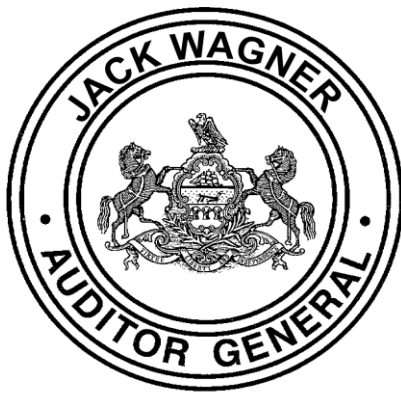
Sincerely,

/s/

JACK WAGNER  
Auditor General

October 25, 2011

cc: **DELAWARE COUNTY INTERMEDIATE UNIT #25** Board Members



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## **Executive Summary**

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### **Audit Work**

The Pennsylvania Department of the Auditor General conducted a performance audit of the Delaware County Intermediate Unit #25 (DCIU). Our audit sought to answer certain questions regarding the DCIU's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures; and to determine the status of corrective action taken by the DCIU in response to our prior audit recommendations.

Our audit scope covered the period June 30, 2008 through October 15, 2010, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidy and reimbursements was determined for school years 2007-08 and 2006-07.

### **Intermediate Unit Background**

The intermediate unit (IU) is a legal entity established under the terms of Pennsylvania Law (Act 102, May 4, 1970) to function as a service agency for the 15 participating school districts, nonpublic schools, and institutions in Delaware County. The IU is governed by a 15 member board appointed by the participating school districts on a rotating basis. The administrative office is located at 200 Yale Avenue, Morton, Pennsylvania.

The programs offered by the IU served 1,385 students in public schools and 18,365 students in nonpublic schools. The staff consisted of 26 administrators, 381 teachers, and 530 full-time and part-time support personnel.

The accounts of the IU are organized on the basis of programs and account groups, each of which are considered a separate accounting entity. IU resources are allocated to, and accounted for, in individual programs based on purposes for which the funds are to be spent and the means by which spending activities are controlled.

The various programs which receive Commonwealth funds are accounted for in the following:

### **General Fund**

The general fund is the primary operating fund of the IU. It is used to account for all financial resources and accounts for the general governmental activities of the IU.

Services provided to participating school districts through the general fund included:

- . administration;
- . curriculum development and instructional improvement;
- . educational planning;
- . instructional materials;
- . management services;
- . continuing professional education;
- . pupil personnel;
- . state and federal liaison; and
- . nonpublic program subsidy - Act 89.

Lastly, the DCIU received more than \$10.9 million from the Commonwealth in general operating funds in school year 2007-08.

### **Special Revenue Fund**

The special revenue fund accounts for the financial resources received to provide, maintain, administer, supervise and operate schools, classes, service programs, and transportation for exceptional children in accordance with the school laws of Pennsylvania and the approved IU plan for special education. The special revenue fund accounts for financial resources available for programs and services for exceptional children in state centers, state hospitals, private licensed facilities, and other child care institutions.

The special education program offered services at all grade levels for pupils whose physical, mental, or emotional needs required such services. If appropriate facilities were not available in a neighborhood school, the IU provided the necessary transportation.

Special education programs included:

- gifted support;
- learning support;
- life skilled support;
- emotional support;
- deaf or hearing impaired support;
- blind or visually impaired support;
- speech and language support;
- physical support;

- autistic support; and
- multi-handicapped support.

Act 25 of 1991 amended the Public School Code regarding the funding of special education services. IUs received direct funding for certain institutionalized children programs, CORE services, special payments to certain IUs, and a contingency fund.

Lastly, the DCIU received more than \$14.2 million from the Commonwealth in special revenue funds in school year 2007-08.

### **Audit Conclusion and Results**

Our audit found that the DCIU complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except for one compliance-related matter reported as a finding. In addition, one matter unrelated to compliance is reported as an observation.

**Finding: School Bus Driver Qualification Deficiencies.** Our audit found five individuals employed by one of the DCIU's contractors did not possess the Pennsylvania State Police Criminal Background Checks required by the Public School Code Section 111 (see page 8).

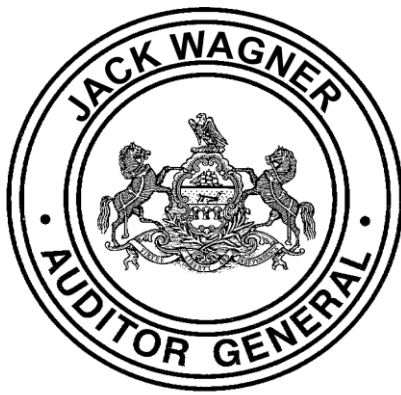
### **Observation: Internal Control Weaknesses in Administrative Policies Regarding Bus Drivers' Qualifications.**

Our current audit found that the DCIU had not implemented our prior audit recommendations regarding bus drivers' qualifications (see page 10).

**Status of Prior Audit Findings and Observations.** With regard to the status of our prior audit recommendations to the



DCIU from an audit we conducted of the 2005-06 and 2004-05 school years, we found the DCIU had taken appropriate corrective action in implementing our recommendations pertaining to a Memorandum of Understanding that had not been updated. However, we found the DCIU had not taken appropriate corrective action in implementing our recommendations pertaining to bus drivers' qualifications (see page 13).



## Audit Scope, Objectives, and Methodology

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### Scope

*What is a school performance audit?*

School performance audits allow the 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 PA Department of Education, and other concerned entities.

Our audit, conducted under authority of 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 June 30, 2008 through October 15, 2010, except for:

- The verification of professional employee certification which was performed for the period June 4, 2008 through June 30, 2010.
- The review of outside vendor access to the IU's student accounting applications which was completed on March 24, 2011.

Regarding state subsidy and reimbursements, our audit covered school years 2007-08 and 2006-07.

While all LEAs have the same school years, some LEAs have different fiscal years. Therefore, for the purposes of our audit work and to be consistent with Department of Education 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 law, regulation, 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, regulations, and defined business practices. Our audit focused on assessing the DCIU's compliance with applicable 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 objectives:

- ✓ Were professional employees certified for the positions they held?
- ✓ In areas where the IU receives state subsidy and reimbursements based on payroll (e.g. Social Security

and retirement), did it follow applicable laws and procedures?

- ✓ Is the IU's pupil transportation department, including any contracted vendors, in compliance with applicable state laws and procedures?
- ✓ Does the IU ensure that Board members appropriately comply with the Public Official and Employee Ethics Act?
- ✓ Are there any declining fund balances which may impose risk to the fiscal viability of the IU?
- ✓ Did the IU pursue a contract buyout with an administrator and if so, what was the total cost of the buy-out, reasons for the termination/settlement, and do the current employment contract(s) contain adequate termination provisions?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties which warrant further attention during our audit?
- ✓ Is the IU taking appropriate steps to ensure school safety?
- ✓ Did the IU use an outside vendor to maintain its membership data and if so, are there internal controls in place related to vendor access?
- ✓ Did the take appropriate corrective action to address recommendations made in our prior audits?

## **Methodology**

*Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, observations 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.

DCIU management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the IU is in compliance with applicable laws, regulations, contracts, grant requirements, and administrative procedures. Within the context of our

*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 applicable laws, regulations, contracts, grant requirements and administrative procedures.

audit objectives, we obtained an understanding of internal controls and assessed whether those controls were properly designed and implemented.

Any significant deficiencies found during the audit 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/reimbursement, pupil transportation, and comparative financial information.

Our audit examined the following:

- Records pertaining to pupil transportation, bus driver qualifications, professional employee certification, state ethics compliance, and financial stability.
- Items such as meeting minutes, pupil membership records, and reimbursement applications.

Additionally, we interviewed selected administrators and support personnel associated with DCIU operations.

Lastly, to determine the status of our audit recommendations made in a prior audit report released on June 1, 2010, we performed additional audit procedures targeting the previously reported matters.

## Findings and Observations

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### Finding

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*Criteria relevant to the finding:*

Public School Code (PSC) Section 111 (24 P.S. § 1-111) requires prospective school employees who would 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. Section 111 lists convictions of certain criminal offenses that, if indicated on the report to have occurred within the preceding five years, would prohibit the individual from being hired. Section 111 also requires applicants to submit a copy of the Federal criminal history record with the application for employment.

Similarly, Section 6355 of the Child Protective Services Law (CPSL), 23 Pa. C.S. § 6355, requires prospective school employees to provide an official child abuse clearance statement obtained from the Pennsylvania Department of Public Welfare. The CPSL prohibits the hiring of an individual determined by a court to have committed child abuse.

### School Bus Driver Qualification Deficiencies

Our audit of the personnel records for current bus drivers found five individuals employed by one of the Delaware County Intermediate Unit #25's (DCIU) contractors did not possess the Pennsylvania State Police Criminal Background Checks (known as Act 34 clearances) required by PSC Section 111.

Several different state statutes and regulations establish the minimum required qualifications for school bus drivers. The ultimate purpose of these requirements is to ensure the protection of the safety and welfare of the students transported in school buses. We reviewed the following five requirements:

1. Possession of a valid driver's license;
2. completion of school bus driver skills and safety training;
3. passing a physical examination;
4. lack of convictions for certain criminal offenses; and
5. official child abuse clearance statement.

The first three requirements were set by regulations issued by the Pennsylvania Department of Transportation. As explained further in the box to the left, the fourth and fifth requirements were set by the PSC and the CPSL, respectively.

On September 17, 2010, we informed DCIU management of the missing Act 34 clearances for the five van drivers and instructed them to obtain the necessary documents. On October 12, 2010, DCIU personnel told us that the contractor had informed them that the five drivers originally listed did not in fact transport DCIU students, and had provided a list of five other drivers who had the necessary documentation.

We verified that these five other drivers' had the proper qualifications; however, their Act 34 clearances were dated either October 7, 2010 or October 12, 2010, well after the start of the school year, and after we had originally informed DCIU management of the missing documentation.

The contractor indicated in a letter dated September 17, 2010, that they had not initially obtained Act 34 clearances for individuals who drove vans.

**Recommendations**

The *Delaware County Intermediate Unit #25* should:

1. Ensure that the DCIU's transportation coordinator receives accurate lists of drivers from the contractor and reviews each driver's qualifications prior to that person transporting students.
2. Establish procedures to obtain and retain the required qualifications for all drivers who transport students. This procedure should also ensure that the DCIU's files are up-to-date and complete.

**Management Response**

Management stated the following:

Director of Facilities has obtained all clearance information for present drivers of DCIU students from transportation companies. These companies will provide to the Director of Facilities clearances for any driver servicing DCIU on a continuing basis, and on July 1 of each year, Facilities Director will contact these companies to provide an up-to-date list of drivers and clearances for them. The director of programs using these transportation services will be provided an up-to-date list of drivers by site on a continuing basis.

**Observation** →

**Internal Control Weaknesses in Administrative Policies Regarding Bus Drivers' Qualifications**

*Criteria relevant to the observation:*

PSC Section 111 (24 P.S. § 1-111) requires prospective school employees who would 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. Section 111 lists convictions of certain criminal offenses that, if indicated on the report to have occurred within the preceding five years, would prohibit the individual from being hired.

Similarly, Section 6355 of the Child Protective Services Law, (CPSL), 23 Pa. C.S. § 6355, requires prospective school employees to provide an official child abuse clearance statement obtained from the Pennsylvania Department of Public Welfare. The CPSL prohibits the hiring of an individual determined by a court to have committed child abuse.

Our current audit found that the DCIU had not implemented the audit recommendations in our two previous reports regarding bus drivers' qualifications. We made our recommendations in the interest of the protection of students, and here reiterate those recommendations.

As stated in the finding (see page 8) of this report, Section 111 of the PSC requires prospective school employees who would 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 cited in the box to the left.

The ultimate purpose of the requirements of the PSC and CPSL cited in the box to the left is to ensure the protection of the safety and welfare of the students transported in school buses. To that end, we believe there are other serious crimes that DCIU should consider, on a case-by-case basis, in determining a prospective employee's suitability to have direct contact with children. Such crimes would include those listed in Section 111 but which were committed beyond the five-year look-back period, as well as other crimes of a serious nature that are not on the list at all. DCIU should also consider implementing written policies and procedures to ensure that it is immediately informed of any charges and convictions that may have occurred after the commencement of employment.

Neither the DCIU nor the transportation contractors had adopted written policies or procedures, as we recommended in the prior audit, to ensure that they are notified if current employees have been charged with or convicted of serious criminal offenses which should be considered for the purpose of determining an individual's continued suitability to be in direct contact with children. This lack of written policies and procedures is an internal control weakness that could result in the continued employment of individuals who may pose a risk if allowed to continue to have direct contact with children.



**Recommendations**

The *Delaware County Intermediate Unit #25* should:

1. Develop a process to determine, on a case-by-case basis, whether prospective and current employees of the District or the District's transportation contractors have been charged with or convicted of crimes that, even though not disqualifying under state law, affect their suitability to have direct contact with children.
2. Implement written policies and procedures to ensure that the DCIU is notified when current employees of the DCIU's transportation contractors are charged with or convicted of crimes that call into question their suitability to continue to have direct contact with children and to ensure that the District considers on a case-by-case basis whether any conviction of a current employee should lead to an employment action.

**Management Response**

Management stated the following:

In or around May 2005, the Auditor General recommended that the Delaware County Intermediate Unit (DCIU) develop, adopt and implement a written policy and procedure to notify the DCIU when school bus drivers are charged with or convicted of, crimes that call into question the employee's suitability to continue to have direct contact with children.

The auditor, at the time, agreed that DCIU met the legal requirements with regard to bus driver qualifications concerning criminal background checks, but requested that DCIU go beyond the law to require employees to report all arrests that call into question the driver's ability to have direct contact with children. This position is extremely legally problematic for DCIU, and so DCIU disagreed with the observation and stated in its response, in part:

The DCIU maintains that the current regulations will continue to be adhered to and that the Delaware County Intermediate Unit solicitor will be consulted to determine if a need exists for the Delaware County Intermediate Unit to enact policy and procedures that are more restrictive than the current law mandates.

Subsequently, the solicitor was consulted and a policy regarding bus driver qualifications was recommended. On or about September 3, 2008, DCIU adopted Board Policy 810.2, which addresses, inter alia, when drivers must report certain events to the DCIU. In May 2010, the solicitor again reviewed the policy for compliance and has determined that the policy complies with current state and federal laws and regulations. The policy does not require drivers to report arrests that do not result in an immediate suspension of driving privileges, as such is inconsistent with the law. In fact, a requirement of such reporting compromises the rights of the employee, the ability of the DCIU to apply and implement its policy equitably and without discrimination, and exposes the DCIU to potential liability. Therefore, DCIU disagrees that it must require drivers to report such arrests. In practice, however, if DCIU learns of an arrest of a current driver for any of the offenses that bring into question his/her suitability to work in direct contact with children, DCIU will take all necessary measures, under the circumstances then presented, to protect the children. It is our understanding that the laws concerning offenses which disqualify one to work with children will likely change to become more restrictive. If that is the case, DCIU will review and modify its policies, as needed, to comply with any new law. Despite the foregoing, DCIU will adjust its policy to reflect that arrests that result in the immediate suspension of driving privileges (e.g., refusing blood-alcohol testing, excessive speeding), must be reported, as is consistent with the law. A copy of the revised policy has been attached. In addition, as the Pennsylvania Department of Transportation relaxes its regulations regarding the release of employee driving records, DCIU will endeavor to request the driving records of its drivers on a periodic basis.

### **Auditor Conclusion**

As stated in the body of the observation, the Department considers the lack of written procedures or policies addressing criminal convictions subsequent to the date of hire, although not legally required, to be an internal control weakness that could result in the continued employment of individuals who may nonetheless pose a risk if allowed to continue to have direct contact with children. Therefore, this observation will stand as presented.

## **Status of Prior Audit Findings and Observations**

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Our prior audit of the Delaware County Intermediate Unit #25 (DCIU) for the school years 2005-06 and 2004-05 resulted in two observations. The first observation pertained to a Memorandum of Understanding not being updated timely and the second observation pertained to bus drivers' qualifications. As part of our current audit, we determined the status of corrective action taken by the DCIU to implement our prior recommendations. We analyzed the DCIU Board's written response provided to the Department of Education, performed audit procedures, and questioned DCIU personnel regarding the prior observations. As shown below, we found that the DCIU did implement our recommendations pertaining to the Memorandum of Understanding but did not implement our recommendations pertaining to the bus drivers' qualifications.

### **School Years 2005-06 and 2004-05 Auditor General Performance Audit Report**

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#### **Observation No. 1: Memorandum of Understanding Not Updated Timely**

Observation Summary: Our prior audit of the DCIU records found that the current Memorandum of Understanding (MOU) between the DCIU and the local law enforcement agency was signed January 28, 2002, and has not been updated. Subsequent to the completion of fieldwork, the DCIU reviewed and re-executed the MOU, effective July 14, 2008.

Recommendations: Our audit observation recommended that the DCIU:

1. Continue to periodically review, update and re-execute the current MOU between the DCIU and the local law enforcement agency.
2. Adopt a policy requiring the administration to review and re-execute the MOU every two years.

Current Status: Our current audit found that DCIU has taken corrective action and the MOUs are updated every two years.

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#### **Observation No. 2: Internal Control Weaknesses in Administrative Policies Regarding Bus Drivers' Qualifications**

Observation Summary: Our prior audit found that the DCIU had not adopted written policies or procedures, as recommended in the prior audit, to ensure that they are notified if current employees have been charged with or convicted of serious criminal offenses which should be considered for the purpose of

determining an individual's continued suitability to be in direct contact with children.

Recommendations:

Our audit observation recommended that the DCIU:

1. Develop a process to determine, on a case-by-case basis, whether prospective and current employees of the DCIU have been charged with or convicted of crimes that, even though not disqualifying under state law, affect their suitability to have direct contact with children.
2. Implement written policies and procedures to ensure that the DCIU is notified when current employees are charged with or convicted of crimes that call into question their suitability to continue to have direct contact with children and to ensure that the DCIU considers on a case-by-case basis whether any conviction of a current employee should lead to an employment action.

Current Status:

Our current audit found that DCIU has not implemented our recommendations (see observation, page 10).

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## **Distribution List**

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This report was initially distributed to the executive director of the intermediate unit, the board members, our website address at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us), and the following:

The Honorable Tom Corbett  
Governor  
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Harrisburg, PA 17120

The Honorable Ronald J. Tomalis  
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This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).

