



DERRY TOWNSHIP SCHOOL DISTRICT
DAUPHIN COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT

RELEASED SEPTEMBER 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. Christopher Morelli, Board President
Derry Township School District
30 East Granada Avenue
Hershey, Pennsylvania 17033

Dear Governor Corbett and Mr. Morelli:

We conducted a performance audit of the Derry Township School District (District) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period October 13, 2010 through October 11, 2012, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2010 and June 30, 2009. 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 District complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except as detailed in two findings noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

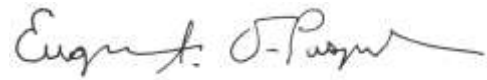
Our audit findings and recommendations have been discussed with the District's management, and their responses are included in the audit report. We believe the implementation of our recommendations will improve the District's operations and facilitate compliance with legal and administrative requirements.

On May 25, 2012, the Pennsylvania Department of the Auditor General (Department) initiated a special audit of the employment contract of the Derry Township School District Superintendent who had retired from her position effective February 28, 2011. This performance audit covered the period July 1, 2008 through February 28, 2011, and was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. This performance audit was separate and distinct from the District's cyclical performance audit, which was conducted simultaneously and the results of which are described in the following pages of the audit report. The Department conducts its cyclical performance audits approximately every two years.

The Department's special audit of the Superintendent's employment contract found that the District complied, in all significant respects, with the applicable state laws, contracts, and administrative procedures related to our specific audit objectives. However, the Department still strongly recommends that the Commonwealth's local education agencies try to avoid prematurely altering the employment of their contracted employees. Our audit work has shown that engaging in such changes frequently leads to the inappropriate and/or inefficient use of taxpayer dollars. Consequently, we will continue to monitor these issues.

We appreciate the District's cooperation during the conduct of the audit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eugene A. DePasquale".

EUGENE A. DEPASQUALE
Auditor General

September 6, 2013

cc: **DERRY TOWNSHIP 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 Derry Township School District (District). Our audit sought to answer certain questions regarding the District's compliance with applicable state laws, 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 October 13, 2010 through October 11, 2012, 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 2009-10 and 2008-09 school years.

District Background

The District encompasses approximately 27 square miles. According to 2010 federal census data, it serves a resident population of 24,679. According to District officials, the District provided basic educational services to 3,543 pupils through the employment of 274 teachers, 219 full-time and part-time support personnel, and 21 administrators during the 2009-10 school year. Lastly, the District received \$6.7 million in state funding in the 2009-10 school year.

Audit Conclusion and Results

Our audit found that the District complied, in all significant respects, with applicable

state laws, contracts, grant requirements, and administrative procedures, except for two compliance related matters reported as findings.

Finding No. 1: Possible Inaccurate Reporting of Retirement Wages. Our review of payroll records, administrators' compensation plans, and teacher contracts found the Derry Township School District may have inaccurately reported wages eligible for retirement to the Public School Employees' Retirement System for the 2011-12, 2010-11, 2009-10, and 2008-09 school years (see page 6).

Finding No. 2: Possible Inaccurate Reporting of Retirement Wages Based on the Provisions of a Retroactively Approved Contract. Our review of the Business Manager's contract (Contract), payroll records, and the administrators' compensation plan found concerns regarding the eligibility of wages reported to the Public School Employees' Retirement System (see page 14).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the Derry Township School District's (District) from an audit released on January 21, 2011, we found that the District had taken partial corrective action in implementing our recommendations pertaining to certification (see page 19) and had taken appropriate corrective action in implementing our recommendations pertaining to school bus driver qualifications (see page 20).

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 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 October 13, 2010 through October 11, 2012, except for the verification of professional employee certification which was performed for the period October 7, 2010 through July 23, 2012.

Regarding state subsidies and reimbursements, our audit covered the 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 applicable state laws, 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. Social Security and retirement), did it follow applicable 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 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

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 applicable laws, contracts, grant requirements, and administrative procedures. In conducting our audit, we obtained an understanding of the District's internal controls, including any information technology

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, contracts, grant requirements, and administrative procedures.

controls, as they relate to the District's compliance with applicable state laws, contracts, grant requirements, and administrative procedures 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 in the status of our audit recommendations made in our prior audit report released on January 21, 2011, we performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding No. 1 →

Possible Inaccurate Reporting of Retirement Wages

Criteria relevant to the finding:

The Public School Employees' Retirement System Employer Reference Manual (Manual) states that based on a Commonwealth Court decision, incentive payments are qualified earnings for retirement purposes. The Manual states that the following criteria must be met:

- The payment must be tied to work performance.
- There is an objective means to calculate the payment.
- The employer is contractually obligated to make the payment if the performance standards are met and are not discretionary or subjective.
- The payment is a significant part of the employee's income.

Additionally, the Manual provides that bonuses are *not* qualified earnings, stating:

“As compared with incentive payments, which ARE qualified earnings, bonuses are paid as an extra amount outside of the contract and/or are based on subjective criteria.”

Our review of the Derry Township School District's (District) payroll records, the Act 93 Compensation and Benefits Programs for administrators (Act 93), and the Collective Bargaining Agreements (CBA) between the District and the Hershey Education Association found that the District may have inaccurately reported wages eligible for retirement to the Public School Employees' Retirement System (PSERS) for the 2011-12, 2010-11, 2009-10, and 2008-09 school years.

The District paid Act 93 employees merit increases, compensation for National Board Certification (NBC), and service increment payments to those employees who met the criteria for such payments. Additionally, the District paid compensation for NBC and service increments to teachers and individuals covered under the CBA who met the criteria for such payments. The payments above were made prior to, during, and after the 2008-09 through 2011-12 school years covered by the audit.

Merit Increases

Based on the Act 93 agreement, all individuals covered by the program would receive the following:

<u>Evaluation Rating</u>	<u>Merit Pay</u>
Outstanding	3% of previous year's salary
Meritorious	2% of previous year's salary
Commendable	1% of previous year's salary
Needs Improvement	No merit increase

Our review of payroll records found the District’s payroll department was processing merit pay increases as if the payments were not eligible PSERS wages. However, based on e-mail correspondence the auditors received from PSERS dated August 15, 2012, merit pay based on performance is considered eligible PSERS compensation.

Therefore, the District may have under reported eligible PSERS wages for Act 93 employees as follows:

<u>School Year Ended June 30</u>	<u>Number of Individuals</u>	<u>Amount Under Reported</u>
2012	31	\$ 64,608
2011	33	69,226
2010	33	59,608
2009	32	<u>50,500</u>
	Total	<u>\$243,942</u>

National Board Certification Payments

Based on the Act 93 agreement and the CBA, both classes of employees were entitled to a non-cumulative stipend of \$2,000 from July 1, 2004 through June 30, 2011, and a non-cumulative stipend of \$2,500 from July 1, 2011 through June 30, 2014, for individuals who attained NBC as defined by the National Board of Professional Teaching Standards for each year the NBC was maintained.

Our review of payroll records found the District’s payroll department processed NBC payments as if the payments were eligible PSERS wages. However, based on the e-mail correspondence from PSERS dated August 15, 2012, since NBC payments were one-time stipends that are not added to base salary, they would *not* be considered eligible PSERS compensation. Therefore, the District may have over reported eligible PSERS wages for Act 93 employees and individuals under the CBA as follows:

Act 93 Employees

<u>School Year Ended June 30</u>	<u>Number of Individuals</u>	<u>Amount Over Reported</u>
2012	1	\$ 2,000
2011	3	5,333
2010	3	6,000
2009	2	<u>4,000</u>
	Total	<u>\$17,333</u>

We also found that the individual that was paid \$2,000 for 2012 may have actually been entitled to \$2,500 according to the contract and Act 93 agreement effective July 1, 2011.

CBA Employees

<u>School Year Ended June 30</u>	<u>Number of Individuals</u>	<u>Amount Over Reported</u>
2012	4	\$ 14,000
2011	4	10,000
2010	3	6,000
2009	2	<u>4,000</u>
	Total	<u>\$34,000</u>

In addition, we found that the District overpaid one individual \$2,000 in each of the 2011-12 and 2010-11 school years, and one other individual \$2,000 in the 2011-12 school year, for the NBC stipend. The error occurred when the District's human resources and payroll departments both processed the NBC payments.

Service Increments (Longevity)

Based on the Act 93 agreement and the CBA, both classes of employees were entitled to non-cumulative service increment payments. The annual payments ranged from \$166 to \$1,309, depending on the number of years the individual was employed by the District.

Our review of payroll records from July 1, 2008 to June 30, 2012, found that the District's payroll department processed service increment payments as if the payments were eligible PSERS

wages. However, based on the e-mail correspondence from PSERS dated August 15, 2012, since annual service increments payments were one-time stipends that were not added to base salary, they would *not* be considered eligible PSERS compensation.

The District may have over reported eligible PSERS wages for Act 93 employees as follows:

<u>School Year</u> <u>Ended June 30</u>	<u>Number of</u> <u>Individuals</u>	<u>Amount</u> <u>Over Reported</u>
2012	13	\$ 5,817
2011	13	5,229
2010	11	4,572
2009	11	<u>3,885</u>
	Total	<u>\$19,503</u>

Because it was not disclosed to us whether or not employees covered under the CBA actually received service increments, we could not determine the number of individuals involved or the amount of questionable service increment payments made to CBA employees. The Business Manager stated that he was unaware that merit increases may have been eligible for retirement purposes and that national certification stipends and service increments may not have been eligible, because he was never notified by PSERS of reporting changes. We could not determine the cause of the NBC over/under payments for the three individuals, due to personnel turnover in the payroll department.

We have provided reports to PSERS for use in the determination of wages that may have been incorrectly reported to PSERS. Any payments made prior to July 1, 2008, and after July 1, 2012, were not identified in this finding. In addition, any service increment payments made to individuals covered under the CBA from July 1, 2008 to June 30, 2012, could not be determined during the audit.

Recommendations

The *Derry Township School District* should:

1. Contingent upon PSERS's determination, ensure that the proper adjustments are made for all individuals whose eligible retirement wages were not correctly reported.
2. Implement procedures for reviewing all salary and contribution reports prior to submission to PSERS in order to ensure that only eligible wages are being reported to PSERS for retirement purposes, in accordance with the PSERS' Employer Reference Manual.
3. Contingent upon PSERS's determination, provide to PSERS any documentation that PSERS needs to adjust incorrectly reported retirement wages for periods prior to July 1, 2008, during the audit period of July 1, 2008 to June 30, 2012, and after July 1, 2012.
4. Review payroll procedures for NBC payments for weaknesses and implement corrective procedures to ensure duplicate payments are not made and that they are paid in the amounts required by contract.
5. Recover the \$6,000 in overpayments from the two individuals who were paid twice for the NBC stipend during the 2011-12 and 2010-11 school years, and resolve the \$500 underpayment of the employee's NBC stipend for the 2011-12 school year. If payment errors occurred subsequent to the 2011-12 school year, the overpayments should also be recovered.

The *Public School Employees' Retirement System* should:

6. Review the merit, NBC, and service increment payments made to Act 93 and CBA employees from July 1, 2008 to June 30, 2012, to determine if the payments were properly reported to PSERS for retirement purposes.
7. If service increment payments should not have been reported to PSERS as eligible retirement wages, request documentation for all individuals that received such payments under the CBA. (The individuals and amounts were not obtained during the audit due to the magnitude of adjustments which would need to be made.)

8. Based on its final determination, PSERS should adjust all payments incorrectly reported by the District for Act 93 and CBA employees from July 1, 2008 to June 30, 2012. Furthermore, PSERS must advise the District on how to resolve any payments incorrectly reported to PSERS for all employees prior to July 1, 2008, and after July 1, 2012.

Management Response

Management stated the following:

“The district agrees in part and disagrees in part with the finding of possible inaccurate reports of retirement wages.

The district agrees that merit pay was not included in PSERS qualified wages. District staff were unaware that, as stated in the PSERS Employer’s Reference Manual for Reporting, Page 65, (hereinafter, ‘Manual’) that based on a Commonwealth Court decision, incentive payments are retirement-covered compensation AS LONG AS (emphasis added) four criteria are met. The Manual lists the four criteria, all of which apparently must be met for the merit pay to be qualified; this means that in certain instances merit pay is qualified, while other times it is not. The individual preparing the payroll during the audit periods is not now employed by the District; therefore, it is impossible to determine if that individual referred to the Employer’s Reference Manual, or contacted PSERS staff telephonically for assistance in determining if the compensation qualifies. Certainly, this situation can be confusing when, in some instances merit pay is qualified, while in others it is not.

The Manual does not cite the date of the Commonwealth Court decision, and there is no indication how this court decision was made known to District staff. The District suggests that PSERS, from time to time, conduct seminars to assist school district personnel in proper classification of qualified and non-qualified wages.

The finding reports that, in conversations with PSERS personnel, National Board Certification payments to certain employees would not be considered PSERS compensation. However, the above cited Manual lists compensation categories that are Non Retirement Covered compensation, and the listing fails to include any mention of compensation for National Certifications. Similarly, the finding reports that additional compensation paid in accordance with a Collective Bargaining Agreement for longevity are also not qualified for PSERS compensation.

The challenge confronting District personnel is to determine which categories of compensation either qualify or do not qualify for PSERS reportable wages when they are not so disclosed in the Manual provided by PSERS. While it is theoretically possible to recommend District personnel contact PSERS for an ‘official’ response, that is not a practical response to real world situations of how to classify the compensation as qualified or not. Certainly, compensation paid for National Board Certification, and for longevity, are not particularly unique to Derry Township School District, which begs the question of why isn’t written clarification provided in the Manual? How does the District obtain an ‘official’ ruling from PSERS when it is likely, in the practical world, that an answer will not be forthcoming when the payroll must be processed? The answer is that the District must make a decision based on the ‘official’ Manual, which as noted above often does not provide a definitive answer.

Finally, throughout the two findings, the Auditor General notes, for example, ‘ . . . an email was submitted to PSERS on October 23, 2012 for guidance on resolutions. . . . Since PSERS was unable to complete a review prior to the end of the fieldwork. . . .’ Obviously, if the Auditor General’s office cannot receive a timely response from PSERS for questions it raises, how does the Auditor General’s office expect that a solitary school district, one of 500 school districts, has the influence to receive a timely response to clarify questions like the above instances?”

Auditor Conclusion

Management’s response refers to an October 23, 2012 e-mail we sent to PSERS that we refer to only in Finding No. 2 of this report (see below). This e-mail was an attempt to resolve a unique issue involving an individual contract which was made retroactively effective by almost one year. In that case a determination by PSERS will require PSERS to review documents specific to the individual, since the issue is not a general eligible wage question such as those we address in this finding.

For more general questions, PSERS’s Employer Resource Center can be contacted by phone or e-mail for timely resolution. Regarding this finding, we obtained a response from PSERS on August 15, 2012, five days after we submitted our questions. As noted in the finding, PSERS’s response noted that merit payments were eligible for retirement purposes, but national certification stipends and service increments were not.

The appropriate time for a PSERS review of questionable issues would have been when the contracts and payments were anticipated and/or approved by the District.

Determination and adjustment of eligible wages for retirement purposes will ultimately need to be completed by PSERS. Our finding will stand as written.

Finding No. 2

Possible Inaccurate Reporting of Retirement Wages Based on Provisions of a Retroactively Approved Contract

Criteria relevant to the finding:

The Public School Employees' Retirement System Employer Reference Manual (Manual) states that based on a Commonwealth Court decision, incentive payments are qualified earnings for retirement purposes. The Manual states that the following criteria must be met:

- The payment must be tied to work performance.
- There is an objective means to calculate the payment.
- The employer is contractually obligated to make the payment if the performance standards are met and are not discretionary or subjective.
- The payment is a significant part of the employee's income.

Additionally, the Manual provides that bonuses are *not* qualified earnings, stating:

“As compared with incentive payments, which ARE qualified earnings, bonuses are paid as an extra amount outside of the contract and/or are based on subjective criteria.”

Our audit found that the Derry Township School District's (District) Business Manager was employed without an employment contract (Contract) and was compensated under the Act 93 Compensation and Benefits Programs for administrators (Act 93 agreement) from September 11, 2001 until June 25, 2012, when the Board of School Directors (Board) approved the Business Manager's first contract and made it retroactive to July 1, 2011. The Contract stated that the District wished to provide the Business Manager with a written employment contract in order to enhance administrative stability and continuity within the schools, which the District believed would improve the quality of its overall educational program. The Contract further stated that the District and Business Manager believed that a written employment contract was necessary to describe specifically their relationship, and to serve as the basis of effective communication between them as they fulfilled their governance and administrative functions in the operation of the education program of the schools.

Our review found that an adjustment was made on June 29, 2012, and as a result payments were made to the Business Manager for a merit increase, national certification stipend, and a service increment for the period from July 1, 2011 to June 25, 2012. In addition, a payment for seven unused vacation days was converted to regular salary wages to become part of the Contract's base salary of \$108,750. Payments were reported to the Public School Employees' Retirement System (PSERS) as eligible wages as follows:

<u>Description</u>	<u>Amount</u>
2010-11 Base salary	\$100,615
2011-12 Merit increase	3,018
2011-12 National Certification stipend	2,000
2011-12 Service increment	395
2011-12 Seven unused vacation days	2,709
Insignificant increase to round salary	13
Total	<u>\$108,750</u>

Prior to the retroactive Contract being signed, the Business Manager was entitled to 22 annual vacation days per the Act 93 agreement. The Contract provides the Business Manager with 15 annual vacation days. The payment for 7 unused vacation days and adjustment of same to annual salary is reflective of this decrease in vacation days.

The Business Manager confirmed that neither the June 25, 2012 board-approved Contract nor the June 29, 2012 payroll adjustments were ever submitted to PSERS to determine if the District properly reported wages eligible for retirement compensation.

An e-mail was submitted to PSERS by the auditors on October 23, 2012, for guidance on the unique, retroactively approved Contract. PSERS was unable to complete a review prior to the end of our fieldwork.

We have submitted copies of the Contract, the Act 93 agreement, our October 23, 2012 e-mail to PSERS, payroll check history reports, board minutes, and the District's calculation of the base salary of \$108,750 for 2011-12 to PSERS for its review and determination of eligible retirement compensation.

Recommendations

The *Derry Township School District Board* should:

1. Contingent upon the PSERS's final determination, ensure the District only reports to PSERS those wages allowable for retirement purposes, as provided for in the PSERS' Employer Reference Manual.
2. Implement annual procedures for reviewing all salary and contribution reports in order to ensure that only eligible wages are being reported to PSERS for retirement purposes.
3. Contact PSERS for a determination when there is any uncertainty regarding the eligibility of payments for retirement purposes at the time that the payments are anticipated or approved.

The Public School Employees' Retirement System should:

4. Review the Business Manager's Contract and salary payments made from July 1, 2011 to current and determine what actions, if any, are necessary with regard to wages for retirement purposes.
5. Based on its final determination, make any necessary adjustments for payments made by the District from July 1, 2011 to current.

Management Response

Management stated the following:

“The district strongly disagrees with the finding of possible inaccurate reporting of retirement wages based on a retroactive[ly] approved contract.

The finding fails to include that many state and national organizations recommend that a separate contract be made between a business manager and a school district. The finding does not mention that the Act 93 agreement specifically provides that the business manager is NOT included under the Act 93 Agreement. Further, in Derry Township School District, the business manager was the only employee not covered in any Collective Bargaining Agreement or Act 93 Agreement. Therefore, it is appropriate that a contractual relationship exist between the business manager and the District. In fact, the business manager first raised the question with his immediate supervisor (the Assistant to the Superintendent for Personnel) approximately six years ago. When the current superintendent was hired in June 2011 and made aware that the District's business manager was not included in any binding agreement, and consequently able to seek employment elsewhere without notice, the new superintendent advised that this situation be corrected. During the 2011-2012 year, contract discussions and proposals/counter proposals had been ongoing. The proposed contract was presented, reviewed by legal counsel, and approved by the board of school directors on June 25, 2012, retroactive to July 1, 2011.

It is not unusual for a contract between professional or support staff to be retroactive. Using the same argument as proposed in the finding, would it then be appropriate for compensation adjustments resulting from retroactive agreements between professional or support staff organizations to be similarly questioned? Is the Auditor General's office suggesting that the effect of retroactive contracts for professional or support staff also be reviewed by PSERS to determine the propriety of making the contracts retroactive? The fact is that contracts are made retroactive to resolve circumstances and situations which caused a contract not to be completed in a timely manner.

It should also be noted that there was no appreciable increase in total compensation to the business manager (\$12.55, to round the contract amount from \$108,737.45 to \$108,750.00), and the intent of the contract was to codify the understandings between the District and business manager. The Auditor General is proposing a second finding, in addition to this business manager contract finding, which would result in the \$3,018 merit increase being added to pensionable income. Consequently, the remaining compensation at issue, \$5,104, results in an increase in pensionable income of less than 5%. Coincidentally, PSERS is proposing a change, effective July 1, 2015, capping pensionable compensation to 110 percent of average salary of the prior 4 years to prevent against "loading up" on the last year or two of salary to drive out a bigger pension. Since annual compensation increases in the business manager contract is limited to the state index (1.7% for 2013-2014, and anticipated to be not appreciably higher going forward), combining the compensation into one salary amount produces pensionable income within the proposed 110% guideline."

Auditor Conclusion

We are not questioning why the Business Manager and the District entered into a retroactive contract. Nor are we suggesting that the effect of retroactive contracts for professional or support staff also be reviewed by PSERS to determine the propriety of making the contracts retroactive. We are pointing out that national certification stipends and service increments appear to be ineligible wages for retirement purposes according to PSERS. In addition, payments for unused vacation days are also not eligible for retirement purposes according to the PSERS Employer Reference Manual.

Current legislation uses the three highest years' salaries as a major component in pension calculations. Therefore, PSERS's determination could affect the individual's pension income.

Determination of eligible wages for retirement purposes and any appropriate adjustments must ultimately be done by PSERS. Our finding will stand as written.

Status of Prior Audit Findings and Observations

Our prior audit of the Derry Township School District (District) released on January 21, 2011, resulted in two reported findings. The first finding pertained to certification, and the second finding pertained to school bus driver qualifications. As part of our current audit, we determined the status of corrective action taken by the District to implement our prior recommendations. We performed audit procedures and interviewed District personnel regarding the prior findings. As shown below, we found that the District did implement our recommendations related to the bus driver qualifications finding. The results of the certification finding are awaiting a final determination by the Pennsylvania Department of Education's Bureau of School Leadership and Teacher Quality (BSLTQ).

Auditor General Performance Audit Report Released on January 21, 2011

Finding No. 1: Certification Deficiency

Finding Summary: Our prior audit found that one individual worked in the locally-titled position of mental health/intervention specialist without holding any certification.

Recommendations: Our prior audit finding recommended that the District:

1. Require the individual cited in the finding to immediately obtain proper certification for the position assigned.
2. Submit all locally-titled positions to BSLTQ for review to determine the required certification for each position.

We also recommended that the Pennsylvania Department of Education:

3. Recover the appropriate subsidy forfeitures resulting from the deficiency.

Current Status: During our current audit, we found that the District received a Settlement and Release Agreement between the District and BSLTQ from the Acting Secretary of Education dated January 21, 2011. Within the agreement, BSLTQ stated that it was in the process of reviewing the requirements for the mental health/intervention specialist position and determining if any specific certification was required for the position. Since BSLTQ had not determined the appropriate certification required for this position as of our fieldwork completion date, the District could not require the individual to obtain certification. Furthermore, the subsidy penalty of \$13,279 was waived by BSLTQ.

Additionally, we found that the District did not create any new locally-titled positions since our prior audit.

Finding No. 2: School Bus Driver Qualification Deficiencies

Finding Summary: Our prior audit of personnel records for current bus drivers found seven individuals for whom the District did not have the federal criminal history record information required by the Public School Code on file.

Recommendations: Our audit finding recommended that the District:

1. Ensure that the District's transportation coordinator review each bus 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 would also ensure that the District's files are up to date and complete.

Current Status: During our current audit, we found that the District implemented a procedure utilizing a checklist to ensure that bus drivers possess the required documents. All bus drivers' files, for both District and contracted drivers, are maintained at the District. We found that the drivers selected for our current test of bus driver qualifications had the required documentation.

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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