PERFORMANCE AUDIT

East Stroudsburg Area School District

Monroe County, Pennsylvania

March 2019



Commonwealth of Pennsylvania Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DEPASQUALE AUDITOR GENERAL

Dr. William R. Riker, Superintendent East Stroudsburg Area School District 50 Vine Street East Stroudsburg, Pennsylvania 18301 Ms. Lisa VanWhy, Board President East Stroudsburg Area School District 50 Vine Street East Stroudsburg, Pennsylvania 18301

Dear Dr. Riker and Ms. VanWhy:

We have conducted a performance audit of the East Stroudsburg Area School District (District) for the period July 1, 2013 through June 30, 2017, except as otherwise indicated in the audit scope, objective, and methodology section of the report. We evaluated the District's performance in the following areas as further described in the appendix of this report:

- Administrator Separations
- Nonresident Student Data
- Bus Driver Requirements

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.

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 performed adequately in the bulleted areas listed above, except as noted in the following finding:

 A Flawed Employment Contract Caused the District to Incur Legal and Other Settlement Costs Dr. William R. Riker Ms. Lisa VanWhy Page 2

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

Sincerely,

Eugene A. DePasquale

March 21, 2019 Auditor General

cc: EAST STROUDSBURG AREA SCHOOL DISTRICT Board of School Directors

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Background Information

School Characteristics				
2017-18 School Year ^A				
C4:	Monroe &			
Counties	Pike			
Total Square Miles	214			
Number of School	10			
Buildings				
Total Teachers	576			
Total Full or Part-	605			
Time Support Staff				
Total Administrators	37			
Total Enrollment for	rollment for			
Most Recent School	7,421			
Year				
Intermediate Unit	20			
Number	20			
District Vo-Tech	Monroe Career &			
School	Technical Institute			

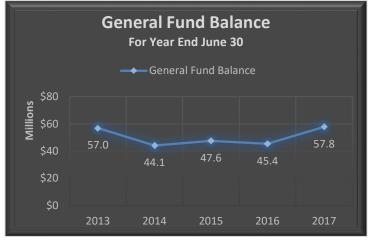
A - Source: Information provided by the District administration and is unaudited.

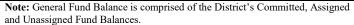
Mission Statement^A

East Stroudsburg Area School District fosters within all students a commitment to excellence, service, and life-long learning which prepares students to be creative, productive, and responsible citizens with a global perspective.

Financial Information

The following pages contain financial information about the East Stroudsburg Area 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**.

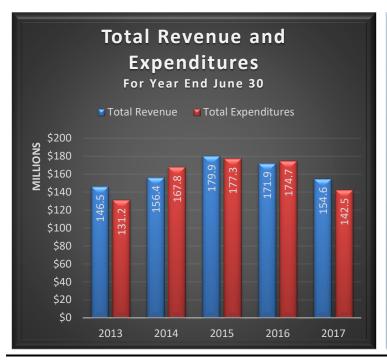


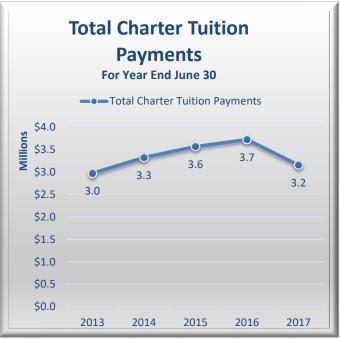


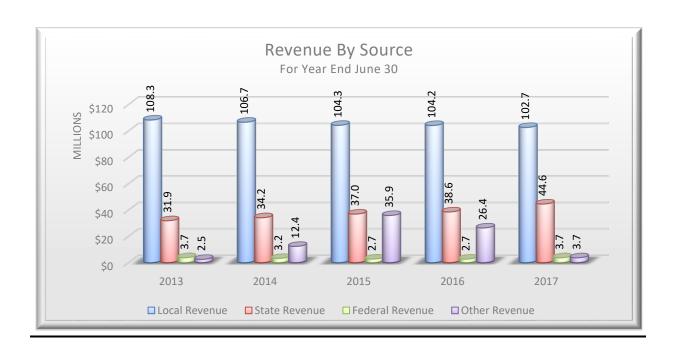


Note: Total Debt is comprised of Short-Term Borrowing, General Obligation Bonds, Authority Building Obligations, Other Long-Term Debt, Other Post-Employment Benefits, Compensated Absences and Net Pension Liability.

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. 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. 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.

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. 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.

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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?

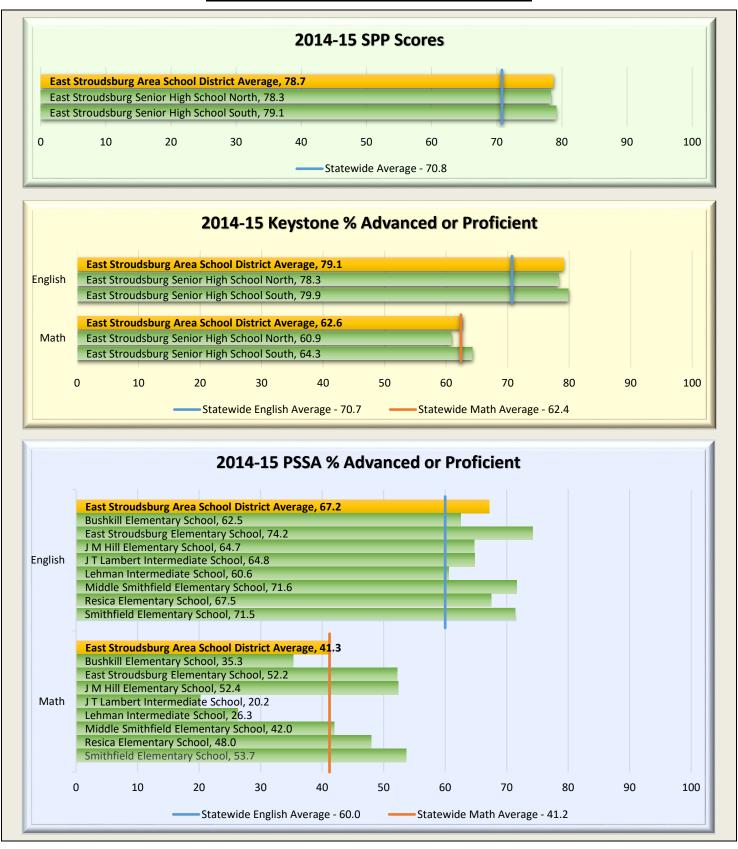
The PDE collects enrollment and graduate data for all Pennsylvania public schools, which is used to calculate graduation rates. Cohort graduation rates are a calculation of the percentage of students who have graduated with a regular high school diploma within a designated number of years since the student 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

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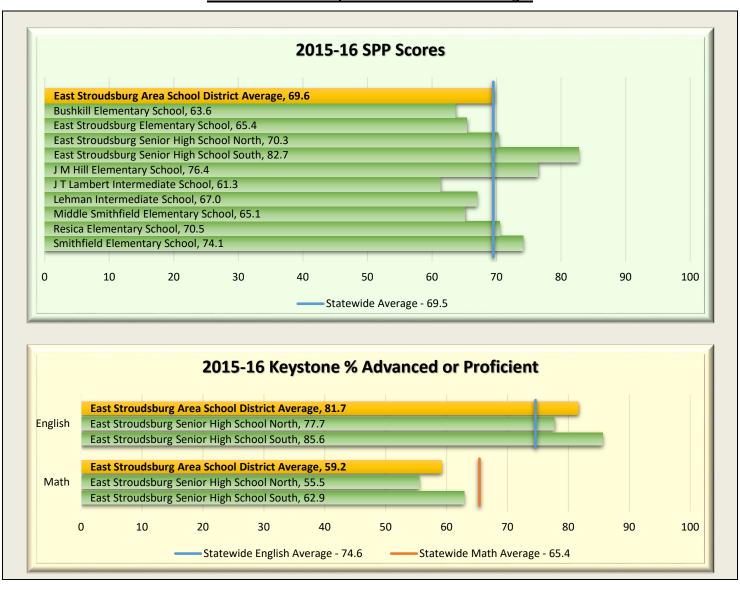
⁶ The PDE has determined that PSSA scores issued beginning with the 2014-15 school year and after are not comparable to prior years due to restructuring of the exam.

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.

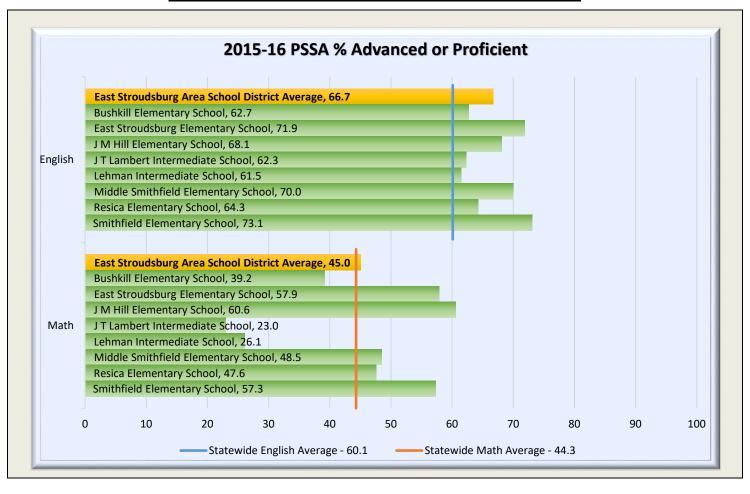
2014-15 Academic Data School Scores Compared to Statewide Averages



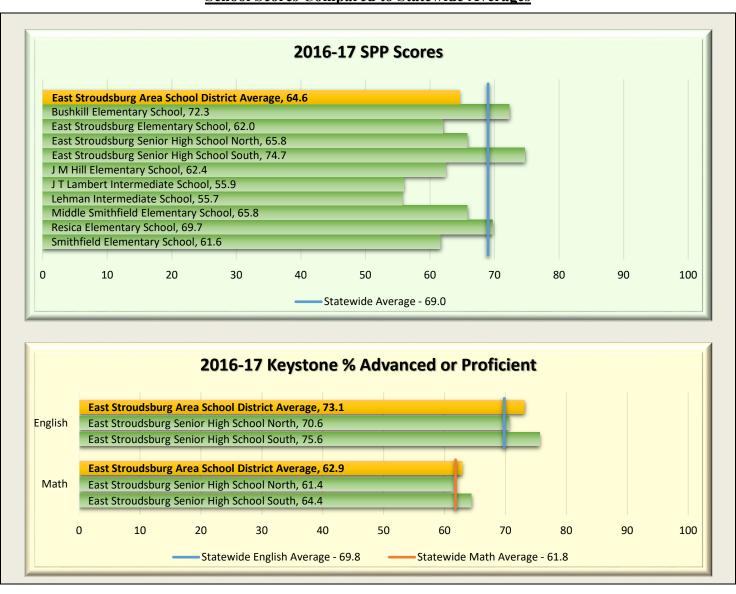
2015-16 Academic Data School Scores Compared to Statewide Averages



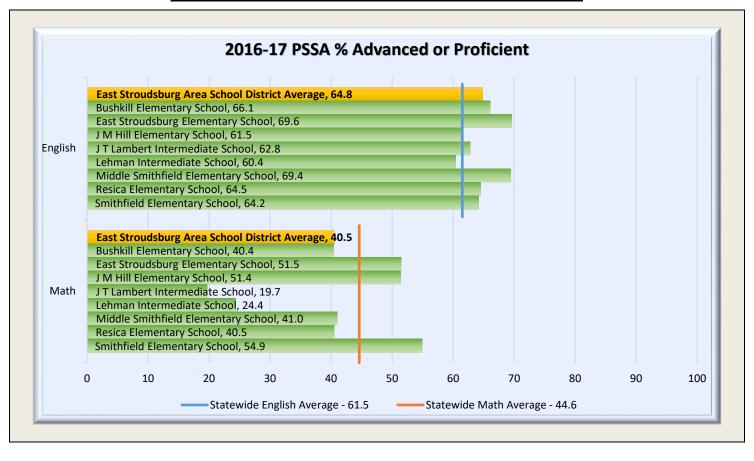
2015-16 Academic Data School Scores Compared to Statewide Averages (Continued)



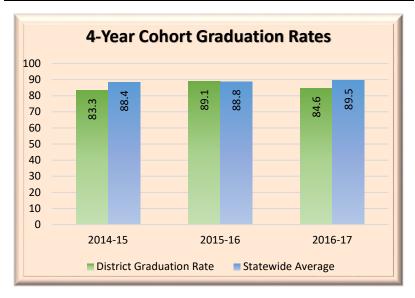
2016-17 Academic Data School Scores Compared to Statewide Averages



2016-17 Academic Data School Scores Compared to Statewide Averages (Continued)



<u>Graduation Data</u> <u>District Graduation Rates Compared to Statewide Averages</u>



Finding

A Flawed Employment Contract Caused the District to Incur Legal and Other Settlement Costs

Criteria relevant to the finding:

District Policy No. 308, *Employment Contract*, states, in part:

"Noncertificated administrative employees shall be employed through a contract or Board resolution which sets forth the full conditions of employment and continues from year to year until altered by Board action. . . . For noncertificated administrative employees, the contract or Board resolution shall be in accordance with this policy.

The contract or resolution may include:

- 1. Beginning compensation.
- 2. Term of employment and work period for which compensation will be paid.
- 3. Statement of fringe benefits entitlement.
- 4. State of seniority rights, if any."

When settling a lawsuit with a former Chief Financial Officer (CFO), the East Stroudsburg Area School District (District) incurred legal and other settlement costs that could have been avoided if its employment contract with the former CFO had contained clear and concrete language with regard to compensation terms. In light of District policy and the definition of "administrative compensation" in Section 1164 of the Public School Code (PSC), we believe that it is reasonable to expect that administrator contracts should contain as a basic element either the administrator's salary amounts or a salary schedule.⁸

In addition, the structure of the settlement increased the cost to the Public School Employees' Retirement System (PSERS) for the former CFO's pension by retroactively and substantially increasing his salary for the final two years of his employment. Since an annuitant's retirement compensation is formulated based upon the average of the final three years of the employee's salary, the retroactive salary increases significantly boosted the former CFO's retirement compensation, which will be paid out indefinitely. While these are concerning issues, the rest of this finding focuses on the weaknesses of the **two employment contracts** between the CFO and the District and the added costs associated with the settlement agreement.

⁸ District Policy No. 328, *Compensation Plan*. Note that Act 93 of 1984 requires school administrators written compensation plans and provides a means by which compensation matters affecting school administrators can be resolved. While the contracts included with this finding are not Act 93 contracts, such contracts as outlined in the PSC can serve as a model for what must be contained as essential components of administrator compensation plans including salary amounts/salary schedules of the administrators. *See* 24 P.S. § 11-1164. The definition of "Administrative compensation" in Section 1164 of the PSC pertains to "administrator salaries and fringe benefits and shall include any board decision that directly affects administrator compensation such as administrative evaluation and early retirement programs." Ibid.

Criteria relevant to the finding (continued):

District Policy No. 328, *Compensation Plan*, states, in part:

"It is therefore incumbent on the Board to pursue a plan of compensation, based upon responsibility and performance that will provide fair and adequate financial incentive for all management personnel. To accomplish this commitment, the Board directs that such a compensation plan be implemented. . . . The individual contracts and the compensation plan may include:

- 1. Description of the program for determining administrative salaries.
- 2. Salary amounts or salary schedules.
- 3. List of fringe benefits.
- 4. Employee expectations."

Vague Compensation Terms & Inappropriate Salary Increase Clause

The CFO had two contracts during his tenure with the District. These included a three-year contract, effective September 1, 2012, and a five-year contract, effective September 1, 2015.

Both contracts contained vague terms with regard to salary increases based upon performance evaluations. However, it was the flawed language in the second contract that may have contributed to the dispute that led to the former CFO's lawsuit against the District. The compensation clause stated the following:

The Chief Financial Officer's salary shall be determined by the Board at the recommendation of the Superintendent, but in no event shall the salary increase be less than that provided to the current Act 93 Administrators, the Superintendent, or Assistant Superintendents, whichever is greater, provided that the Chief Financial Officer receives a satisfactory evaluation from the Superintendent for the previous year. 9

This atypical arrangement, in particular tying the CFO's salary increase to the Superintendent's increase, substantially weakened the performance basis of the CFO's salary increases. Further, the clause did not define the increase itself either as a percentage of salary or as a dollar amount. The vague language ultimately may have resulted in a District-funded payout to settle a lawsuit brought by the former CFO, as discussed in the next section.

CFO's Claim Regarding New Superintendent's Compensation

The District's former Superintendent retired at the end of the 2015-16 fiscal year. The former Superintendent retired with a salary amount of \$147,516, and a new Superintendent was hired at a salary of \$167,000. A starting salary for a newly hired Superintendent can take into account that newly hired employee's professional

⁹ Chief Financial Officer Employment Contract: An Agreement between the Board of Education of the East Stroudsburg Area School District and [former CFO], page 2, April 20, 2015.

¹⁰ In stark contrast to the model Act 93 language under Section 1164 of the PSC. See 24 P.S. § 11-1164.

experience, education, certifications, and other credentials. Thus, the salary differential of \$19,484, or 13.2 percent, between the former and the new Superintendent's compensation did not constitute a *salary increase*. Therefore, the salary differential should not have factored into the calculation of a salary increase for the former CFO.

The former CFO filed a lawsuit against the District in November 2016 claiming he was due a salary increase related to the new Superintendent's compensation. In February 2018, 15 months after the lawsuit was filed, the District settled with the former CFO, who continued to work for the District up until the start of the 2018-19 school year. Partly due to the unclear language in the 2015 employment contract, the District, in settling with the former CFO, provided the *retroactive* salary adjustments shown in the table below:

Table 1

East Stroudsburg ASD Analysis of Former CFO's Compensation Adjustments						
		% Increase	Retroactively	\$ Increase	% Increase	
Fiscal	Original	from Prior	Adjusted	from Original	from Original	
Year	Salary ¹¹	Year	Salary ¹²	Salary	Salary	
2015-16	\$129,350					
2016-17	\$135,819	5%	\$146,425	\$10,606	7.8%	
2017-18	\$139,894	3%	\$150,818	\$10,924	7.8%	

In addition to the retroactive salary increases totaling \$21,530, the District paid the former CFO's legal fees totaling \$7,100 as well as its own legal fees in connection with the lawsuit of almost \$19,000.

Altogether, the District incurred legal and additional compensation costs of approximately \$47,630 to resolve an issue of disputed compensation. Because of weak and defective language in the former CFO's employment contract, which lacked accountability standards and specific, quantifiable compensation terms tied to the CFO's performance, the District paid an unnecessarily costly settlement with the former CFO.

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¹¹ Based on the respective board meeting minutes authorizing salary increases.

¹² Pursuant to settlement agreement.

Recommendations

The *East Stroudsburg Area School District* should do the following:

- 1. Establish a policy and corresponding procedures requiring well-defined, quantifiable compensation terms in administrator employment contracts, including quantified compensation adjustments tied to performance.
- 2. Immediately review all current administrator contracts to ensure that compensation provisions are clearly written with quantifiable terms tied to performance and amend any current contracts with vague compensation language.

Management Response

District management provided the following response:

"The District's former CFO's compensation terms were insufficiently clear, and the salary increase clause was inappropriate. While the Department of Auditor General's cost analysis concerning the former CFO's contract language is accurate, the school board determined, on advice of counsel, that the Settlement Agreement cited by the DAG represented a small cost savings as compared to pursuing the litigation with the former CFO through to its conclusion. The increased costs to PSERS, while regrettable, are a function of PSERS's structure, and the school board believed at the time of the Settlement Agreement that further litigation would likely result in additional costs to both the district and PSERS.

- "Moving forward, the administration will adopt the recommendations of the Department of the Auditor General and recommend to the school board that:
- (a) District Policy 328 be revised to require that administrator contracts have a clear, numerical salary schedule such that each year's salary is readily discernible, either as a dollar figure or an express percentage increase from the preceding year of the contract.
- (b) the school board review existing contracts with the assistance of the board's solicitor, and propose appropriate revision of existing contracts to current administrators to

bring the contracts into compliance with the revised Policy 328."

Auditor Conclusion

We are pleased that the District will implement our recommendations and revise its policy. We believe that our recommendations will better protect the District from costly litigation and settlement agreements. During our next audit of the District, we will review the revised policy and any other corrective action implemented by the District.

Status of Prior Audit Findings and Observations					
Our prior audit of the East Stroudsburg Area 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, ¹³ 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 East Stroudsburg Area 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). ¹⁴ 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.

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¹³ 72 P.S. §§ 402 and 403.

¹⁴ 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:

- ✓ Administrator Separations
- ✓ Nonresident Student Data
- ✓ Bus Driver Requirements
- ✓ 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 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 contracts comply with the Public School Code¹⁵ and Public School Employees' Retirement System (PSERS) guidelines?
 - O To address this objective, we reviewed the contracts, settlement agreements, board meeting minutes, board policies, and payroll records for all three administrators who separated employment from the District during the period July 1, 2013 through August 31, 2018. We verified the reasons for the separation and whether the total cost of the separation was made public during board meetings. We reviewed payroll records to ensure that these payments were correctly reported to the PSERS. We also reviewed the contracts for the current Superintendent, Assistant Superintendent, and Business Manager to determine it complied with applicable provisions of the Public School Code regarding inclusion of termination, buyout, and severance provisions. The results of our review of this objective can be found in the finding on page 11 of this report.
- ✓ Did the District accurately report nonresident students to the PDE? Did the District receive the correct reimbursement for these nonresident students?¹6
 - o To address this objective, we reviewed all 112 nonresident students reported by the District to the PDE during the 2014-15 school year. We obtained

¹⁵ 24 P.S. § 10-1073(e)(v).

¹⁶ See 24 P.S. §§ 13-1301, 13-1302, 13-1305, 13-1306; 22 Pa. Code Chapter 11.

documentation to verify that the custodial parent or guardian was not a resident of the District and that the custodial parent received a stipend for caring for the student. The student listings were compared to the total days reported on the Membership Summary and Instructional Time and Membership Report to ensure that the District received correct reimbursement for these students. Our review of this objective did not disclose any reportable issues.

- ✓ 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? ¹⁷ 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?
 - O To address this objective, we randomly selected 12 of the 125 bus drivers employed by the District who transported District students as of September 13, 2018. We reviewed documentation to ensure the District complied with the requirements for bus drivers. 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. Our review of this objective did not disclose any reportable issues.
- ✓ Did the District take actions to ensure it provided a safe school environment?¹⁹
 - O To address this objective, we reviewed a variety of documentation including, safety plans, training schedules, anti-bullying policies, and after action reports. In addition, we conducted on-site reviews at three out of the District's ten school buildings (one from each education level) to assess whether the District had implemented basic safety practices. ²⁰ We conducted on-site reviews at one of their high schools, intermediate schools, and elementary schools that were all within a short proximity of one another. ²¹ 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.

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¹⁷ 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.

¹⁸ While representative selection is a required factor of audit sampling methodologies, 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 the population.

¹⁹ 24 P.S. § 13-1301-A et seq.

²⁰ Basic safety practices evaluated were building security, bullying prevention, visitor procedures, risk and vulnerability assessments, and preparedness.

²¹ 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 the population.

Distribution List

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

The Honorable Tom W. Wolf

Governor Commonwealth of Pennsylvania Harrisburg, PA 17120

The Honorable Pedro A. Rivera

Secretary of Education 1010 Harristown Building #2 333 Market Street Harrisburg, PA 17126

The Honorable Joe Torsella

State Treasurer Room 129 - Finance Building Harrisburg, PA 17120

Mrs. Danielle Mariano

Director Bureau of Budget and Fiscal Management Pennsylvania Department of Education 4th Floor, 333 Market Street Harrisburg, PA 17126

Dr. David Wazeter

Research Manager Pennsylvania State Education Association 400 North Third Street - Box 1724 Harrisburg, PA 17105

Mr. Nathan Mains

Executive Director Pennsylvania School Boards Association 400 Bent Creek Boulevard Mechanicsburg, PA 17050

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: News@PaAuditor.gov.