



LEHIGHTON AREA SCHOOL DISTRICT  
CARBON COUNTY, PENNSYLVANIA  
PERFORMANCE AUDIT REPORT

DECEMBER 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

Ms. Gloria Bowman, Board President  
Lehigh Area School District  
1000 Union Street  
Lehigh, Pennsylvania 18235

Dear Governor Corbett and Ms. Bowman:

We conducted a performance audit of the Lehigh Area School District (District) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period January 29, 2010 through March 5, 2013, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2012, 2011, 2010, and 2009. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the District complied, in all significant respects, with relevant requirements, except as detailed in one (1) finding noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

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

Sincerely,

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

EUGENE DePASQUALE  
Auditor General

December 4, 2013

cc: **LEHIGH AREA SCHOOL DISTRICT** Board of School Directors

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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 Lehigh Area School District (District) in Carbon County. Our audit sought to answer certain questions regarding the District's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures and to determine the status of corrective action taken by the District in response to our prior audit recommendations.

Our audit scope covered the period January 29, 2010 through March 5, 2013, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2011-12, 2010-11, 2009-10, and 2008-09 school years.

### **District Background**

The District encompasses approximately 65 square miles. According to 2010 federal census data, it serves a resident population of 19,353. According to District officials, the District provided basic educational services to 2,480 pupils through the employment of 194 teachers, 126 full-time and part-time support personnel, and 15 administrators during the 2011-12 school year. Lastly, the District received \$13.1 million in state funding in the 2011-12 school year.

### **Audit Conclusion and Results**

Our audit found that the District complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, except for one (1) compliance related matter reported as a finding.

#### **Finding: District Entered Into Memorandum of Understanding with its Former Superintendent Resulting in a Questionable Use of Taxpayer Funds.**

Our audit found that the Lehigh Area School District (District) employed a consultant to serve as the District's de facto superintendent for three (3) months, while simultaneously paying its former Superintendent his full-time salary. In addition, the former Superintendent's duties and responsibilities during this three-month period are unclear because the District was unable to produce any documentation to substantiate his role. However, descriptions provided by District personnel indicate that the former Superintendent's activities were actually less than half-time. As a result, the District also violated the Public School Employees' Retirement System's regulations during that three-month period, because it continued to report the former Superintendent's wages as a full-time employee, when in fact he was working less than half-time (see page 6).

**Status of Prior Audit Findings and Observations.** With regard to the status of our prior audit recommendations to the District from an audit released on February 17, 2012, we found that the District had taken appropriate corrective action in implementing our

recommendations pertaining to unmonitored vendor system access and logical access control weaknesses (see page 12).

## Audit Scope, Objectives, and Methodology

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### Scope

*What is a school performance audit?*

School performance audits allow the Pennsylvania Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each local education agency (LEA). The results of these audits are shared with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

Our audit, conducted under authority of Section 403 of The Fiscal Code, 72 P.S. § 403, is not a substitute for the local annual audit required by the Public School Code of 1949, as amended. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period January 29, 2010 through March 5, 2013, except for the verification of professional employee certification which was performed for the period July 1, 2012 through December 31, 2012.

Regarding state subsidies and reimbursements, our audit covered the 2011-12, 2010-11, 2009-10, and 2008-09 school years.

While all districts have the same school years, some have different fiscal years. Therefore, for the purposes of our audit work and to be consistent with Pennsylvania Department of Education (PDE) reporting guidelines, we use the term *school year* rather than fiscal year throughout this report. A school year covers the period July 1 to June 30.

### Objectives

*What is the difference between a finding and an observation?*

Our performance audits may contain findings and/or observations related to our audit objectives. Findings describe noncompliance with a statute, regulation, policy, contract, grant requirement, or administrative procedure. Observations are reported when we believe corrective action should be taken to remedy a potential problem not rising to the level of noncompliance with specific criteria.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the District's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures. However, as we conducted our audit procedures, we sought to determine answers to the following questions, which serve as our audit objectives:

- ✓ Were professional employees certified for the positions they held?
- ✓ 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 current bus drivers were properly qualified, and did they have written policies and procedures governing the hiring of new bus drivers?
- ✓ Were there any declining fund balances that may pose a risk to the District's fiscal viability?
- ✓ Did the District pursue a contract buy-out with an administrator and if so, what was the total cost of the buy-out, what were the reasons for the termination/settlement, and did the current employment contract(s) contain adequate termination provisions?
- ✓ Did the District take appropriate steps to ensure school safety?
- ✓ Did the District have a properly executed and updated Memorandum of Understanding with local law enforcement?
- ✓ Were votes made by the District's Board of School Directors free from apparent conflicts of interest?
- ✓ Were there any other areas of concern reported by independent auditors, citizens, or other interested parties?
- ✓ Did the District take appropriate corrective action to address recommendations made in our prior audit?

## **Methodology**

*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

*What are internal controls?*

Internal controls are processes designed by management to provide reasonable assurance of achieving objectives in areas such as:

- Effectiveness and efficiency of operations.
- Relevance and reliability of operational and financial information.
- Compliance with certain relevant laws, regulations, contracts, grant requirements, and administrative procedures.

reasonable assurance that the District is in compliance with certain relevant laws, regulations, contracts, grant requirements, and administrative procedures. In conducting our audit, we obtained an understanding of the District's internal controls, including any information technology controls, as they relate to the District's compliance with relevant requirements that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal 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.

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 bus driver qualifications, professional employee certification, and financial stability.
- Items such as board meeting minutes and policies and procedures.

Additionally, we interviewed select administrators and support personnel associated with the District's operations.

Lastly, to determine the status of our audit recommendations made in a prior audit report released on February 17, 2012, we performed additional audit procedures targeting the previously reported matters.



## Findings and Observations

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### Finding

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### District Entered Into Memorandum of Understanding with its Former Superintendent Resulting in a Questionable Use of Taxpayer Funds

*Criteria relevant to the finding:*

Section 1073 of the Public School Code, 24 P.S. § 10-1073(a), requires school districts to enter into three-to-five-year employment contracts with their superintendents.

The Public School Employees' Retirement System (PSERS) Employer Reference Manual (ERM) Chapter 2 states to be eligible for PSERS membership as a full-time employee, the employee must work 5 hours or more a day, 5 days a week or its equivalent. It further states to be eligible as a part-time employee, the employee must be contracted to work less than 5 hours a day, 5 days a week or its equivalent and must have their salaries and retirement deductions reported to PSERS through monthly Work Report Records. Additionally, the PSERS ERM states that independent contractors are not eligible for PSERS membership.

PSERS allows only qualified salary and wages to be included for retirement purposes. According to the Public School Employees' Retirement Board Regulations, Section 211.2, reported compensation should: "exclude . . . payments or similar emoluments which may be negotiated in a collective bargaining agreement for the express purpose of enhancing the compensation factor for retirement benefits."

Our audit found that the Lehigh Area School District (District) employed a consultant (Consultant) to serve as the District's de facto superintendent for three (3) months, while simultaneously paying its former Superintendent his full-time salary. In addition, the former Superintendent's duties and responsibilities during this three (3) month period are unclear because the District was unable to produce any documentation to substantiate his role. However, descriptions provided by District personnel indicate that the former Superintendent's activities were actually less than half-time. As a result, the District violated the Public School Employees' Retirement System's regulations during that three-month period, because it continued to report the former Superintendent's wages as a full-time employee, when in fact he was working less than half-time.

On February 27, 2012, the District's Board of School Directors (Board) voted to enter into a Memorandum of Understanding (MOU) with its former Superintendent that stated the following, in part:

1. "That the last regular work day for the Superintendent shall be March 30, 2012."
2. "That from that date until June 30, 2012, that the Superintendent shall remain as an employee with full benefits of the District and work from home to finish his duties with the District, including using all remaining vacation and personal days."
3. "That the Superintendent shall not be required to be physically present in the District during this period unless specifically asked by [the interim consultant hired to manage the District from April 1, 2012 through June 30, 2012] in order to facilitate a smooth transition. It is the intent of the parties that [the Consultant and prior Superintendent] shall mutually agree as to dates and times such meetings may be necessary. It is the intent that the day to day affairs of the District shall be

assumed by the [Consultant] on April 1, 2012, to facilitate [the prior Superintendent] finishing his duties with the District.”

4. “All remaining terms of the Superintendent contract shall continue unaltered.”

On that same day, the Board also hired a consultant to manage the District’s daily operations for three (3) months, beginning April 1, 2012. Under the agreement, the District consented to pay the Consultant \$450 a day plus \$30 per day for mileage, with a mileage cap of \$300 per month. The Consultant was expected to work a maximum of twelve (12) days per month. In addition, the agreement indicated that the Consultant would become the Acting Superintendent as of July 1, 2012.

Based on the terms of the board-approved MOU, the District continued to pay its former Superintendent his full-time salary and benefits during the three (3) months that the Consultant was managing the District’s daily operations. It is unclear what work the former Superintendent performed during that time because the Board did not require him to submit reports detailing his activities. However, District personnel stated that the former Superintendent’s role was to be available to the Consultant, upon request, for advice and/or information. According to the current Superintendent, the former Superintendent corresponded with the District regularly through email and telephone, and signed official documents, such as graduation diplomas. The current Superintendent stated that the former Superintendent did not attend any meetings involving personnel, on-going contract negotiations, or buildings and grounds, and had no dealings with the District’s daily operations.

District personnel’s description of the former Superintendent’s duties during the period that the MOU was in effect (April 1, 2012 to July 1, 2012) suggest that he was actually working less than full-time and perhaps even less than part-time. However, the District continued to pay him as a full-time employee and continued to report his wages to Public School Retirement System’s (PSERS) as though he were still a full-time employee.

According to the PSERS Reference Manual, only employees who work five (5) hours or more a day, five (5)

days a week or its equivalent, can be considered full-time. It further states that to be eligible for participation in PSERS as a part-time employee, an individual must be contracted to work less than five (5) hours a day, five (5) days a week or its equivalent and must have their salaries and retirement deductions reported to PSERS monthly. Thus, it appears that the former Superintendent's salary for the three-month period may not have been eligible for inclusion in PSERS as either a full-time or a part-time employee.

The Board's decision to enter into this unusual arrangement with its former Superintendent and an outside Consultant forced the District's taxpayers to pay two (2) individuals for the same position. From April 1, 2012 to July 1, 2012, when the Board appointed a permanent Superintendent, the agreement cost the District \$46,490. During this three-month period, it paid the Consultant \$16,650 in wages and mileage to manage the District's daily operations, and it continued to pay the former Superintendent \$29,840 in full-time salary and benefits to act as a District advisor. These monies would have been better spent in the District's classrooms.

Furthermore, there is no evidence to support that the former Superintendent continued to provide full-time services to the District, even though he was paid for them. In fact, the information in the MOU and the descriptions of District personnel suggest that his duties and responsibilities were less than full-time, and perhaps even less than part-time. Therefore, the District's taxpayers essentially overpaid the former Superintendent for the work he was doing and possibly for his retirement, since his full-time wages continued to be reported to PSERS.

The Board also failed to make its reasoning for this arrangement transparent to the public. It should have publicly explained why the MOU was necessary and why the District's taxpayers had to pay for both the former Superintendent and a Consultant. Likewise, the Board should have publicly justified why it continued to pay the former Superintendent a full-time salary and benefits when it had curtailed his duties significantly. The Board should also have documented its reasoning in the board meeting minutes.

## **Recommendations**

The *Lehigh Area School District's Board of School Directors* should:

1. Avoid entering into agreements that will cause the District's taxpayers to be charged twice for the same services and that allow employees to be paid full-time wages for less than full-time work.
2. Provide as much information as possible to the taxpayers of the District explaining the reasons for entering into the MOU with the former Superintendent and justifying the District's expenditure of public funds for this purpose.
3. Implement procedures for reviewing all salary and contribution reports to ensure that only eligible wages are being reported to PSERS for retirement contributions.

The *Public School Employees' Retirement System* should:

4. Review the propriety of the wages for the above mentioned employee and make any necessary adjustments.

## **Management Response**

Management stated the following:

“The District hired PSBA to provide superintendent search services for the District. The Board was advised that the District would have a difficult time locating a superintendent at the desired salary level because of the District's size and location. Even though the search was being done in the spring, PSBA indicated that it was likely that the District might not get a Superintendent until possibly the end of the year and might cause difficulty concerning the proposed District-wide building program.

The District was also advised that finding an Acting Superintendent familiar with building programs as the District was embarking upon including recent modifications to the PlanCon Process would be a difficult task.

Therefore the District early on began to search for an Acting Superintendent to begin on July 1<sup>st</sup>. It found that the former Superintendent [at another district], who was involved in the building program [at that district], was available. Rather than running the risk of having a vacant superintendent position on July 1<sup>st</sup> with an unqualified acting Superintendent, the District hired [a consultant] for two to three days a week to familiarize himself with the District, its policy and personnel, and to facilitate a smooth transition to the next superintendent. He functioned in the same role as an assistant superintendent. In 20/20 hindsight, this was unnecessary as a Superintendent was found quicker than advised by PSBA.

[In addition] The former Superintendent fulfilled all his duties as required under his contract and state law and was accessible to the District via telephone, email, and when necessary in person for the last three months of his contract as he used up accrued vacation and personal days. For example, he signed all diplomas and attended the top ten percent banquet and graduation ceremonies. He regularly answered questions posed by the Director of Curriculum, Business Administrator and Consultant. He also met with district personnel and reviewed and signed all documents that required the Superintendent's signature. The School Code does not require his physical presence at the District. As such, he earned the wages reported to PSERS per his contract.”

### **Auditor Conclusion**

While we can appreciate the challenges created by the District's need to transition between superintendents, such a shift in leadership should not require the District's taxpayers to pay two (2) individuals for the same position. Furthermore, the District's taxpayers should not be expected to pay an employee a full-time salary for less than full-time work.

Furthermore, it is clear from the MOU that the Board hired the Consultant to perform duties as an interim superintendent not an assistant superintendent as noted in the District's management response. Moreover, it appears that the former Superintendent was assisting the Consultant as he/she transitioned into the superintendent position.

Therefore, the former Superintendent should not have received his full pay for the three-month period.

While PSERS will make the final determination regarding whether the District properly reported the former Superintendent's wages, we based our conclusion on the MOU's statement that the former Superintendent's last regular work day was March 30, 2012. In addition, as previously stated, we found no evidence that the former Superintendent had performed any daily work since the MOU went into effect. However, the former Superintendent did take 18 vacation and 2 personal days during the three-month period as required by the MOU. This fact should be taken into consideration by PSERS during their review.

Our finding will remain as written.

## Status of Prior Audit Findings and Observations

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Our prior audit of the Lehigh Area School District (District) released on February 17, 2012, resulted in one (1) reported observation pertaining to unmonitored vendor system access and logical access control weaknesses. 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 observation. As shown below, we found that the District did implement our recommendations related to the unmonitored vendor system access and logical access control weaknesses.

### Auditor General Performance Audit Report Released on February 17, 2012

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**Observation:** **Unmonitored Vendor System Access and Logical Access Control Weaknesses**

Observation Summary: Our prior audit found that the District uses software purchased from an outside vendor for its critical student accounting applications (membership and attendance). Additionally, the District's entire computer system, including all its data and the vendor's software, were maintained on the vendor's servers which was physically located at the vendor's location. The District had remote access into the vendor's network servers. The vendor also provided the District with system maintenance and support.

Recommendations: Our audit observation recommended that the District:

1. Ensure that the District's Acceptable Use Policy includes provisions for authentication (password security and syntax requirements).
2. Establish separate information technology policies and procedures for controlling the activities of vendors/consultants and have the vendor sign this policy, or the District should require the vendor to sign the District's Acceptable Use Policy.
3. Implement a security policy and system parameter settings to require all users, including the vendor, to change their passwords on a regular basis (i.e., every 30 days).
4. Generate monitoring reports (including firewall logs) of vendor and employee access and activity on their system. Monitoring reports should include the date, time, and reason for access, change(s) made and who made the change(s). The District should

review these reports to determine that the access was appropriate and that data was not improperly altered. The District should also ensure it is maintaining evidence to support this monitoring and review.

Current Status:

During our current audit, we found that the District did implement the recommendations by revising policies and procedures.



## **Distribution List**

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This report was initially distributed to the Superintendent of the District, the Board of School Directors, our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us), and the following stakeholders:

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This report is a matter of public record and is available online at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: [news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).