

PETERS TOWNSHIP SCHOOL DISTRICT
WASHINGTON COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT

JANUARY 2012

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

Mrs. Cynthia Golembiewski, Board President
Peters Township School District
631 East McMurray Road
McMurray, Pennsylvania 15317

Dear Governor Corbett and Mrs. Golembiewski:

We conducted a performance audit of the Peters Township School District (PTSD) to determine its compliance with applicable state laws, regulations, contracts, grant requirements and administrative procedures. Our audit covered the period April 26, 2006 through June 12, 2009, except as otherwise indicated in the report. Additionally, compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2008, 2007, 2006 and 2005. 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 PTSD complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except as detailed in the finding noted in this report. In addition, we identified one matter unrelated to compliance that is reported as an observation. A summary of these results is presented in the Executive Summary section of the audit report.

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

Sincerely,

/s/

JACK WAGNER
Auditor General

January 11, 2012

cc: **PETERS TOWNSHIP SCHOOL DISTRICT** Board Members



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Executive Summary

Audit Work

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

Our audit scope covered the period April 26, 2006 through June 12, 2009, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidy and reimbursements was determined for school years 2007-08, 2006-07, 2005-06, and 2004-05.

District Background

The PTSD encompasses approximately 19 square miles. According to 2000 federal census data, it serves a resident population of 17,566. According to District officials, in school year 2007-08, the PTSD provided basic educational services to 4,322 pupils through the employment of 281 teachers, 190 full-time and part-time support personnel, and 22 administrators. Lastly, the PTSD received more than \$9.9 million in state funding in school year 2007-08.

Audit Conclusion and Results

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

Finding: The District Did Not Adhere to the Termination Provisions in the Employment Contract with the Superintendent, Leading to a Costly and Confidential Buy-Out of the Contract.

On February 19, 2008, the board approved a Separation and Release Agreement with the former Superintendent, which terminated the Superintendent's employment with the PTSD effective July 31, 2008. Although the terms of the Superintendent's original contract provided limits on the PTSD's liability in the event of early termination, these provisions were not followed (see page 6).

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

Neither the PTSD nor the transportation contractor had yet adopted written policies or procedures to ensure that they were immediately notified if current employees had been charged with or convicted of serious criminal offenses which should be considered for the purpose of determining an individual's continued suitability to be in direct contact with children (see page 11).

Status of Prior Audit Findings and Observations.

With regard to the status of our prior audit recommendations to the PTSD from an audit we conducted of the 2003-04 and 2002-03 school years, we found the PTSD had taken appropriate corrective action in implementing our recommendations pertaining to violations of the Public Official and Employee Ethics Act (see page 13).

We found the PTSD had not taken appropriate corrective action in implementing our recommendations pertaining to bus drivers' qualifications (see page 14).

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

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

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

Our audit covered the period April 26, 2006 through June 12, 2009, except for the verification of professional employee certification which was performed for the period July 1, 2005 to June 8, 2009.

Regarding state subsidy and reimbursements, our audit covered school years 2007-08, 2006-07, 2005-06 and 2004-05.

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 Department of Education reporting guidelines, we use the term school year rather than fiscal year throughout this report. A school year covers the period July 1 to June 30.

Objectives

What is the difference between a finding and an observation?

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

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

- ✓ Were professional employees certified for the positions they held?
- ✓ In areas where the District receives state subsidy and reimbursements based on pupil membership (e.g. basic education, special education, and vocational education), did it follow applicable laws and procedures?

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

Methodology

Government Auditing Standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

PTSD management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the District is in compliance with

What are internal controls?

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

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

applicable laws, regulations, contracts, grant requirements, and administrative procedures. Within the context of our audit objectives, we obtained an understanding of internal controls and assessed whether those controls were properly designed and implemented.

Any significant deficiencies found during the audit are included in this report.

In order to properly plan our audit and to guide us in possible audit areas, we performed analytical procedures in the areas of state subsidies/reimbursement, pupil membership, pupil transportation, and comparative financial information.

Our audit examined the following:

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

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

Lastly, to determine the status of our audit recommendations made in a prior audit report released on October 18, 2006, we performed audit procedures targeting the previously reported matters.

Findings and Observations

Finding

The District Did Not Adhere to the Termination Provisions in the Employment Contract with the Superintendent, Leading to a Costly and Confidential Buy-Out of the Contract

Criteria relevant to the finding:

Section 1073 of the Public School Code requires Districts to enter into three to five year employment contracts with their superintendent.

On June 6, 2006, the Peters Township School District board of directors (Board) entered into an employment contract (Contract) with an individual (Superintendent) to serve as the District's superintendent. The term of the Contract was August 7, 2006 through August 6, 2010. According to the Contract, the Superintendent was to receive a salary of \$130,000 for the first year of the contract, with subsequent annual increases based on the terms and conditions of the District's "Administrative Personnel Not Covered by Act 93 Compensation Plan."

The Superintendent's Contract included the following provisions with regard to the premature termination of the Superintendent's employment with the District:

3.02 . . . [S]hould the Superintendent choose to resign his position more than six months prior to the termination of his Contract, Superintendent shall be obligated to pay to the District a sum equal to five percent of the Superintendent's base salary determined at the time of the Superintendent's resignation.

3.03 The District shall have the right to terminate this Agreement and dismiss the District Superintendent for any of the causes as set forth in Section 1080 of the Public School Code of 1949, as amended (24 P.S. Section 10-1080). . . .¹

3.04 The District shall have the right to terminate this by submitting written notification to the Superintendent at least sixty (60) days prior to the effective date of the termination of this Contract for reasons other than those set forth in Section 3.03. . . .

If the District Superintendent and Board mutually agree at the time of creation of an improvement plan

¹ See 24 P.S. § 10-1080 (removal "for neglect of duty, incompetency, intemperance, or immorality" following a hearing with due process).

[pursuant to an unsatisfactory rating of the Superintendent's performance] that the identified issues cannot be satisfactorily addressed, the Board has the right to terminate the Superintendent and pay the Superintendent the current base salary (no benefits) for six (6) months or the date of re-employment of the Superintendent, in any capacity or the end of the term of this Agreement, whichever is sooner.

3.05 In the event the District Superintendent's contract is terminated by mutual consent of the District Superintendent and the District, prior to the effective termination date . . . the School District shall have no further responsibility or liability of any nature whatsoever to the Superintendent. . . .

On February 19, 2008, the board approved a Separation and Release Agreement (Agreement) with the former Superintendent, which terminated the Superintendent's employment with the District effective July 31, 2008, two years before the expiration of the original contract. The Agreement required the District to provide the following to the Superintendent:

- two payments totaling \$108,333, equivalent to the ten months' salary for the period August 1, 2008 through and including May 31, 2009;
- compensation totaling \$6,240 for accumulated and unused sick (25), vacation (6), and personal days (2);
- a payment of up to \$5,000 for the Superintendent's legal fees; and
- a payment of \$4,000 to compensate the Superintendent for the loss of health insurance coverage through the District during the period August 1, 2008 through and including May 31, 2009.

The Agreement contained a provision stating that the sole communication as to the reason for the separation shall be set forth in Exhibit “B” of the Agreement, which provides, in part:

The details of the Agreement are being held in confidence by both parties. However, the Agreement was reached by the parties in order to accommodate the Superintendent’s strong desire to rejoin his family in Ohio; and enable him to spend time with his son during his senior year in high school.

The Agreement also contained provisions that both parties agreed:

- not to make any disparaging remarks to any person or the media about the other;
- not to institute any legal action against the other, except as may be compelled by legal process or to enforce terms of this Agreement; and
- to keep confidential the terms of the Agreement, with both parties fully understanding the scope and nature of the duties and obligations imposed by the Right-to-Know Law, as amended by Act 100 of 2002, and understanding that said Act governs this agreement.

Finally, the Agreement included a provision that the District would remove all negative comments from the Superintendent’s personnel file, as well as create any necessary documents to establish that the Superintendent was given a satisfactory rating for the 2005-06 and 2007-08 school years. We question the appropriateness of this activity, as the Superintendent’s personnel file should reflect his true performance. Moreover, it should not include documents prepared after he has already separated from the District.

Because of the confidential nature of the Agreement, it is difficult to determine the true reason for the termination of the contract. Whatever the circumstances, it appears that the provisions of the original contract limiting the District’s liability in the event of early termination of the contract were not followed.

Additionally, beginning March 12, 2008, the District paid \$51,500 (103 days @ \$500/day) to employ an Interim Substitute Superintendent until a new Superintendent was appointed.

The District entered into an agreement with the new superintendent on August 18, 2008. The contract was for a three-year period commencing on August 18, 2008, and terminating on August 18, 2011. We noted provisions in the contract regarding early termination that were nearly identical to those in the prior Superintendent's contract.

Recommendations

The *Peters Township School District* should:

1. Ensure that employment contracts contain adequate termination provisions sufficient to protect the interests of the taxpayers of the District and the District itself, and that these provisions are enforced.
2. Enter into employment contracts with prospective superintendents at the three-year minimum term permitted by state law, in order to limit potential financial liability by the District and its taxpayers.
3. Provide as much information as possible to the taxpayers of the District explaining the reasons for the termination of the Superintendent and justifying the District's expenditure of a significant amount of public funds to buy-out the Superintendent's contract.
4. Ensure that future termination agreements do not contain confidentiality requirements that would prevent the District from informing taxpayers and others of the reasons for a termination.

Management Response

Management stated the following:

It is the position of the District that safeguards were in place to limit the financial impact of a forced separation in the superintendent's agreement referenced in the audit finding.

Provisions of the superintendent's contract regarding termination required an unsatisfactory rating followed by an improvement plan that would be reevaluated after a six month time period. It was estimated that the improvement

plan and subsequent unsatisfactory rating could encompass a ten month time period during which the District could not move forward with a replacement. Additionally, the District was charged by the superintendent at the Equal Employment Opportunity Commission (EEOC) regarding various allegations.

The District, in consideration of the EEOC claim, the defense costs of litigation, and the time required for the implementation of an improvement plan and the six month contractual separation payment felt that the ten month separation payment was a fiscally prudent solution avoiding countless unproductive administrative labor hours and legal fees.

The District does acknowledge that a subsequent superintendent's contract did address some weaknesses and better serves the needs of the District.

Auditor Conclusion

Although management's response states that the subsequent superintendent's contract addressed some weaknesses, as noted previously, our review of the two contracts found the provisions regarding early termination were largely identical. The only significant exception was that the subsequent contract provided that in the event issues related to an unsatisfactory rating could not be resolved and led to termination, the District would be obligated to pay the superintendent the current base salary for nine months instead of six.

Moreover, in the instance addressed in this finding, the early termination provisions of the Superintendent's Contract were not followed in any case.

We did note that the subsequent superintendent's contract was for the three-year minimum term.

Observation



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

Criteria relevant to the observation:

Public School Code Section 111 (24 P.S. § 1-111) requires prospective school employees who would have direct contact with children, including independent contractors and their employees, to submit a report of criminal history record information obtained from the Pennsylvania State Police. Section 111 lists convictions of certain criminal offenses that, if indicated on the report to have occurred within the preceding five years, would prohibit the individual from being hired.

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

Our current audit found that the District had not implemented our prior audit recommendations regarding bus drivers' qualifications (see page 14). We made our recommendations in the interest of the protection of students, and here reiterate those recommendations.

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

Our current review of the personnel records of a random sample of 25 of 59 bus drivers currently employed by the Peters Township School District and the District's transportation contractor possessed the minimum qualifications to transport children from the District.

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

Recommendations

The *Peters Township School District* should:

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

Management Response

Management did not respond to the observation.

Status of Prior Audit Finding and Observation

Our prior audit of the Peters Township School District (PTSD) for the school year 2003-04 and 2002-03 resulted in one reported finding and one observation. The finding pertained to violations of the Public Official and Employee Ethics Act and the observation pertained to bus drivers' 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 questioned District personnel regarding the prior finding and observation. As shown below, we found that the District implemented recommendations related to the finding, but did not implement recommendations related to the observation.

School Years 2003-04 and 2002-03 Auditor General Performance Audit Report

Finding: **Violations of the Public Official and Employee Ethics Act**

Finding Summary: Our prior review of District records for the 2002, 2003, and 2004 calendar years found that one board member failed to file a Statement of Financial Interests for 2003. In 2004, three board members filed their Statements of Financial Interests late.

Recommendations: Our audit finding recommended that the PTSD:

1. Seek the advice of the District's solicitor in regard to the board's responsibility when an elected board member fails to file a Statement of Financial Interests.
2. Develop procedures to ensure that all individuals required to file Statements of Financial Interests do so in compliance with the Ethics Act.

Current Status: Our current audit found that all board members had their Statements of Financial Interests on file.

Based on our current audit, we determined the District took appropriate corrective action.

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

Observation

Summary:

Our prior audit found that neither the District nor the transportation contractor had written policies or procedures in place to ensure that they were notified if current employees had been charged with or convicted of serious criminal offenses which should be considered for the purpose of determining and individual's continued suitability to be direct contact with children.

Recommendations:

Our audit observation recommended that the PTSD:

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

Current Status:

Our current audit found that the District had yet to adopt written policies as recommended (see the observation, page 11).

Distribution List

This report was initially distributed to the superintendent of the school district, the board members, our website address at www.auditorgen.state.pa.us, and the following:

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

