

PENNSYLVANIA DEPARTMENT OF THE AUDITOR GENERAL  
AUDITOR GENERAL, EUGENE A. DEPASQUALE

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*A Performance Audit:*

TROY AREA SCHOOL DISTRICT  
ALTERED SUPERINTENDENT EMPLOYMENT CONTRACT PAYOUT

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MARCH 2013







Commonwealth of Pennsylvania  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

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

Mr. Todd Curren, Board President  
Troy Area School District  
30 Taylor Street  
Troy, Pennsylvania 16947

Dear Governor Corbett and Mr. Curren:

The enclosed report contains the results of the Department of the Auditor General's (Department) performance audit of Troy Area School District's (District) altered superintendent employment contract. This performance audit covered the period July 6, 2009, through December 30, 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 is separate and distinct from the District's cyclical performance audits, which the Department conducts approximately every two years. The District's last cyclical performance audit was released on January 29, 2010.

Our audit found that the District complied, in all significant respects, with the applicable state laws, contracts, and administrative procedures related to our objectives, except as detailed in the one finding noted in this report. A synopsis of our results is presented in the Executive Summary section of this audit report.

Our audit finding and recommendations have been discussed with the District's management and their responses are included in this 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 this audit.

Sincerely,

/s/

EUGENE A. DEPASQUALE  
Auditor General

March 1, 2013

cc: **TROY AREA SCHOOL DISTRICT** Board Members



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## **Executive Summary**

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### **Audit Work**

In August 2011, the Department of the Auditor General began immediately auditing instances where Local Education Agencies (LEA) prematurely ended or altered the employment contracts of their chief administrators. These performance audits do not replace the regular cyclical performance audits that the Department conducts of all Commonwealth LEAs. Instead, the Department performs these audits in addition to each LEA's regular review. The Department will still continue to audit the early separations of all other contracted administrators as part of each LEA's regular cyclical performance audit.

The Department made this policy change because LEAs who prematurely end or alter their chief administrator's contract frequently spend large sums of taxpayer dollars without receiving any services in return. In addition, these arrangements often involve confidentiality clauses that prevent the public from learning why the LEA undertook such an action. Conducting a performance audit of these agreements as soon as the LEAs enact them helps to ensure that taxpayers have more information about these arrangements and that these facts are available as quickly as possible.

### **LEA Background**

The District encompasses approximately 275 square miles. According to 2010 federal census data, it serves a resident population of 10,410. According to District officials, in school year 2009-10 the District provided basic educational services to 1,585 pupils through the employment of

127 teachers, 76 full-time and part-time support personnel, and 12 administrators. Lastly, the District received more than \$13.2 million in state funding in school year 2009-10.

### **Audit Conclusion and Results**

Our performance audit found that the District complied, in all significant respects, with the applicable state laws, contracts, and administrative procedures related to our objectives (see page 3 and 4). However, as noted below, we identified one matter, which we believe deserves further attention.

#### **Finding: Excessive Leave Payout for Former Superintendent Totaling \$32,652**

On February 7, 2007, the Board of Directors (Board) for the Troy Area School District (District) voted to enter into an employment contract (Contract) with an individual (Superintendent) to serve as the District's superintendent. The Contract had a term of five (5) years, commencing on July 1, 2007 to June 30, 2012. A contract addendum stated that "Upon permanent retirement from school employment, SUPERINTENDENT will be reimbursed for unused accumulated personal days at the rate of \$32 per day."

On June 8, 2009, the Superintendent submitted a letter of intent to resign effective July 6, 2009, contingent upon employment with another District effective June 19, 2009, and "on the Board's acknowledgement of its obligation to compensate me for any unused personal and vacation days at my **per diem rate** (emphasis added)."

The Superintendent's per diem rate was \$402.29. Therefore, payment at the per diem rate resulted in an excess leave payout of \$32,652 (see page 5).

### **Audit Recommendations**

#### **Finding:**

The *Troy Area School District's* Board should:

1. Ensure that future employment contracts are followed to protect the interests of the taxpayers of the district in the event that the employment ends prematurely for any reason.
2. Provide as much information as possible to the taxpayers of the District justifying the District's expenditure of public funds to buy-out the Superintendent's contract.
3. Ensure that future employment contracts contain adequate termination provisions.



## Audit Scope, Objectives, and Methodology

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### Scope

*What is a cyclical performance audit?*

Cyclical performance audits allow the Department of the Auditor General to determine whether Local Education Agencies (LEAs) are spending their state funds, including school subsidies, 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 LEA. The Department shares the results of these audits with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities. According to the Public School Code, LEAs include all school districts, charter and cyber charter schools, intermediate units, and career and technical schools.

This performance 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 or for the Department's regular cyclical performance audit (see text box left). This performance audit focused exclusively on the circumstances surrounding the early separation of the LEA's top administrator. This audit was completed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period July 6, 2009, through December 30, 2011.

While all LEAs 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 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 a performance audit?*

Performance audits allow the Department of the Auditor General to immediately review instances where LEAs prematurely ended or altered the employment contracts of their chief administrators. These audits do not replace the Department's regular cyclical audit, but are instead, performed in addition to that review.

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 LEA's compliance with applicable state laws, contracts, 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:

- ✓ Did employment contracts with the superintendent or other administration officials contain adequate separation provisions sufficient to protect the interests of the LEA, its students and its taxpayers in the event the employment of the administrators ends prematurely for any reason?

- ✓ Did the District provide as much information as possible to its taxpayers explaining the reasons for the superintendent’s separation and justifying the expenditure of funds by or through the LEA in order to terminate the contract early?
- ✓ Did the District enter into employment contracts with the superintendent at the three-year minimum provided by state law in order to limit potential financial liability by the District and its taxpayers in the event financial liability was not adequately limited through contract provisions?
- ✓ To the greatest degree possible, what is the total financial cost of the superintendent or other administration officials’ early contract termination, including funds received by the District from private individuals or other entities to facilitate the buy out?
- ✓ Was the separation agreement transparent and without confidentiality clauses so taxpayers are aware of why the termination occurred?

## Methodology

*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, and administrative procedures.

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

LEA management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the LEA is in compliance with applicable laws, contracts, 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.

As part of our audit procedures, we obtained copies of employment agreements and other relevant documents associated with the top administrative official’s employment. We also interviewed selected administrators and support personnel associated with the LEA’s operations.

## Findings and Observations

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### Finding

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#### *Superintendent Contract Buy-Outs:*

The taxpayers have the right to be informed of an early termination of a superintendent, the reason for the termination and the financial effect the buy-out has on the district. If this information is public, then the taxpayers can consider such information when determining if the board members have done what is best for them and the district.

### Excessive Leave Payout for Former Superintendent Totaling \$32,652

On February 7, 2007, the board of school directors (Board) of the Troy Area School District (District) voted to enter into an employment contract (Contract) with an individual (Superintendent) to serve as the District's superintendent. The Contract had a term of five (5) years, from July 1, 2007 through June 30, 2012. A contract addendum stated that "Upon permanent retirement from school employment, SUPERINTENDENT will be reimbursed for unused accumulated personal days at the rate of \$32 per day.

On June 8, 2009, the Superintendent submitted a letter of intent to resign effective July 6, 2009, contingent upon employment with another District effective June 19, 2009, and "on the Board's acknowledgement of its obligation to compensate me for any unused personal and vacation days at my **per diem rate** (emphasis added)."

The District made payments of \$34,396 to the Superintendent using the per diem rate of \$402.29. The District paid the Superintendent \$12,069 for 30 unused vacation days, \$21,925 for 54.5 unused personal days, and \$402.29 for one holiday. The superintendent did not have any unused sick days. According to his contract, he was only entitled to \$1,744 for the 54.5 unused personal days at \$32 per day. His contract did not stipulate that he be paid for vacation days or holidays upon retirement. The contract did not include adequate termination provisions.

Additionally, the District did not provide information to the public justifying the excessive leave payout that was not part of the Superintendent's employment contract.

Board approval of the terms outlined in the Superintendent's resignation letter caused the District to make excessive payments to the Superintendent in the amount of \$32,652. This may have been averted, or the costs significantly reduced, if the District had followed provisions in its original employment contract with the Superintendent regarding the compensation and benefits payable upon retirement.

**Recommendations**

The *Troy Area School District* should:

1. Ensure that future employment contracts are followed to protect the interests of the taxpayers of the District in the event that the employment ends prematurely for any reason.
2. Provide as much information as possible to the taxpayers of the District justifying the District's expenditure of public funds to buy-out the Superintendent's contract.
3. Ensure that future employment contracts contain adequate termination provisions.

**Management Response**

Management stated the following:

This "Buyout" was payment for unused sick and vacation days. This was spelled out in the contract of the Superintendent. It should also be noted that the written contract stipulated a cap of 135 days for payment, thereby not leaving this an open ended item. This is also the very same language that is in the Act 93 agreement and teacher's contract.

**Auditor Conclusion**

We maintain that the District did not follow the Superintendent's employment contract. The Board followed provisions in a letter written by the Superintendent himself for leave payout resulting in an excess leave payout.

## **Distribution List**

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This report was initially distributed to the superintendent of the school district, the board members, our website address at [www.auditor.gen.state.pa.us](http://www.auditor.gen.state.pa.us), and the following:

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

The Honorable Ronald J. Tomalis  
Secretary of Education  
1010 Harristown Building #2  
333 Market Street  
Harrisburg, PA 17126

The Honorable Robert M. McCord  
State Treasurer  
Room 129 - Finance Building  
Harrisburg, PA 17120

Ms. Nichole Duffy  
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. Tom Templeton  
Assistant Executive Director  
School Board and Management Services  
Pennsylvania School Boards Association  
P.O. Box 2042  
Mechanicsburg, PA 17055

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

