

LIMITED PROCEDURES ENGAGEMENT

Indiana Area School District Indiana County, Pennsylvania

February 2016



Commonwealth of Pennsylvania
Department of the Auditor General
Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Mr. Dale R. Kirsch, Superintendent
Indiana Area School District
501 East Pike
Indiana, Pennsylvania 15701

Mr. Douglas Steve, Board President
Indiana Area School District
501 East Pike
Indiana, Pennsylvania 15701

Dear Mr. Kirsch and Mr. Steve:

We conducted a Limited Procedures Engagement (LPE) of the Indiana Area School District (District) to determine its compliance with certain relevant state laws, regulations, policies, and administrative procedures (relevant requirements). The LPE covers the period August 10, 2012 through December 23, 2015, except for any areas of compliance that may have required an alternative to this period. The engagement was conducted pursuant to authority derived from Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania and The Fiscal Code, 72 P.S. § 403, but was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

As we conducted our LPE procedures, we sought to determine answers to the following questions, which serve as our LPE objectives:

- Did the District have documented board policies and administrative procedures related to the following?
 - Internal controls
 - Budgeting practices
 - The Right-to-Know Law
 - The Sunshine Act
- Were the policies and procedures adequate and appropriate, and have they been properly implemented?
- Did the District comply with the relevant requirements in the Right-to-Know Law and the Sunshine Act?
- Was the District's hiring of annuitants done within the regulations of the Public School Employees' Retirement System (PSERS)?

- Did the District take appropriate corrective action to address the findings made in our prior audit, and were the actions taken into effect?

Our engagement found that the District properly implemented policies and procedures for the areas mentioned above and complied, in all significant respects, with relevant requirements, except as detailed in the finding noted in this report.

The finding and our related recommendations have been discussed with the District's management, and their responses are included in the findings and observations section of this letter. We believe the implementation of our recommendations will improve the District's operations and facilitate compliance with legal, administrative requirements, and best practices. We appreciate the District's cooperation during the conduct of the engagement.

Sincerely,



Eugene A. DePasquale
Auditor General

February 18, 2016

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

Findings and Observations

Finding

The District Disregarded Regulations Pertaining to the Rehiring of an Annuitant

Criteria relevant to the finding:

PSERS publication #9682, *Return to Service Guidelines and Clarifications*, states that a retiree may not be employed by a Pennsylvania public school and receive a public school retirement benefit at the same time, unless one of three exceptions are met:

1. Employment emergency.
2. Personnel shortage.
3. Extracurricular position. (p. 1)

In order for a retiree to qualify to be rehired under one of the above exceptions, he or she must have had:

1. A bona fide break in service of not less than 90 days.
2. No pre-arrangement for termination and re-employment. (p. 2)

Our review found that the District compensated one rehired retiree for over four years and continues to employ this retiree, in possible noncompliance with the Public School Employees' Retirement Code (PSERC). We notified PSERS of our concerns regarding the District's lack of documentation to support rehiring this annuitant, and the District is now in contact with the agency to address this finding. The employee in question retired from the District effective February 10, 2012, and a contract was signed on February 13, 2012, to rehire this employee as an independent contractor. The initial contract was for the period February 20, 2012 through June 30, 2012. A new annual contract was signed for the next four school years, up to and including the 2015-16 school year.

Allowable Exception Not Documented

The District had no procedures in place to justify and document that its rehiring of annuitants complied with the provisions for the three allowable exceptions listed below and included in the *Criteria relevant to the finding* included on the left side of this page.

- An employment emergency
- A personnel shortage
- An extracurricular position

The District did not identify the type of allowable exception that applied.¹ For the first two exceptions above, the PSERC clearly indicates a temporary and time-limited term of service for rehired annuitants, which the District didn't comply with by employing the individual in question for over four years. Also, the individual was hired to complete the same services completed prior to retirement and not in an extracurricular position.

No Bona Fide Break Service

This rehired annuitant did not have the PSERS required 90 day bona fide break in service, based upon the February 10, 2012 retirement date and a February 20, 2012 start date as an annuitant. It appears that the District also had a pre-retirement agreement with the annuitant since the contract was signed three days after the

¹ PSERS *Return to Service Guidelines and Clarifications*, Publication # 9682, January 2013, pp. 2 and 4.

Criteria relevant to the finding (continued):

PSERS guidelines are also governed by provisions of the PSERC, including Section 8346 (relating to Termination of Annuities), 24 Pa.C.S. § 8346, which includes, but is not limited to the following:

Subsection b (pertaining to *Return to school service during emergency*) of the PSERC. This provides for an emergency exception for personnel including teachers returning to school service whenever certain shortages of appropriate personnel occur and limits the employment **“not to extend beyond the school year during which the emergency or shortage occurs . . .”** [Emphasis added.] See 24 Pa.C.S. § 8346(b).

PSERS publication #9682, *Return to Service Guidelines and Clarifications*, states

“If a member terminates employment and returns to service shortly thereafter as an ‘independent contractor,’ or as an employee of an independent entity, with essentially the same job duties as before, PSERS may view the employment to be a continuation of the prior employment rather than an Employment Emergency or Personnel Shortage.”

retirement date. Also, the District employed the annuitant in the same position held prior to retirement.

The District sent a letter to PSERS dated September 27, 2011, and followed up with a letter dated February 3, 2012. However, they have no verification of receiving an approval from PSERS. When we reached out to PSERS, its representatives stated that they had no documentation of receiving the communication.

District personnel told us they believed they had received a determination from PSERS by phone allowing the employee to continue working as a consultant.

PSERS provides detailed requirements, guidelines, and contact information for employers and annuitants concerning the rehiring of annuitants, including those rehired as employees and those rehired as consultants. It also emphasizes that while the employer makes the initial determination about a retiree’s qualifications under one of the exceptions, PSERS has the right to review the employment of any retiree for compliance with the PSERC. The District’s lack of documentation of an allowable exception in this instance coupled with the fact that there was not a bona fide break in service has led us to turn over the hiring of this annuitant to PSERS for their review.

Recommendations

The *Indiana Area School District* should:

1. Consult with its solicitor and work with PSERS to develop an appropriate course of action for the annuitant currently employed by the District.
2. Develop and implement board-approved policies and procedures to address rehiring of annuitants and compliance with all applicable provisions of the PSERC and PSERS guidelines. These procedures should ensure that the Board and the public are informed of the allowable exceptions and contract terms applicable to annuitants rehired by the District.

A copy of this finding will be forwarded to PSERS for its review and possible corrective action as it deems appropriate.

Criteria relevant to the finding (continued):

The guidelines recommend that members submit specific requests in writing to PSERS, which will then make a formal determination on a case by case basis.

Management Response

Management disagreed with the finding and stated:

“Prior to [the individual]’s retirement, the school district sent a letter dated 9/27/2011 to PSERS requesting a determination whether we could contract with him post-retirement since he is a licensed psychologist. School Psychologist services were then and continue to be provided by ARIN IU [intermediate unit] 28. [An employee] from PSERS responded by phone to . . . [the] Business Manager, on 10/6/11 that based on the information in the 9/27/11 letter, there should be no issue with his retirement provided the district sent a copy of the contract with [the retiree]. On 2/3/2012 the [Business Manager] sent a letter and a copy of the agreement with [the school psychologist] to PSERS [The individual] retired effective 2/10/12.

On 8/13/15 . . . [the] Superintendent, received an email from [a different employee] of PSERS about an AG [Auditor General] Inquiry regarding [the individual] working as a School Psychologist post-retirement with no break in service. [The Superintendent] responded to the email on 8/17/15 clarifying [the individual]’s continued employment as a contracted clinical psychologist rather than School Psychologist, and provided additional information including a copy of the initial agreement between Indiana Area School District and the [individual]. [PSERS] responded to the email on 8/17/15 indicating the information would be forwarded to legal and executive staff for a determination. [The Superintendent] sent a follow-up email to [PSERS] on 12/17/15 requesting an update.

The management of Indiana Area School District believes all proper requirements were followed for contracting with [the individual] as a licensed clinical psychologist post-retirement. If PSERS reverses course and indicates [his] contracted services are not exempt from PSERS membership, the school district will take the necessary steps to terminate the contract with thirty (30) days’ notice as provided in the agreement.

The management of Indiana Area School District believes a finding is not warranted.”

Auditor Conclusion

We are encouraged that the District realizes the importance of ensuring retirees are only hired in accordance with PSERS guidelines. Since corrective action is ongoing with PSERS, we will evaluate this and any additional corrective actions taken during our next audit of the District.

Status of Prior Findings and Observations

Prior Finding No. 1

Errors in Reporting Pupil Membership Resulted in a Reimbursement Underpayment of \$26,425 (Resolved)

Prior Finding Condition

Our prior audit of the District's pupil membership reports submitted to the Pennsylvania Department of Education (PDE) for the 2009-10 school year found reporting errors. District personnel inaccurately reported membership for non-resident children placed in private homes (foster children) as resident membership. The errors resulted in an underpayment of \$26,425 in commonwealth subsidies.

Prior Recommendations

We recommended that the District:

1. Strengthen internal controls prior to reporting membership data to the Pennsylvania Information Management System (PIMS) to ensure accuracy.
2. Reference the PIMS manual for proper instructions in reporting non-resident students' residency and membership days.
3. Review the accuracy of membership reports submitted to PDE for years subsequent to the audit, and if reporting errors are found, contact the PIMS help desk for guidance in changing the coding and submit revised reports to PDE.

We also recommended that PDE should:

4. Adjust the District's allocations to resolve the underpayment of \$26,425.

Current Status

The District took corrective action and implemented our recommendations. Our current review of non-resident students found no errors in reporting. The underpayment of \$26,425 was received by the District on August 28, 2014.

Prior Finding No. 2

Internal Control Weaknesses and Lack of Documentation Supporting Reimbursement for Pupil Transportation and Lack of Documentation Supporting Usage of Tax Exempt Fuel (Resolved)

Prior Finding Condition

Our prior audit of the District's pupil transportation records and reports submitted to PDE for the 2008-09 and 2009-10 school years found internal control weaknesses and a lack of documentation supporting reimbursements of \$684,051 and \$797,479 for the respective school years, as well as a lack of documentation supporting the usage of tax exempt fuel purchased.

Prior Recommendations

We recommended that the District:

1. Strengthen internal audit controls to ensure all vehicles are reported and that only actual and accurate pupil transportation data is submitted to PDE for reimbursement.
2. Prepare and retain supporting documentation (pupil rosters) for the greatest number of pupils assigned to each bus as reported to PDE.
3. Prepare and retain supporting documentation, including correspondence from District's child accounting personnel, for all students that entered, withdrew, or relocated within the District, to support the District's average count calculation in accordance with PDE's guidelines and instructions.
4. Prepare and retain mileage information identifying miles with and without pupils for all buses and pupil distances from home to school.
5. Retain annual odometer readings from the end of the prior reporting year and the end of the reporting year to support the totals annual miles traveled for all purposes for each bus.
6. Ensure the amount paid contractor to the contractor is accurately reported.
7. Report for reimbursement fuel costs for transportation to and from school only. Also, establish procedures to monitor the fuel usage to ensure all tax-exempt fuel purchased is used for school-related purposes only.

8. Prepare and retain on file at the District source documentation used to support the number of hazardous, non-reimbursable, and nonpublic pupils transported.
9. Review transportation reports submitted to PDE for subsequent years of audit and ensure the reported information is accurate, and that supporting documentation is on file to support all data reported to PDE; resubmit reports if necessary.
10. Allow the District's transportation director and the administrative support staff to attend conferences and training sessions relating to pupil transportation reporting and recordkeeping requirements.

We also recommended that PDE should:

11. Consider withholding future pupil transportation reimbursement payments until the District prepares and retains support documentation as required by State Board of Education regulations, Section 518 of the Public School Code, and PDE's instructions for completing the End-of-Year Pupil Transportation Reports.

Current Status

The District took corrective action and implemented our prior recommendations. Our current review found no errors in reporting, and all reports had supporting documentation.

Distribution List

This letter 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
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The Honorable Timothy Reese
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