



**U.S. Department of Education
Office of Inspector General**



American Recovery and Reinvestment Act of 2009

Commonwealth of Pennsylvania Recovery Act Audit of Internal Controls over Selected Funds

Audit Report



Pennsylvania State Capitol

ED-OIG/A03J0010

March 2010

Abbreviations\Acronyms Used in This Report

ARRA	American Recovery and Reinvestment Act of 2009
BSA	PA State Auditor General's Bureau of School Audits
BSE	Bureau of Special Education
C.F.R.	Code of Federal Regulations
CFO	Chief Financial Officer
Commonwealth	Commonwealth of Pennsylvania
Commission	Stimulus Oversight Commission
Comptroller's Office	Office of the Comptroller
Department	U.S. Department of Education
DGS	Department of General Services
DOC	Department of Corrections
ESF	Education Stabilization Fund
FY	Fiscal Year
GAO	Government Accountability Office
Governor's Office	Office of the Governor
GSF	Government Services Fund
IDEA	Individuals with Disability Education Act Part B
IU	Intermediate Unit
IPA	Independent Public Accountant
LEA	Local Educational Agency
Manual	Manual of Accounting and Financial Reporting for Pennsylvania Public Schools
OESE	Office of Elementary and Secondary Education
OMB	Office of Management and Budget
OSERS	Office of Special Education and Rehabilitative Services
PDE	Pennsylvania Department of Education
RMS	Risk Management Service
School Code	Pennsylvania Public School Code of 1949, as amended
SEA	State Educational Agency
SFSF	State Fiscal Stabilization Fund
Title I	Title I Part A of the Elementary and Secondary Education Act
Voc Rehab	Bureau of Labor and Industry's Office of Vocational Rehabilitation
VRSG	Vocational Rehabilitation State Grants



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL**

**AUDIT SERVICES
Philadelphia Audit Region**

March 15, 2010

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Dear Sirs:

The attached file contains a final copy of our audit report entitled, *Commonwealth of Pennsylvania Recovery Act Audit of Internal Controls over Selected Funds*, Control Number ED-OIG/A03J0010. The report presents the results of our work to determine whether agencies charged with responsibility for overseeing ARRA funds have designed systems of internal control that are sufficient to provide reasonable assurance of compliance with applicable laws, regulations, and guidance. A signed hardcopy of the report will be provided upon request.

This report incorporates the comments you provided us in response to our preliminary final audit report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department officials, who will consider them before taking final Departmental action on this audit.

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Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials in accordance with the General Education Provisions Act.

It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within **30 days** would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Bernard E. Tadley
Regional Inspector General for Audit

Enclosure

PURPOSE

The American Recovery and Reinvestment Act of 2009 (ARRA) places a heavy emphasis on accountability and transparency, and in doing so, increases the responsibilities of the agencies that are impacted by ARRA. Overall, the U.S. Department of Education (Department) is responsible for ensuring that education-related ARRA funds reach intended recipients and achieve intended results. This includes efficiently controlling funds at the Federal level, effectively ensuring that recipients understand requirements and have proper controls in place over the administration and reporting of ARRA funds, and promptly identifying and mitigating instances of fraud, waste, and abuse of the funds.

The purpose of our review was to determine whether agencies charged with responsibility for overseeing ARRA funds have designed systems of internal control that are sufficient to provide reasonable assurance of compliance with applicable laws, regulations, and guidance. Proper internal controls are essential for ensuring ARRA funds are adequately administered and used in ways that coincide with the intent of ARRA. This report provides the results of the review we conducted at the Pennsylvania Department of Education (PDE), the Commonwealth of Pennsylvania's (Commonwealth) Office of the Governor (Governor's Office), the Commonwealth's Office of Comptroller Operations (Comptroller's Office), the Bureau of Labor and Industry's Office of Vocational Rehabilitation (Voc Rehab), and the Commonwealth's Department of Corrections (DOC). We focused our review on the design of State-level controls over data quality, cash management, subrecipient monitoring, and use of funds. These controls are a key aspect in the proper administration of ARRA funds for Title I Part A of the Elementary and Secondary Education Act (Title I), Individuals with Disability Education Act Part B (IDEA),¹ Vocational Rehabilitation State Grants (VRSG), and the State Fiscal Stabilization Fund (SFSF).²

RESULTS

Our review consisted of an assessment of the designed systems of State-level controls planned for ARRA funds. At PDE, this system consisted of controls that have been modified for ARRA but established prior to the passage of ARRA. Since ARRA was in its early stages, PDE was still in the process of planning for implementation. Therefore, we reviewed the designed systems of State-level controls planned for ARRA funds at the time of our fieldwork.

PDE and the Governor's Office were making a proactive effort to ensure the proper administration of ARRA funds. For instance, PDE provided updated guidance as it became available to local educational agencies (LEA) about permissible uses, proper administration, and reporting requirements under ARRA. PDE also offered several

¹ IDEA includes only Grants to States.

² Although our work also included reviews at selected LEAs located in the Commonwealth, the results of our work at those selected LEAs will be provided in a separate report.

training opportunities to the LEAs. Additionally, the Governor's Office appointed a Chief Accountability Officer and created a Stimulus Oversight Commission (Commission) whose purpose is to ensure that every dollar of the ARRA funds is spent transparently and in a manner that ensures accountability. The role of the Commission is to review and monitor the Commonwealth's stimulus activity and to provide advice and counsel. The Commission released guidance which relayed the grant and award processes that will be used to review, approve, and monitor ARRA grant activities. The Commission reports directly to the Governor's Office.

However, we determined that the designed systems of internal control at the State-level could be strengthened for ARRA funds to provide reasonable assurance of compliance with applicable laws, regulations, and guidance. We identified several areas in which the Commonwealth's agencies' controls could be strengthened or established. Based on our assessment of the controls, we concluded that PDE could improve its monitoring of subrecipients and its fiscal internal controls over cash management at LEAs. Additionally, for data quality, we noted that PDE had not developed a policy to disclose ARRA data deficiencies. Finally, the Governor's Office needs to clarify the roles and responsibilities of the Commonwealth agencies administering SFSF funds. Specifically, we found that:

- PDE needs to develop and implement additional subrecipient monitoring procedures that address ARRA requirements;
- PDE could improve its monitoring of subrecipients and its fiscal internal controls over cash management at LEAs;
- The Comptroller's Office and PDE need to verify whether the Federal funds advanced to LEAs are actually being expended as they claim and that claimed expenditures are reasonable, allowable, and supported;
- The Governor's Office and PDE need to develop and disseminate a process to notify the Department of inaccurate or incomplete ARRA data submitted by them; and
- The Governor's Office needs to document and delineate the roles and responsibilities of the Commonwealth agencies administering SFSF funds.

Since most of the ARRA funding had not been requested by the Commonwealth or sent to the LEAs at the time of our review, we could not validate nor test the accuracy of the statements made by officials regarding their accounting and tracking systems.

We did not identify any reportable issues with respect to the education-related ARRA programs administered by Voc Rehab.

We provided a preliminary version of this final audit report to PDE, Voc Rehab, and DOC for review and comment on January 14, 2010. PDE provided comments on February 4, 2010. PDE did not agree with our findings and recommendations because it believed our comments were based on a preliminary understanding of PDE's processes, and are suggestive of pending or not yet released official instruction.

Based on the comments, we modified Finding Nos. 1 and 4. PDE's comments are summarized at the end of each finding. The entire narrative of PDE's comments is included as an Enclosure to this report.

FINDING NO. 1: PDE Could Improve Its Monitoring of Subrecipients to Ensure Adequate Oversight of ARRA and Other Federal Funds

PDE could strengthen its Title I and IDEA program monitoring procedures to ensure that LEAs comply with Federal fiscal requirements. PDE indicated that it planned to monitor subrecipients of ARRA funds using the same methodology and instruments it used to monitor subrecipients of non-ARRA funds. A PDE official asserted that ARRA did not add any new program requirements, just more funding. Although PDE revised its monitoring instrument to include ARRA funds, it revised only the monitoring instrument for the Title I grant program.³ We reviewed PDE's Title I and IDEA monitoring instruments (including the updated protocol for Title I). We noted that although the Title I instrument incorporated procedures for the review of payroll and equipment, PDE's monitoring instruments for the Title I and IDEA programs were focused mainly on programmatic issues.

PDE did distribute information and guidance about ARRA to LEAs as it became available. PDE also offered several training opportunities and provided technical guidance to LEAs that provided information about the appropriate uses and the proper administration of ARRA funds, as well as information about ARRA reporting requirements. However, PDE's monitoring instruments did not include monitoring of the subrecipient's use of Federal funds, except as indicated above.

PDE's Monitoring Instruments Need to be Strengthened to Address ARRA Requirements and to Ensure LEAs Have Adequate Fiscal Systems and Use Title I, IDEA, and ARRA Funds Appropriately

The monitoring instruments used by PDE were not adequate. Although PDE revised its Title I program monitoring instrument to include procedures to review ARRA funds, these procedures only included ensuring that Title I supplemental (ARRA) funds and expenditures are tracked separately from Title I basic funds and determining that LEAs have source data to reflect the information reported to PDE. PDE's monitoring of subrecipients primarily focused on programmatic areas, and except as indicated above, neither the Title I nor the IDEA monitoring instruments address other fiscal areas.

³ PDE did not revise its IDEA subrecipient monitoring instrument to include ARRA funds.

Specifically, the monitoring instruments used by PDE's program offices for both the Title I and IDEA grant programs did not include steps to ensure that each subrecipient has:

- An accounting system containing sufficient information and reflecting proper accounting treatment of financial transactions (e.g., bank account and cash balances and comparison of outlays to budgets);
- A financial recordkeeping system⁴ to account for the monitoring of subgrant-related procurement activities, as well as grant and contract funds which ensures that financial records are properly documented, maintained, reviewed, and up-to-date;
- Clear and comprehensive written policies and procedures for: its accounting system, the procurement of goods and services, human resources, and payroll; and
- Clear and comprehensive written policies and procedures to properly administer and monitor contracts, including the contract award process, documentation of why and how a price was determined to be reasonable for sole-source contracts, the bidding process, and segregation of the functions for the solicitation and evaluation of bids from the contract award process.

According to documentation provided by PDE officials at the exit conference,

... each of Pennsylvania's LEAs is required to adhere to the principles and accounting structures contained in the Manual of Accounting and Financial Reporting for Pennsylvania Public Schools (Manual). This Manual provides for a uniform and standardized system of financial management and reporting for all Pennsylvania public schools and ensures comparability in subsidy distribution and annual financial reporting among all public schools. The key features of the Pennsylvania School Accounting System provide for . . . financial reporting in conformance with Generally Accepted Accounting and Financial Reporting Principles for all state and local governments, including public school systems.

Although the Manual requires that LEAs maintain a system of financial management and reporting and use a standardized Chart of Accounts, through our fieldwork we found that there are various financial systems being used by the LEAs to administer grant funds. LEAs also have their own recordkeeping systems and policies and procedures for procurement, contracting, human resources, payroll, and other related fiscal areas. Mandating that an LEA has a financial accounting and recordkeeping system does not preclude the State educational agency (SEA) from monitoring those systems to ensure that they are adequate.

⁴ A recordkeeping system is the records management system used to organize supporting financial documentation (e.g., bank statements, cancelled checks, paid invoices, timesheets, budget documents, personnel records) in a manner that allows this documentation to be easily retrieved, understood, reported, and safeguarded against theft or destruction.

PDE officials also stated that the Pennsylvania Public School Code of 1949, as amended (School Code), governs procurement and contractual bidding and awarding processes and procedures. Although the School Code governs these processes, this does not ensure that LEAs are adhering to the processes or preclude the SEA from monitoring these processes. As stated, PDE's monitoring instruments did not include steps to ensure that these processes are adhered to.

In addition, PDE's monitoring instruments did not include monitoring of the subrecipient's use of Federal funds.⁵ PDE's monitoring instruments did not include procedures to verify that the LEAs were spending Federal funds (ARRA and non-ARRA) in accordance with applicable laws and Federal regulations and the subrecipient's plan.

PDE officials also asserted that the Pennsylvania State Auditor General's Bureau of School Audits (BSA) reviews the school's compliance with these pertinent School Code requirements. Any audit findings discovered are forwarded to PDE for review and resolution. This process, combined with the monitoring of expenditures and other fiscal areas, which are included in their Office of Management and Budget (OMB) Circular A-133 Single Audit, is the basis for PDE's belief that its monitoring process is adequate. PDE primarily relied on the OMB Circular A-133 Single Audits to identify fiscal control or expenditure issues at LEAs. Under the Commonwealth's implementation of the Single Audit Act, each agency in the Commonwealth's resolution system must make a management decision on each finding within 6 months of receipt by the Commonwealth to ensure that the subrecipient takes corrective action. Additionally, 34 C.F.R. § 80.26(b)(3), also requires appropriate corrective action of LEA single audit findings within a 6-month timeframe.

However, a review of current and prior years' OMB Circular A-133 Single Audit reports revealed that PDE has consistently had findings relating to the lack of timeliness in resolving audit findings which may relate to fiscal or use of fund issues. For instance, in the fiscal year (FY) 2008 OMB Circular A-133 Single Audit report, the independent public accountant (IPA) noted that for 19 out of 70 subrecipient audit reports with findings, the timeframe for making management decisions on findings ranged from approximately 7 months to more than 19 months from the date that PDE received the audit reports. Additionally, in the FY 2007 OMB Circular A-133 Single Audit report, the IPA noted that for 6 out of 25 subrecipient audit reports with findings, the time period for making management decisions on findings ranged from approximately 7 months to more than 14 months from the date that PDE received the audit reports.

⁵ The Department issued non-regulatory guidance on the American Recovery and Reinvestment Act of 2009 Funds for State and Local Programs. This guidance contains information developed by the Partnership for Intergovernmental Management and Accountability. The Partnership has published a number of documents and assessment tools to help agencies monitor funds spent under the economic stimulus package. This guidance includes the Risk Assessment Monitoring Tool and the Financial and Administrative Monitoring Tool. The purpose of these tools is to provide uniform guidance for subrecipient monitoring. These tools are available in the Department's guidance and also on the Association of Government Accountant's Web site at <http://agacgfm.org/intergovernmental/resources.aspx>.

Although PDE asserted that fiscal monitoring is covered during the Single Audit review process, we are concerned that the consistent prior history in untimely audit resolution by PDE could result in corrective action not being taken timely and Federal funding (both ARRA and non-ARRA) being misused. Furthermore, PDE's reliance on OMB Circular A-133 Single Audits will not identify or resolve issues with LEA's administration of Federal funds (both ARRA and non-ARRA) in a timely manner. LEA Single Audits are not due to PDE until 9 months after their fiscal year ends, and resolution of findings would not take place until at least a year later. Additionally, PDE officials asserted to us that the monitoring process is included in its program plans submitted to the Department and has been continuously approved by the Department.

The Code of Federal Regulations (C.F.R.) Parts 76 and 80 address the SEA's role in monitoring subrecipients. According to 34 C.F.R. § 76.702, "A State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds."

According to 34 C.F.R. § 80.40(a),

Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

PDE Needs to Develop a Plan to Monitor SFSF Funds

Finally, PDE had not developed a plan to monitor SFSF grant funds. To ensure that these funds are used appropriately, PDE needs to develop and incorporate the review of the SFSF funding in its monitoring instruments. In its "Application for Initial Funding under the State Fiscal Stabilization Program," each State assured the Department that it would comply with all of the accountability, transparency, and reporting requirements that apply to the SFSF program. To comply with these requirements, each State had to have a comprehensive monitoring plan and protocol to review grant and subgrant supported activities. The monitoring plans should have addressed the following areas:

- A monitoring schedule;
- Monitoring policies and procedures;
- Data collection instruments (e.g., interview guides, review checklists);
- Monitoring reports and feedback to subrecipients; and
- Processes for verification of implementation of required corrective actions.⁶

⁶ The Department issued an email to remind States of their responsibility to thoroughly and effectively monitor subrecipients under the SFSF program (The American Recovery and Reinvestment Act of 2009: State Grants Under the State Fiscal Stabilization Fund - Monitoring: States' Responsibility [listserv message, August 27, 2009; <http://www.ed.gov/programs/statestabilization/legislation.html>]).

Also, the Department's Grant Award Notification included the statement that funds awarded under the SFSF program are subject to all applicable statutes and regulations.⁷ This included the General Education Provisions Act and the Education Department General Administrative Regulations, which includes 34 C.F.R. § 80.40(a), as indicated above.

If PDE does not have adequate monitoring procedures for funds received under the ARRA IDEA, Title I, and SFSF programs, it cannot ensure that LEAs are properly reporting complete and accurate information or spending funds in accordance with ARRA requirements. Given the current economic climate, LEAs may be experiencing tight budget constraints, increasing the risk of unallowable or inadequately documented expenditures or misuse of funds related to ARRA programs.

Recommendations:

We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education (OESE), in coordination with the Assistant Secretary for the Office of Special Education and Rehabilitative Services (OSERS), require PDE to:

- 1.1 Develop and implement procedures to monitor subrecipients' fiscal internal controls and use of funds for ARRA and non-ARRA grant programs.**
- 1.2 Develop and implement monitoring procedures that address all applicable ARRA requirements, including those requirements specific to the SFSF program.**

PDE Response

PDE did not concur with the Finding. PDE believes that its monitoring and oversight of ARRA and other Federal funds is in compliance with all existing published guidance. PDE stated that its processes and procedures have been consistently approved by the Department's OESE and Office of Special Education Programs, and as such, believe that our recommendations are inconsistent with previous Departmental guidance. With regard to the Title I program, PDE maintained that LEA fiscal information is continuously reviewed as a part of the initial application, in addition to the annual plan and the budget process. PDE asserted that the allowable costs presented by the LEAs are consistent with Federal regulations, as well as PDE guidance, policies, and priorities. PDE also noted that LEAs are required to submit requests for budget revisions when expenditures exceed approved budgets by more than 20 percent.

⁷ The Department issued the document *Guidance for Grantees and Auditors: State Fiscal Stabilization Fund Program* on December 24, 2009 (<http://www2.ed.gov/programs/statestabilization/auditor-guidance.pdf>). This guidance states that, "while the specific requirements in the OMB Circulars that apply cost principles, such as OMB Circulars A-21 and A-87, do not apply to SFSF funds, expenditures attributed to the SFSF program must still be "reasonable and necessary," and consistent with applicable State and local requirements."

With regard to the IDEA program, PDE noted that fiscal oversight responsibility is also delegated to its Intermediate Units (IU). The IUs act on behalf of PDE (as the direct recipient of IDEA funds) for the proper administration, oversight, and management of the local regional IDEA funding allocations of LEAs. PDE stated that written agreements exist between the IUs and their member LEAs that enable the IUs to determine that the eligible LEAs use and report the usage of IDEA funds in accordance with pertinent regulatory and procedural requirements.

PDE reiterated that it does not have separate procedures to ensure that LEAs have an accounting system because LEAs are required to adhere to the principles and accounting structures contained in the Manual of Accounting and the School Code.

PDE also expressed its commitment to exceeding minimum requirements and stated that it recently awarded a contract to a vendor to assist with ARRA data reporting requirements. Each LEA will submit detailed data to validate the proper use and reporting of all ARRA funds received. The contractor will be responsible for reviewing the ARRA data submitted, reviewing the data submissions, and providing recommendations on the data submissions. The contractor will also select a sample of LEAs for on-site visits and follow-up.⁸

OIG Comments

We revised the Finding to recognize the additional documentation provided by PDE relating to the procurement and contracting requirements in the School Code (see below).

Although PDE asserted that its monitoring and oversight of ARRA and other Federal funds are in compliance with all published guidance and that LEA fiscal information is continuously reviewed, the lack of fiscal and ARRA-related components in PDE's monitoring processes and procedures makes it difficult to ensure that LEAs are expending Federal funds in accordance with Federal regulations. ARRA funding is subject to the most stringent standards of accountability and transparency; therefore, heightened monitoring and oversight are required. OMB issued a memorandum on the Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (Memoranda M-09-10) on February 18, 2009, which states that, "Agencies must take steps, beyond standard practice, to initiate additional oversight mechanisms in order to mitigate the unique implementation risks of the Recovery Act. At a minimum, agencies should be prepared to evaluate and demonstrate the effectiveness of standard monitoring and oversight practices."

Regarding the IU's fiscal oversight responsibility, PDE should not be relying upon the written agreements between the IU's and the LEAs. Although the agreements are a good tool, just because the agreements state that LEAs should use and report the use of IDEA funds in accordance with pertinent regulatory and procedural requirements does not mean

⁸ The Negotiations Amendment for the contract (dated November 12, 2009) stated that PDE would be responsible for selecting the LEAs that the contractor will visit for onsite monitoring.

that they are complying. Therefore, monitoring in these areas needs to be performed to ensure that the policies, procedures, and systems are in place and are functioning as intended, and that LEA expenditures are reviewed to ensure that they are reasonable, allowable, and adequately supported. IUs should also be monitoring the LEAs' fiscal controls and expenditures because of their fiscal oversight responsibility.

We commend PDE for being proactive and awarding the ARRA contract. Based upon the information provided on the contract by PDE, it appears that the contract could assist PDE in ensuring that the ARRA data collected and reported are accurate. However, we could not substantiate the sufficiency of the review and verification process because the process was not in place during our review nor were we provided with enough information on the contractor's procedures to discern the sufficiency.

In addition, the contractor will be responsible only for reviewing and verifying ARRA related data. PDE should also ensure that monitoring is also performed for non-ARRA (i.e., regular Title I and IDEA funds) Federal funds.

As stated above, PDE provided us with documentation to show that the School Code governs procurement and contractual bidding and awarding processes and procedures. Based upon this documentation, we revised the Finding accordingly. However, mandating LEAs to abide by the School Code does not ensure that they are complying. Monitoring should be performed to ensure that LEAs are in compliance.

Finally, PDE did not address how SFSF funds will be monitored. As stated in the Finding, PDE needs to develop and implement a process to monitor SFSF grant funds.

FINDING NO. 2: The Comptroller's Office Could Strengthen Its Controls Over Cash Management at LEAs to Ensure Adequate Oversight of ARRA and Other Federal Funds

The Comptroller's Office planned to use its current systems and processes to draw down and disburse ARRA funds to LEAs. However, the Comptroller's Office did not have adequate controls in place to prevent and detect whether LEAs were: 1) expending all the Federal cash advanced to them on a monthly basis (prior to receiving their next month's advance); 2) maintaining excess Federal cash balances; 3) earning quarterly interest in excess of \$100 on Federal funds; and 4) returning interest earned on these funds to the Department in accordance with the regulations.

The Comptroller's Office Did Not Verify LEA Expenditures Prior to Payment

The Comptroller's Office did not have fiscal control and fund accounting procedures that ensured proper disbursement of and accounting for Federal funds. Specifically, the Comptroller's Office did not sufficiently monitor Federal expenditures made by LEAs and could not determine whether the funds advanced to the LEAs were actually expended

and were reasonable, allowable, and supported prior to initiating reimbursement from the Federal Government.

The Comptroller's Office issues monthly payments to the LEAs based on the length of the grant or the yearly allocation amount. For example, if a grant is for 15 months, the LEA would get a monthly payment each month for 15 months, and for yearly allocations, 1/12 of the total allocation amount is advanced every month. The Comptroller's Office then initiates a drawdown of Federal funds later in the month to reimburse the Commonwealth for the funds it advanced to the LEAs for the month. On average, the Comptroller's Office initiates seven drawdowns of Federal funds each month. On a quarterly basis, LEAs are required to report to the Comptroller's Office total project expenditures through a Reconciliation of Cash on Hand report.⁹ According to a Comptroller's Office official, these reports must be certified by a responsible LEA official to attest that the information provided is true and accurate. However, the Comptroller's Office cannot test any of the LEA's quarterly expenditures for reasonability and allowability or determine whether there is adequate supporting documentation because the Reconciliation of Cash on Hand report only requires the LEA to report project expenditures in aggregate amounts. Testing of the expenditures also cannot be performed because LEAs are not required to submit any detailed expenditure information with the reconciliations. Based upon the reasons stated above and because the reconciliations do not occur on a more regular basis, such as monthly, the Reconciliation of Cash on Hand report alone is not an adequate tool to monitor LEA expenditures prior to advancing additional funds.

According to a Comptroller's Office official, testing of an LEA's expenditures takes place during the LEA's annual OMB Circular A-133 Single Audit by the LEA's IPA. The LEA's financial activities may also be audited by the Pennsylvania State Auditor General. Comptroller's Office officials also stated that expenditures should be reviewed when PDE, the Commonwealth agency responsible for the fiscal and programmatic monitoring of each LEA, conducts a close-out review within 60 days after a grant ends. Reliance on audits or reviews that occur well after funds are expended by the LEAs is too late to ensure early detection of or to mitigate the inappropriate use of funds.

We discussed the finding with Commonwealth officials during our exit conference. Comptroller's Office officials responded to our finding in writing. They stated that the Comptroller's Office had several procedures in place to ensure compliance with applicable statutes and regulations to ensure subgrantors charge allowable costs to grants. They also stated that these procedures include fiscal controls and monitoring of subgrant activities by various Commonwealth entities.

⁹ If the Comptroller's Office determined that an LEA expended funds in excess of its expected quarterly expenditure amount, the Comptroller's Office could accelerate an LEA's future monthly payments. If the LEA did not spend enough of its funds the LEA's future monthly payments could be reduced or stopped.

Comptroller Office officials explained the process as follows.

The process begins when an LEA submits an application for a project to be funded. PDE reviews these applications to make a determination as to whether the project will be funded or not. The application states the amount of funding needed, the type of activity that will be performed, and the expected length of the project. Once PDE reviews and approves the project PDE assigns funding to the project. The funding is limited to one funding source. For example, if the project is ARRA-related, it will be funded solely by ARRA funds. At this point PDE should know the type of expenditures that will be incurred over the life of the project. The majority of an LEA's projects fund LEA salaries. After PDE approves an LEA's project, the project request is sent to the Comptroller's Office for review and processing. Comptroller's Office officials review the project to ensure compliance with grant requirements. The Comptroller's Office then inputs the project into the Commonwealth's Financial Accounting Information system. This system calculates the amount of each monthly payment the LEA will receive based on the number of months the project will last.

Overall, the Comptroller's Office believed that the combination of PDE's review of LEAs' project applications, periodic site monitoring, Comptroller's Office fiscal controls and monitoring, and the various LEA audits have shown over the past several decades that the risk of LEAs charging unallowable or unsupported costs to a particular funding stream are minimized. However, as stated above and in Finding No. 1, these reviews, site visits, and audits are happening after the fact, and in some cases, not frequently enough. Furthermore, these controls do not ensure that the LEA has spent all the funds it has been advanced each month, which can lead to the accumulation of excess cash and the earning of excess interest on Federal funds (see the sub-finding below).

According to 34 C.F.R. § 76.702, a State should use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for Federal funds. In addition, States are responsible for managing the day-to-day operations of grant and subgrant supported activities. States must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements (34 C.F.R. § 80.40[a]). The Comptroller's Office processes do not ensure that these requirements were being met.

One of the guiding principles of ARRA is to use the funds quickly. Given the current economic climate, LEAs may be experiencing tight budget constraints, increasing the risk of unallowable or inadequately documented expenditures or misuse of funds related to ARRA programs. If the Comptroller's Office does not have adequate monitoring procedures for funds received under the ARRA Title I, IDEA and SFSF programs, it cannot ensure that LEAs are properly reporting complete and accurate information or spending funds in accordance with ARRA requirements.

The Comptroller's Office's Procedures Were Not Adequate to Minimize Excess Cash Balances at LEAs and to Ensure That LEAs Properly Remitted Interest Earned on Federal Cash Advances

The Comptroller's Office did not have adequate procedures in place to minimize the time lapsing between the transfer of funds advanced to its LEAs and the disbursement of those funds by the LEAs. The Comptroller's Office also did not have adequate procedures in place to ensure that when an LEA earned interest in excess of \$100, that the LEAs properly remitted interest earned on Federal funds, at least quarterly, to the Department.

As discussed above, the Comptroller's Office had in place a quarterly cash reconciliation process; however, this process was not frequent enough to determine whether the LEAs were accumulating substantial cash balances on a day-to-day and/or monthly basis. The purpose of this reconciliation was to ensure that the scheduled payments to the LEAs were adequate to cover the monthly cash needs of the LEAs without allowing the LEAs to accumulate substantial cash reserves. However, because the Comptroller's Office did not verify whether an LEA actually expended all the funds it was advanced monthly, it was not able to adequately monitor whether an LEA maintained excess Federal cash.

The Comptroller's Office also did not require LEAs to monitor their cash needs on a more regular basis, such as daily, weekly, or monthly. In addition, Comptroller's Office officials relied on PDE to monitor LEAs' OMB Circular A-133 Single Audit report findings and resolve any interest issues noted in that report. However, this process was not adequate because LEAs could accumulate excess interest earnings throughout the year and not return them to the Department in a timely manner. Also, PDE relied on LEAs to voluntarily comply with the excess interest requirement. In the Commonwealth's FYs 2008, 2007, and 2006 OMB Circular A-133 Single Audit reports, the Commonwealth's IPA determined that the inadequate monitoring by the Comptroller's Office of one LEA's cash balances resulted in that LEA accruing and retaining both excess cash and interest. Accruing interest and retaining it results in additional excess cash. For example, one LEA identified in the Commonwealth's FY 2007 OMB Circular A-133 Single Audit report¹⁰ was able to accumulate \$5.5 million in excess cash. This same LEA was also identified in the Commonwealth's FY 2008 OMB Circular A-133 Single Audit report as retaining \$975,009 in excess interest.¹¹ A similar condition of earned and retained interest on Federal cash balances for the same LEA was identified in the Commonwealth's FY 2006 OMB Circular A-133 Single Audit report. According to a Comptroller's Office official, the Commonwealth was only aware of this one incident over the past decade where a school accumulated excess cash balances and earned interest greater than \$100 per year. Furthermore, the Comptroller's

¹⁰ As part of the State IPA's OMB Circular A-133 Single Audit of major programs administered by PDE, the IPA reviewed subrecipient OMB Circular A-133 Single Audit reports issued by larger-dollar LEAs for any potential impact on the State's OMB Circular A-133 Single Audit.

¹¹ The LEA earned and improperly retained \$858,487 in Title I, \$51,313 in Title II, and \$65,209 in Special Education interest on Federal cash balances.

Office official corresponded with us via e-mail, stating that-

The history of the lack of other instances in LEAs [sic] A-133 Single Audits demonstrates that the current process is working as expected In the worst case scenario an LEA would be able to cumulate [sic] three months were [sic] of payments, at which point when they file their Quarterly Reconciliation of Cash-on-Hand futures [sic] payments would be stopped. As stated previously, the majority of projects support salary and benefit expenses at LEAs. As monthly payments are made to the LEAs by the Commonwealth, the Commonwealth is confident that the LEAs are incurring salary expenses equal to the payments being made. In addition, the project payments do not start until after the project has been approved. Normally it takes a couple of months before the LEAs begin to receive monthly payments and were likely incurring expenses since the project approval date.

Our audit did not involve a review of LEAs' project expenditures. Therefore, we cannot determine whether the Commonwealth's statements above are accurate. The lack of a past occurrence, however, especially with inadequate controls in place, does not preclude an incident from occurring in the future and does not indicate that other incidents did not occur in the past that may not have been identified. Also, although most funds may be for salary purposes, based upon our past audit work,¹² LEAs have spent a significant amount of funds on non-salary items which were unallowable or inadequately supported.

We did note that PDE's Bureau of Special Education (BSE), the office responsible for monitoring subgrantees' use and administration of IDEA funds, provided an ARRA-related training session in July 2009 that identified the interest requirements of 34 C.F.R. § 80.21(i); however, LEA attendance was not mandatory. Comptroller's Office officials also stated that PDE had given guidance to LEAs to refrain from accumulating excess cash and earning interest. They also stated that procedures are in place for the LEAs to return interest earnings to the Federal Government. Other than the BSE guidance, we were not provided with evidence of any additional PDE excess cash and interest earning guidance. We were also not provided with written policies to support the existence of any procedures being in place for LEAs to return interest earned to the Department.

According to 34 C.F.R. § 80.21(c), "Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by

¹² Examples of unallowable and unsupported costs are included in our audit reports entitled, "Philadelphia School District's Controls Over Federal Expenditures," A03H0010, issued January 15, 2010; "Adequacy of Houston Independent School District's Fiscal Controls over Accounting for and Using Federal Funds," A06H0017, issued June 30, 2009; "Adequacy of Fiscal Controls Over the Use of Title I, Part A Funds at the Dallas Independent School District," A06H0011, issued April 14, 2009; "The School District of the City of Detroit's Use of Title I, Part A Funds Under the No Child Left Behind Act of 2001," A05H0010, issued July 18, 2008; and "Elizabeth Public School District Allowability of Title I, Part A Expenditures," A02G0020, issued October 9, 2007.

the grantee or subgrantee.” Methods and procedures for payment should also minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 C.F.R. Part 205 (34 C.F.R. § 80.21[b]). If PDE or LEAs earn interest on advances that exceed \$100 in one year, they should promptly, but at least quarterly, remit this interest to the Department. LEAs may keep interest amounts up to \$100 per year for administrative expenses. These requirements are identified at 34 C.F.R. § 80.21(i), Interest earned on advances.

The Department reinforced the above cash management requirements in the ARRA-specific guidance it issued in April 2009.¹³ In particular, the guidance addresses funds made available under the ARRA for three programs: (1) Title I; (2) IDEA; and (3) Title XIV of Division A of the ARRA (SFSF).

By not determining each LEA’s cash position on an appropriate regular basis, prior to disbursing additional Federal cash advances, the Comptroller’s Office cannot be sure that LEAs were not maintaining excess cash. By drawing Federal funds and disbursing them to LEAs too far in advance of the LEAs’ immediate cash needs, there is an increased risk that ARRA funds might be misused.

Recommendations:

We recommend that the Assistant Secretary for OESE, in coordination with the Assistant Secretary for OSERS, the Director for Risk Management Service (RMS), and the Chief Financial Officer (CFO), require the Comptroller’s Office and/or PDE to:

- 2.1 Develop and implement procedures to review LEA expenditures charged to ARRA and non-ARRA funds to determine whether the funds advanced were actually expended and whether the expenditures are reasonable, allowable, and properly supported prior to reimbursement.**
- 2.2 Develop and implement procedures to proactively monitor cash balances at LEAs on a more regular basis and minimize the time lapsing between the transfer of funds advanced to its LEAs and the disbursement of those funds by the LEAs.**
- 2.3 Issue fiscal guidance to LEAs on the excess cash and interest remittance requirements. This guidance should instruct LEAs on how to accurately calculate and timely remit interest.**

¹³ Department guidance for the three programs are titled: (1) *Funds Under Title I, Part A of the Elementary and Secondary Education Act of 1965 Made Available under The American Recovery and Reinvestment Act of 2009*; (2) *Funds for Part B of the Individuals with Disabilities Education Act Made Available under The American Recovery and Reinvestment Act of 2009*; and (3) *Guidance on the State Fiscal Stabilization Fund Program*.

2.4 Develop and implement monitoring procedures to ensure that LEAs properly calculate and remit interest earned on all Federal cash advances.

PDE Response

PDE did not concur with the Finding. PDE restated its position that the Comptroller's Office and PDE officials have several controls in place to ensure compliance with applicable statutes and regulations, the charging of allowable costs to the grants, and to minimize the ability for LEAs to accumulate excess cash and earn significant amounts of interest on those funds. PDE also restated that it had issued guidance to LEAs advising them to avoid accumulating excess cash and interest earnings. In addition, procedures for returning interest earned that is greater than \$100 per year were also provided to LEAs.

PDE informed us that the Comptroller's Office had recently accelerated the timeliness of OMB Circular A-133 Single Audit subrecipient reviews and its assistance in helping PDE resolve any OMB Circular A-133 Single Audit findings. The Commonwealth has implemented a policy that requires all agencies to report the status of their OMB Circular A-133 Single Audits on a quarterly basis, so that reported findings will be resolved more timely. PDE indicated that, along with the Comptroller's Office, it planned to establish a policy that strongly encouraged LEAs to use non-interest-bearing accounts for Federal funds.

Finally, PDE saw no justifiable cost benefit or regulation to require additional fiscal monitoring efforts at LEAs because it was aware of only one instance of excess cash on hand cited in one LEA's OMB Circular A-133 Single Audit report.

OIG Comments

The Finding remains unchanged. We commend PDE for establishing new policies relating to excess cash and earned interest. However, we were not provided copies of these policies; therefore, we could not determine the sufficiency of the policies and related processes. PDE did not state how or whether the guidance on accumulating excess cash and earning interest instructs LEAs to determine and subsequently inform the Comptroller's Office that the LEAs had accumulated excess cash prior to their performing the quarterly cash reconciliation process. We suggest that PDE ensure that the guidance issued instructs LEAs to determine and subsequently inform the Comptroller's Office if they have accumulated excess cash. The guidance should also instruct LEAs how to calculate and remit interest quarterly to the Department.

PDE's policy that encourages LEAs to use non-interest-bearing accounts for Federal funds may not be the best policy for managing Federal funds. The U.S. Treasury will lose the potential benefit of using any yearly interest earnings in excess of \$100. In addition, the policy will not ensure early detection of or mitigate the inappropriate use of funds. The policy also will not prevent LEAs from having the ability to accumulate

excess Federal cash. The Comptroller's Office will still need to monitor LEAs for the accumulation of excess cash and the earning of interest.

Finally, we assert that being aware of only one instance where an LEA had excess cash on hand does not mean that other LEAs did not have similar circumstances or that the condition cannot occur with other LEAs. We understand the justifiable cost benefit concept relating to the implementation of additional internal controls; however, testing LEAs on a sample basis may still be a justifiable cost benefit option. Without the Comptroller's Office monitoring LEAs' monthly expenditures on a more regular basis, this condition might lead to an LEA earning excess cash. More importantly, disbursing funds to LEAs too far in advance of an LEA's immediate cash need increases the risk that ARRA funds might be misused.

FINDING NO. 3: PDE Had Not Developed a Policy to Disclose ARRA Data Deficiencies

Although PDE had provided information and guidance to LEAs on ARRA reporting requirements, it did not have a policy to ensure that ARRA data deficiencies are disclosed to the Department. We were informed that PDE had taken steps to report a data deficiency issue to OMB relating to entities having multiple DUNS¹⁴ numbers; however, this action did not address the reporting of data deficiencies to the Department. Based on a meeting held with PDE officials, we concluded that they were not aware of the Department's guidance on reporting data deficiencies. During the exit conference, PDE officials informed us that if they discovered a data deficiency, their policy would be to take appropriate actions based on the Department's guidance. PDE officials further explained that if errors occur, there would be no need to report the inaccurate data, because they would not transmit data with errors and because the data would not make it through their review process. PDE officials explained that there were no data deficiencies in the reported data transmitted on October 10, 2009, and that this is sufficient evidence to show that their system works. Our audit work did not involve a review of these data. Therefore, we cannot determine whether there were deficiencies in the reported data.

Although PDE may not have had any omissions or errors in its October 2009 reporting, PDE still needs to develop a policy and disseminate it to all appropriate parties.

According to Section III of Department clarifying guidance, entitled "U.S. Department of Education Clarifying Guidance on American Recovery and Reinvestment Act of 2009

¹⁴ The DUNS number is a unique nine-character number that identifies an organization. It is a tool of the Federal Government to track how Federal money is distributed.

Section 1512 Quarterly Reporting,” revised on October 5, 2009,¹⁵

If the prime recipient identifies material omissions or significant reporting errors in its reports (or that of its subrecipients), take action to correct the deficiencies. If the report cannot be corrected or if a known deficiency cannot be remedied, contact the Department of Education to advise it of the deficiencies and the actions being taken to correct the deficiency.

The absence of a policy requiring the disclosure of ARRA data deficiencies could allow inaccuracies and omissions in data to not be reported to the Department, ultimately leading to unreliable data being reported to the FederalReporting.gov Web site. The lack of the disclosure of data deficiencies would not alert the Department to the source of the inaccurate data.

Recommendation:

We recommend that the Director for RMS, in coordination with the CFO, require the Governor’s Office and PDE to:

3.1 Develop and disseminate a policy to disclose ARRA data deficiencies to the Department.

PDE Response

PDE did not concur with the Finding. PDE believes that it was not required to establish and disseminate a data deficiency policy. Furthermore, PDE believes its only obligation was to correct any data deficiencies. However, PDE developed a draft policy reiterating the clarifying guidance on ARRA data deficiencies. PDE planned to distribute this policy to its subrecipients and vendors.

OIG Comments

We commend PDE for developing the data deficiency policy. Although the guidance did not specifically state that a policy was required to be developed and disseminated; a documented policy that is developed and disseminated will assist those responsible for reporting ARRA data. Those responsible will know exactly what the policy is and can follow consistent steps in the guidance to report data deficiencies. PDE should finalize and expedite the dissemination of the policy.

¹⁵ This guidance was originally issued in September 2009.

FINDING NO. 4: The Governor's Office Should Define and Delineate the Roles and Responsibilities of Commonwealth Agencies Administering SFSF Funds

The Governor's Office had not entered into any type of agreement among PDE, DOC and the Department of General Services (DGS) regarding the allocation of SFSF funds that these agencies expected to receive. The Department allocated a total of about \$1.9 billion in SFSF funds (about \$1.56 billion for the Education Stabilization Fund [ESF] portion and about \$347 million for the Government Services Fund [GSF] portion) to the Governor's Office. For the Commonwealth to receive its SFSF funds, it needed to submit an application to and obtain approval from the Department. The Governor's Office submitted its initial SFSF application to the Department for approval on April 24, 2009, and then resubmitted the application on June 26, 2009. However, the Department did not approve the application, because the Governor's Office did not make the revisions to it that the Department requested. On October 9, 2009, the Commonwealth approved its State budget. The Commonwealth's budget allocated 100 percent of the ESF funds to PDE, 99.7 percent of the GSF funds (approximately \$346 million) to DOC for public safety purposes, and the remaining .3 percent (exactly \$1 million) of the GSF funds to DGS to fund overall ARRA administrative expenses. The Commonwealth then resubmitted its SFSF application to the Department for approval on October 20, 2009, allocating the funds based upon the approved State budget SFSF allocations. The revised application included the revisions the Department requested.

According to Commonwealth officials, when the Commonwealth's application was resubmitted, it requested that the Department award the ESF funds to PDE and 100 percent of the GSF funds to DOC, instead of awarding them directly to the Governor's Office. Commonwealth officials believed that if the Department awarded the funds to PDE and DOC, no agreement (interagency or other) among the Governor's Office and the three Commonwealth agencies would be necessary. On October 27, 2009, the Department approved the Commonwealth's SFSF application. The Department awarded the funds to the Governor's Office. According to a Department official, because the funds were awarded to the Governor's Office, the Governor's Office is fully accountable for the overall administration and management of the SFSF funds; not PDE and DOC as Commonwealth officials anticipated.

We reviewed the Commonwealth's Management Directive 310.19 Amended, Accounting for Disbursements of Funds for Interagency Agreements, Memorandums of Understanding, and Notifications of Subgrant; Accounting for the Subgranting of Federal, Federal Matching Funds, or State Funds Between Commonwealth Agencies, dated September 4, 1997, and found that it did not require the Commonwealth to enter into any type of agreement among the three agencies or document agency roles and responsibilities. However, we believe that it is a good control and business practice for the Governor's Office to document and delineate the roles and responsibilities of the three agencies to ensure that the agencies are aware of their respective roles and responsibilities. If roles and responsibilities are not properly established, there is a risk

that proper controls over data quality, cash management, subrecipient monitoring, and use of funds will not be implemented at the State agencies designated with the responsibility of administering portions of the Commonwealth's SFSF funds. The Governor's Office will also run the risk of not complying with the terms and conditions of its SFSF grant.

The Commonwealth's SFSF Grant Award Letter, dated October 27, 2009, was addressed to the Governor. The letter stated that the Commonwealth's SFSF funds were subject to the requirements in the ARRA. Because the Department awarded the funds to the Governor's Office, the Governor's Office was therefore responsible for the reporting requirements under Section 14008 of ARRA and ARRA Section 1512 Quarterly Reporting.

In addition, according to Section III of Department clarifying guidance, entitled "U.S. Department of Education Clarifying Guidance on American Recovery and Reinvestment Act of 2009 Section 1512 Quarterly Reporting," revised on October 5, 2009,¹⁶

If grant funds are transferred from one state agency to another for purposes of administering or carrying out the program, the state agency whose name and DUNS number appear on the Grant Award Notification is the prime recipient for reporting purposes¹⁷ This policy applies to all Department grants, including the State Fiscal Stabilization Government Services Fund and Education Stabilization Fund. If a state agency performs administrative functions for the Governor's Office, or carries out a portion of the grant activities, the Governor's Office is still the prime recipient As a result of this policy, the state must collect data from all state agencies that receive funds from a particular grant, summarize the activities and expenditures, and report them as the activities and expenditures in the prime recipient section of the report.

Therefore, if the roles and responsibilities for the administration of the SFSF funds are not established, there is a risk that the required data may not be reported.

Recommendation:

We recommend that the Assistant Secretary for OESE, in coordination with the Assistant Secretary for OSERS, require the Governor's Office to:

4.1 Document and delineate the roles and responsibilities of PDE, DOC, and DGS with respect to the SFSF funds.

¹⁶ This guidance was originally issued in September 2009.

¹⁷ According to the Department official, the funds awarded to the Governor's Office were assigned to its DUNS number. In order to honor the Commonwealth's request to have the funds flow more easily to DOC however, the Department did cross-reference the DUNS number for the Governor's Office to DUNS numbers assigned to PDE and DOC. PDE and DOC will both be representative payees.

PDE Response

PDE believes that the Governor's office has appropriately defined roles and responsibilities regarding the administration of SFSF funds. Also, PDE stated that an interagency agreement would neither be appropriate nor necessary, because the Governor's Office, PDE, DOC, and DGS are all executive agencies, and interagency agreements are not required between executive agencies in the Commonwealth.

OIG Comments

We agree that the Governor's Office, PDE, DOC, and DGS are executive agencies and do not require an interagency agreement according to Commonwealth requirements. We have revised our Finding to reflect this. However, while an interagency agreement may not be required, we believe documenting each agency's roles and responsibilities is appropriate to ensure that SFSF funds are being used efficiently and effectively. ARRA funding is subject to the most stringent standards of accountability and transparency. Therefore, the Governor's Office needs to identify and delineate the role and responsibility of at least DGS. Because DGS is being allocated SFSF funds for administrative purposes, its role in relation to the other agencies needs to be defined. Documenting these roles and responsibilities is a good business practice and will aid in providing clarifying guidance to the other agencies. For items such as reporting, failure to document such roles and responsibilities could lead to information being misreported or unreported.

BACKGROUND

On April 1, 2009, the Department awarded 50 percent of the funds for the Commonwealth's Title I, IDEA, and VRSG ARRA funds without new applications. By the end of March 2009, Governors were able to apply for 67 percent of their State's SFSF funds. These funds were expected to be released within 2 weeks after approvable applications were received. Additional Title I, IDEA, VRSG, and SFSF funds were made available to States between July 1, 2009, and September 30, 2009.

PDE was allocated \$400.6 million in Title I ARRA funds and \$457.8 million in IDEA ARRA funds. Voc Rehab was the recipient of \$20.9 million in VRSG funds. All Title I and IDEA grant funds were administered by PDE. VRSG funds were administered by Voc Rehab.

In its State application, the Commonwealth agreed to appropriate ARRA Title I and IDEA funding over the 2009-2010 and 2010-2011 school years. During our fieldwork, we were informed that ARRA funds could not be used or distributed by the State agencies until they were appropriated in a final Commonwealth budget. The Commonwealth's budget was approved on October 9, 2009. Prior to the budget being approved, however, the Governor signed a "bridge budget" on August 5, 2009,

authorizing the use and distribution of the Title I and IDEA funds that the Department made available on April 1, 2009.

The Governor's Office was also allocated approximately \$1.9 billion in SFSF funds, which included approximately \$1.56 billion in ESF funds (81.8 percent of SFSF funds allocated) and approximately \$347 million (18.2 percent of SFSF funds allocated), in GSF funds. The Commonwealth's Application for Initial Funding under the SFSF program was approved on October 27, 2009. In its approved SFSF application,¹⁸ the Governor's Office planned to use \$654.7 million of its Education Stabilization fund allocation to restore the level of State support for elementary and secondary education in FY 2010. The application also indicated that the Governor's Office planned to allocate 99.7 percent (approximately \$346 million) of its GSF allocation to DOC for public safety and .3 percent (\$1 million [\$500,000 for each year of the ARRA funds]) to DGS to fund overall ARRA administrative expenses.

Table: ARRA Allocations to PA State Agencies						
Grant Title	Catalog of Federal Domestic Assistance No.	Agency	Total Allocated (in millions)¹⁹		Total Drawn Down (in millions)²⁰	Total Expended (in millions)²¹
Title I	84.389	PDE		\$400.6	\$70.3	\$46.7
IDEA	84.391	PDE		\$457.8	\$74.7	\$57.5
VRSG	84.390	Voc Rehab		\$20.9	\$0.2	\$0.2
SFSF	84.394	Governor's Office	Education Stabilization	\$1,559	None	None
	84.397		Government Services	\$346.8	None	None
Total			\$2,785			

¹⁸ The Commonwealth initially submitted its SFSF application on April 24, 2009, submitted a revised application on June 26, 2009, and submitted the final approved application on October 20, 2009.

¹⁹ These data were obtained from the Department's Web site <http://www.ed.gov/policy/gen/leg/recovery/state-fact-sheets/pennsylvania.doc>. The total allocated funds for the IDEA grant include Parts B and C. We could not break out the amount allocated per Part.

²⁰ These data were obtained from the Department's Grants Administration and Payments System. The data were reported as of October 23, 2009.

²¹ These data were reported on the Reports section of the Commonwealth's Recovery Web site <http://www.recovery.pa.gov/portal/server.pt/community/reports/6019>. The report was dated September 22, 2009, and the report indicated the data were as of September 18, 2009. These amounts were reported after the end of our fieldwork; therefore, all the funds may not have been expended during our review.

SCOPE AND METHODOLOGY

Our review consisted of an assessment of the designed system of Commonwealth-level internal controls that PDE, the Comptroller's Office, DOC, Voc Rehab, and the Governor's Office planned, at the time of our field work, to use in administering funds received under ARRA for the Title I, IDEA, OVR, and SFSF programs. For the SFSF program, we focused our review on the SFSF funds to be administered by PDE and DOC. We reviewed the Commonwealth-level controls related to data quality, cash management, subrecipient monitoring, and use of funds.

Our review was limited to assessing the design of the internal controls. Given that much of the ARRA funding had not yet reached the Commonwealth and LEAs, we could not validate nor test the accuracy of the statements made by officials regarding their accounting and tracking systems. Also, during and subsequent to our fieldwork, PDE, the Comptroller's Office, DOC, Voc Rehab, and the Governor's Office were continuing the process of designing and implementing internal controls for administering ARRA funds. Thus, the plans and processes reviewed during our audit may be modified or not implemented as designed. In addition, we may not have been aware of unique factors related to the administration of ARRA funds during our assessment of the design of internal controls.

To gain an understanding and assess the designed system of ARRA internal controls that PDE, the Comptroller's Office, DOC, Voc Rehab, and the Governor's office planned at the time of our field work, we:

- Reviewed prior OMB Circular A-133 Single Audit and other applicable reports issued by our office, the Government Accountability Office (GAO), the Comptroller's Office, and the Pennsylvania Department of the Auditor General;
- Identified ARRA funds allocated to PDE, DOC, Voc Rehab, and the Governor's Office for the Title I, IDEA, and SFSF grant programs;
- Obtained and reviewed PDE's written policies and procedures related to data quality, cash management, subrecipient monitoring, and use of funds for the Title I and IDEA grant programs;
- Obtained and reviewed PDE's monitoring instruments for the Title I and IDEA grant programs;
- Obtained and reviewed examples of Voc Rehab's contract and ARRA amendment documents;²²
- Obtained an understanding of Voc Rehab's review process for monthly invoices submitted by contractors;
- Obtained and reviewed the Commonwealth's SFSF applications signed by the Governor and various budget documents;

²² Voc Rehab planned to use the funds it was allocated to fund existing non-ARRA vendor contracts. Voc Rehab contractors were provided an addendum to their current contracts that was related to ARRA requirements.

- Interviewed PDE officials, including officials from the following offices: Budget and Fiscal Management, Office of Policy, Division of Federal Programs, Chief Information Officer, Office of Strategic Services, Office of Administration, Bureau of Special Education, Payroll Operations, and Quality Assurance;
- Interviewed Governor's Office officials, including the Secretary of the Budget; and the Chief Accountability Officer of the Pennsylvania Stimulus Oversight Commission;
- Interviewed DOC officials, including the Director of Administration, the Chief of Budget and Finance, and the Chief of the Employee Services Division;
- Interviewed Comptroller Office officials, including the Directors from the Bureau of Audits and the Bureau of Accounting;
- Interviewed Voc Rehab officials, including the Executive Director, Director for the Bureau of Central Operations, Chief for the Budget Grant Administration Service, and the Supervisor for Program Policies and Evaluation;
- Interviewed officials from the Pennsylvania Office of the State Auditor General;
- Interviewed GAO officials; and
- Obtained and reviewed other documents pertaining to PDE's, the Comptroller's Office's, DOC's, Voc Rehab's, and the Governor's Office's processes for data quality, cash management, subrecipient monitoring, and use of funds, as applicable.

We conducted our work at PDE, the Comptroller's Office, DOC, Voc Rehab, and the Governor's Office from May 27, 2009, through September 15, 2009. We discussed the results of our review and recommendations with PDE on November 5, 2009.

Although we did conduct work at three LEAs, the results of those reviews are not presented in this report. None of our LEA work was used to form the conclusions on the State-level controls presented in this report. We plan to issue a separate report providing the results of our LEA work at a later date.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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.

Enclosure

**Anyone knowing of fraud, waste, or abuse involving
U.S. Department of Education funds or programs
should call, write, or e-mail the Office of Inspector General.**

Call toll-free:

The Inspector General Hotline
1-800-MISUSED (1-800-647-8733)

Or write:

Inspector General Hotline
U.S. Department of Education
Office of Inspector General
400 Maryland Ave, S.W.
Washington, DC 20202

Or e-mail:

oig.hotline@ed.gov

Your report may be made anonymously or in confidence.

For information on identity theft prevention for students and schools, visit the Office of
Inspector General Identity Theft Web site at:

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Enclosure PDE Comments



COMMONWEALTH OF PENNSYLVANIA
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February 4, 2010

Mr. Bernard Tadley
Regional Inspector General Audit
Region III
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 502
Philadelphia, PA 19107

Dear Mr. Tadley:

Please find below the Pennsylvania Department of Education's (PDE) response to the preliminary copy of your audit report entitled *Commonwealth of Pennsylvania Recovery Act Audit of Internal Controls over Selected Funds*, Audit Control Number ED-OIG/A03J0010. This document was sent on Thursday, January 14, 2010.

RESPONSE TO FIRST FINDING:

Note: This finding primarily involves Title I and IDEA, which are administered by two different offices within the Pennsylvania Department of Education. Each office has a process for awarding funds, program oversight and monitoring/compliance. As a result, each office needs to respond to different parts of this finding. Additionally, each of these offices report to a different office at USDE, who will ultimately decide which of the findings need further response and will work with the offices at PDE to implement any necessary corrective actions in response to the findings.

Title I Response:

PDE's monitoring and oversight of ARRA and other federal funds are in compliance with all existing published guidance. The Division of Federal Programs (DFP) has established extensive processes and procedures as determined necessary for reviewing and approving

Enclosure

PDE Comments

Title I ARRA applications for subgrants and amendments to those applications, for providing technical assistance, for evaluating projects, and for performing other administrative responsibilities. These processes and procedures have been consistently approved by the U.S. Department of Education's Office of Elementary and Secondary Education (PESE) in relation to our regular Title I program over the past forty-five years. PDE believes the finding is inconsistent with DOE's previous examinations and the suggestions are outside the scope of existing guidance. Therefore we request this finding be withdrawn.

Background: The administration of these processes and procedures in conjunction with the application of pertinent provisions of the Title I Grants to States Program, Pennsylvania Public School Code (School Code), federal regulations, and adherence to the principles and accounting structures contained in the Manual of Accounting and Financial Reporting for Pennsylvania Public Schools provides sufficient monitoring procedures to ensure that LEAs comply with Federal fiscal requirements. See Attachment 1. The full copy of this document can be found at

http://www.portal.state.pa.us/portal/server.pt/community/accounting_information/18327

Use of amounts and allowable costs are an integral component of the Rider and the state-approved application. Allowable costs are based on and consistent with Federal regulations and cost principles as well as DFP guidance, policies, and priorities. DFP Staff review LEA fiscal information through the maintenance of effort process in order to reasonably determine that Title I funds are not used to reduce the level of non-federal support for special education and related services for the preceding fiscal year.

The Division of Federal Programs has required LEAs to update both budget and LEA plans for how the LEAs use their Title I ARRA no less than three times during the project period (May 2009 when funds were awarded, August 2009 and January 2010). As part of the update process, DFP Regional Coordinators review and approve the narratives, budgets and ensure that appropriate set-asides are being applied in accordance with Title I regulations. LEAs are required throughout the life of the Title I ARRA grant to submit to DFP requests for budget revisions when their expenditures exceed their approved budgeted amount by more than 20%. LEAs are also required to submit narrative revisions any time they want to deviate from their state-approved plan.

While we disagree with OIG's findings, we are committed to exceeding minimum requirements. Recently PDE developed an RFP and subsequently awarded a contract in response to the ARRA's data and reporting requirements. PDE has initiated procedures whereby each LEA receiving ARRA Funds, including Title I ARRA Funds, submits detailed data to validate proper use and reporting of these funds. The contractor is responsible to review all verification data submitted, review and analyze submissions and provide recommendations to DFP regarding the information submitted and select a sample of LEAs for on-site review visits and follow-up.

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If OIG's comments are not merely the result of a preliminary understanding of PDE's processes, but are suggestive of pending or not yet released official instruction, we look forward to working collaboratively with the Office of Elementary and Secondary Education (OESE) to implement any future official guidance/instruction that OESE may implement.

Bureau of Special Education Response:

PDE has established extensive processes and procedures as determined necessary for reviewing and approving IDEA-B §611 applications for subgrants and amendments to those applications, for providing technical assistance, for evaluating projects, and for performing other administrative responsibilities. These processes and procedures have been consistently approved by the U.S. Department of Education's Office of Special Education Programs (OSEP) over the past twenty-five years. PDE believes the finding is inconsistent with DOE's previous examinations and the suggestions are outside the scope of existing guidance. Therefore we request this finding be withdrawn.

Background: The administration of these processes and procedures in conjunction with the application of pertinent provisions of the IDEA-B Grants to States Program, Pennsylvania Public School Code (School Code), federal regulations, and adherence to the principles and accounting structures contained in the Manual of Accounting and Financial Reporting for Pennsylvania Public Schools provides sufficient monitoring procedures to ensure that LEAs comply with Federal fiscal requirements. See Attachment 1. The full copy of this document can be found at

http://www.portal.state.pa.us/portal/server.pt/community/accounting_information/18327

Although PDE previously provided this information, we are providing additional copies of pertinent School Code sections – Article XXIV – Auditing of School Finances, Article VIII – Books, Furniture and Supplies, including Section 807.1–Purchase of Supplies. See Attachment 2a, 2b, 2c).

Please also reference PDE's previous response of its bifurcated system for the programmatic and fiscal management and administration of state and federal special education programs and funding. However, we believe it will be beneficial if we further illuminate our fiscal oversight responsibilities delegated to our Intermediate Units (IUs). See Attachment 3. The IUs²³ are PDE's statutory LEAs under IDEA and are the direct recipients of IDEA-B §611 funds. They exercise due diligence on behalf of PDE for the proper administration, oversight, and management of the local regional IDEA funding allocations as well as for the day-to-day management of IDEA-B §611 fiscal program requirements including disbursement of pass through funding to eligible LEAs serving

²³ Pennsylvania has twenty-nine IUs and except for IU #2 each serves as the LEA for its member school districts and public charter schools. IU # 2 -- the Pittsburgh-Mt. Oliver Intermediate Unit is coterminous with the Pittsburgh City School District -- its single member school district. The Pittsburgh City School District is PDE's LEA for the IU #2 region.

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eligible students with disabilities within their region. IU special education program and fiscal staff work as a team in collaboration with their member school district and charter school (LEA) colleagues to ensure sound management and proper expenditure and reporting for the local regional IDEA funding. IU special education program and fiscal staff meet with their member LEA colleagues on a regular and on-going basis. This ensures that everyone is aware of the most current Federal requirements and PDE policies and priorities regarding the distribution and use of local regional funding allocations. IUs advise member LEAs about allowable costs/use of funds based on these requirements and develop mutual strategies to maximize the benefits derived from the IDEA funds for their eligible students with disabilities.

Disbursement of funds is predicated on written agreements between IUs and their member LEAs. The written agreements include provisions that enable the IU as the State's LEA to determine that eligible member LEAs use and report the use of IDEA funds in accordance with pertinent regulatory and procedural requirements.

Use of amounts and allowable costs are an integral component of this written agreement. Allowable costs are based on and consistent with Federal regulations and cost principles as well as PDE guidance, policies, and priorities. IUs review member LEA special education fiscal information in order to reasonably determine that IDEA funds are not used to reduce the level of non-federal support for special education and related services for the preceding fiscal year.

Invoicing and payment procedures are designed to minimize the time elapsing between the transfer of funds from the IU and disbursement of funds by its member LEAs. Member LEAs may be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures that minimize the time elapsing between the transfer of funds and their disbursement. In instances where no procedures are in place or where there is an unwillingness to minimize the time elapsing between the transfer of funds from the IU and disbursement of the funds, reimbursement for actual cash disbursements is the required payment method.

Regional management of IDEA-B §611 fiscal program requirements also encompass:

- ◆ Excess Cost Requirements (§300.16)
- ◆ Use of Amounts – Allowable costs (§300.202 and §80.22)
- ◆ Supplementation of State, local and other Federal Funds (§300.162)
- ◆ Prohibition against commingling IDEA funds (§300.162(b))
- ◆ Early Intervening Services (§300.226)
- ◆ Timely obligation and liquidation of funds (§§76.707 – 710 and §80.23)
- ◆ Review and validation of claimed costs/expenditures that, at minimum, include member LEAs' certification that services/programs and claimed costs comply with pertinent statutory and regulatory program and fiscal

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requirements as well as PDE fiscal policies and procedures. The IU review provides backup for its accounts payable process. (§300.202 and §80.22)

- ◆ Invoicing process and payment procedures (§80.21 and 22)
- ◆ Timely, accurate and complete reporting of program and fiscal data (§300.600(d) and §80.23)

Summary: While we disagree with OIG's findings, we are committed to exceeding minimum requirements. Recently PDE developed an RFP and subsequently awarded a contract in response to the ARRA's data and reporting requirements. PDE has initiated procedures whereby each LEA receiving ARRA Funds, including IDEA-B §611 ARRA Funds, submits detailed data to validate proper use and reporting of these funds. The contractor is responsible to review all verification data submitted, review and analyze sample of LEAs for on-site review visits and follow-up.

If OIG's comments are not merely the result of a preliminary understanding of PDE's processes, but are suggestive of pending or not yet released official instruction, we look forward to working collaboratively with the Office of Special Education and Rehabilitative Services (OSERS) and OSEP to implement any future official guidance or instruction that OSERS and/or OSEP may implement.

RESPONSE TO SECOND FINDING:

Comptroller Operations and the Pennsylvania Department of Education (PDE) have several controls in place to ensure compliance with applicable statutes and regulations, to ensure sub grantors charge allowable costs to the grants, to minimize the ability for LEAs to accumulate excess cash and earn significant amounts of interest on those funds. We believe that the finding was based on a preliminary understanding of PDE's processes and after reading the detailed explanation which follows, the finding should be withdrawn.

Background: PDE has issued guidance refraining LEAs from accumulating excess cash and interest earnings. In addition procedures to return interest earnings to the federal government have been provided to LEAs in the event they earn interest greater than \$100 per year. Additional fiscal oversight is accomplished through A-133 Single Audits and LEA audits conducted by the Pennsylvania Auditor General.

The review and monitoring process begins when an LEA applies for project funding. An LEA's project application identifies the types of activities to be performed, the expected length of the project, the amount of financial resources needed and a project budget for those resources. Based on the project budgets, the majority of LEA project resources are utilized for payroll costs. As a result, PDE has knowledge about the types of expenditures that will be incurred over the life of the project. Once PDE's project review is fully complete, they approve the project and assign an applicable funding source code. The projects funding is limited to one funding source. For example, if the project is ARRA related it will be funded solely by ARRA funds.

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After a project has been approved by PDE it is sent to Comptroller Operations for review and approval. Comptroller Operations reviews the project to ensure compliance with the applicable grant requirements. After Comptroller approval, the project is entered into the Financial Accounting Information (FAI) system. This system calculates the amount of each monthly payment an LEA will receive for a project. The monthly payment is based on the number of months the project will last. For example, if a project is scheduled to last 15 months the LEA would receive 15 equal monthly installments.

During a quarter in which monthly payments are disbursed, Comptroller Operations requires the LEAs to submit a Quarterly Cash Reconciliation report. This reconciliation report must be completed quarterly for each project and is certified by a responsible LEA official that the provided information is true and accurate. These reports allow the Comptroller to monitor project expenditures and excess cash. Currently Comptroller Operations reviews approximately 10,000 reconciliation reports a year. This reconciliation process limits the LEA's ability to accumulate large sums of excess cash. If the LEA is not spending a project's funding at the expected rate and has accumulated excess cash greater than or equal to one dollar plus one scheduled monthly payment, the project payments are discontinued until the excess cash is spent.

In a worst case scenario, should an LEA not incur any project expenditures, an LEA could accumulate three months worth of payments, at which point when they file their Quarterly Reconciliation of Cash-on-Hand report, future payments would be stopped. Project payments do not start until the project has been approved by Comptroller Operations. Generally an LEA begins to receive monthly project payments a couple of months after the approved project start date. In most instances the LEA has incurred project expenditures between the approved start date and the receipt date of the project's first monthly payment. Over the past decade the Commonwealth is only aware of one incident where a school has accumulated excess cash balances and earned interest greater than \$100 per year. This combination of PDE's review and periodic site monitoring, Comptroller Operations fiscal controls and monitoring and the various audits that the LEAs are subject to demonstrates that the risk of LEAs accumulating excess amounts of cash and interest earnings is minimal and that the current review and monitoring process is working as expected.

The Commonwealth has had only one instance of excess cash on hand cited in an LEA Single Audit report, so it is our position there is no justifiable cost benefit or regulation to require additional fiscal monitoring effort at the LEA, PDE, or Comptroller Office.

The Comptroller has recently accelerated the timeliness of Single Audit sub-recipient reviews and their work in helping PDE resolve SA findings. The Commonwealth has also implemented a policy that requires all agencies to report the status of their SA findings on a quarterly basis, so SA findings will be resolved more timely.

Summary: If OIG's comments are not the result of a preliminary understanding of PDE's processes, but are suggestive of pending or not yet released official instruction, we

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look forward to working collaboratively to implement any future official guidance or instruction that USDE may implement.

While there has only been one instance of an LEA earning interest in excess of \$100 from federal funds, PDE and the Comptroller will establish a policy that strongly encourages LEAs to use non-interest-bearing accounts for these funds.

RESPONSE TO THIRD FINDING:

USDE-OIG asserts in Finding No. 3 that "PDE still needs to develop a formal written policy and disseminate it to all appropriate parties." In actuality, despite USDE-OIG's reference to "the requirement to have a specific policy to report data deficiencies to the Department," no such requirement exists. Neither the Recovery Act, OMB's guidance, nor USDE's clarifying guidance mandates such a policy.

Background: In its finding, USDE-OIG cites the following passage from Section IX.1 of USDE's clarifying guidance:

"If the prime recipient identifies material omissions or significant reporting errors in its reports (or that of its sub-recipients), take action to correct the deficiencies. If the report cannot be corrected or if a known deficiency cannot be remedied, contact the Department of Education to advise it of the deficiencies and the actions being taken to correct the deficiency."

A recipient's obligation is not to draft and disseminate a data deficiency policy, but to "take action to correct the deficiencies." Only if "the report cannot be corrected" is the recipient obligated to notify USDE.

Summary: PDE believes that USDE-OIG should withdraw this finding, since there is no actual requirement to establish such a policy. However, to address any remaining concerns on this issue, PDE has recently established a written policy reiterating the clarifying guidance on ARRA data deficiencies and providing contact information for questions. PDE will distribute this policy to its sub recipients and vendors. The current draft policy is attached. See Attachment 4.

RESPONSE TO FOURTH FINDING:

The Pennsylvania Department of Education (PDE) believes that the Governor's office has appropriately defined roles and responsibilities regarding the administration of State Fiscal Stabilization Fund (SFSF). It is our belief that the concerns largely arise from confusion regarding Pennsylvania's organization, policies, and intended uses of SFSF funds. What follows is clarification which we believe will address these concerns.

Background: USDE-OIG suggests a series of "interagency agreements" between the Governor's Office and the Departments of Corrections, Education, and General Services,

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based upon USDE-OIG's reading of Management Directive 310.19. In Section 4a, MD 310.19 explicitly defines an interagency agreement as one "in which at least one [Commonwealth agency] is not an executive agency as defined in the Commonwealth Attorneys Act." The Commonwealth Attorneys Act (71 P.S. §732-102) defines an executive agency as, "The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth government..." Therefore, an interagency agreement would neither be appropriate nor necessary, since every entity identified above qualifies as an executive agency.

Section 5b of MD 310.19 governs Memoranda of Understanding, "which must be used only for" master lease participation agreements or for certain interagency billings for services charged as operating expenses; neither situation applies here. Instead, as Section 5c of MD 310.19 indicates, the best match would be the "Notification of Subgrant," which "does not create any contractual rights or obligations between the agencies [§4c]." Even this structure would not be ideal; the wording of MD 310.19 does not suggest that Secretary Bittenbender anticipated a situation in which the Governor's Office would itself be one of the executive agencies participating in an agreement. Instead, as a general rule, these kinds of agreements are designed for situations in which peer agencies are working together, and need to define their respective areas of responsibility. These agreements are necessary when peer agencies collaborate, because neither party has the authority to direct the activities of the other.

In the case of SFSF, USDE has awarded the funds to the Governor's Office, which in turn, has made allocations to three program agencies - Corrections, Education, and General Services. After the Governor's Office allocated the funds to the program agencies, the General Assembly appropriated the funds directly to each of the agencies for them to spend and manage the funds according to state and federal law. Further, the secretaries of these agencies are the Governor's subordinates; therefore, the Governor need enter into no agreement in order to compel these three officials to carry out their compliance obligations to USDE. This subordinate relationship mitigates the need for a formal agreement.

In its list of concerns, USDE refers to "sub recipient monitoring, cash management, use of funds, and data quality." PDE would like to reiterate that because of the way these funds are being allocated, the Departments of Corrections and General Services will not have any sub recipients for their ARRA funds. Corrections will use its entire allocation for payroll expenses, as permitted under the grant award letter - there will be no other use of these funds. Also, we believe that we have adequately addressed the cash management issue in our response to Finding No. 2. This leaves only data quality. The Commonwealth's Section 1512 compliance efforts have been centralized under a workgroup staffed by the Governor's Office of Administration (OA) and the Governor's Office of the Budget (OB). The responsibilities of OA, OB, and the state's various program agencies have been spelled out in a series of memoranda that date back to early 2009.

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Summary: Based on the clarification offered, we believe that this finding should be withdrawn.

Thank you for the opportunity to respond to this preliminary audit report. We look forward to our continued collaborative relationship in the future.

Sincerely,

Gerald L. Zahorchak, D.Ed.

Attachments

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Response – USDE OIG Preliminary Report

Attachment 1

**Manual of Accounting and Financial Reporting
for Pennsylvania Public Schools**

**Enclosure
PDE Comments**

***Manual of Accounting
and Financial Reporting
for Pennsylvania Public
Schools***

*Labor, Education and Community Services (LECS)
Comptroller's Office
School Accounting Division
P.O. Box 60310
Harrisburg, Pennsylvania 17106-0310*

May, 2001

Updated 2005

*Edward G. Rendell, Governor
Commonwealth of Pennsylvania*

*Michael J. Masch, Secretary
Office of the Budget and Administration*

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Foreword

The 2001 Manual of Accounting and Financial Reporting for Pennsylvania Public Schools culminates an extensive project to capture and illustrate the budgeting, accounting and financial reporting requirements of Pennsylvania public elementary and secondary school systems. This Manual provides for a uniform and standardized system of financial management and reporting for all Pennsylvania public schools and ensures comparability in subsidy distribution and annual financial reporting among all public schools.

*The key features of the Pennsylvania School Accounting System provide for a standard account code structure that allows for the accumulation of program costs at the level of detail the school administration chooses, as well as provides for financial reporting in conformance with Generally Accepted Accounting and Financial Reporting Principles for all state and local governments, including public school systems. The account code structure in this Manual is modeled after the current, Federal Accounting Handbook II, as revised, and promulgated by the National Center for Education Statistics, U.S. Department of Education. The generally accepted accounting and reporting guidance included in this Manual began with the National Council on Governmental Accounting, **Statement #1, Governmental Accounting and Financial Reporting Principles**, and were adopted by the Governmental Accounting Standards Board (GASB) in 1984 in their first pronouncement, **GASB Statement #1**. GASB Statement #1 through GASB Statement #36 have been included in the 2001 Manual and as we collectively implement the New Financial Reporting Model additional guidance will be added as it becomes available.*

A project of this scope and magnitude obviously requires the dedication, support and cooperation of many individuals from all facets of the school and financial community. And, while it is impossible to individually name all those that contributed to this effort, we want to especially thank the Pennsylvania Association of School Business Officials and their dedicated task force of school business officials and the consultants that helped get this project underway. The Task Force members were essential in guiding the scope and content of the Manual, and we are extremely grateful for all their time, knowledge and commitment to this initiative. Equally important were the business associates, other Commonwealth agencies, and the school community at large who offered their insight and recommendations to make this Manual a valuable tool for all new and experienced school business administrators. Many of these contributors went above and beyond expectations to improve the value and usability of the 2001 Manual of Accounting.

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Acknowledgement

The Labor, Education and Community Services (LECS) Comptroller's Office wishes to acknowledge and sincerely thank all those individuals that provided their leadership, knowledge, experience, insights and valuable resources to produce this newly written 2001 edition of the **Manual of Accounting and Financial Reporting for Pennsylvania Public Schools**.

The School Finance Division of the LECS Comptroller's Office worked in cooperation with many individuals, the Pennsylvania Association of School Business Officials, and other CPAs and professional organizations to collectively bring this important resource tool to school business officials, administrators, educational associations and the public school business community.

For a project of this scope and magnitude, we are grateful for the many individuals who contributed to its success. We also want to especially recognize and show our sincere appreciation for the support we received from the following dedicated professionals:

- * Mr. William H. Eisel, III, PRSBA, Business Administrators for the Colonial Intermediate Unit #20 and chairman of the Task Force Planning Committee responsible for laying the groundwork for the project.
- * Ms. Venita Wood, CPA, CGFM, Private Consultant and former Governmental Accounting Standards Board staff member and project manager for various national accounting standards projects, who provided invaluable knowledge and advice on GASB Statement #34 implementation strategies and asset accounting requirements.
- * Mr. Thomas E. Delaney, CPA, PRSBA, Business Administrator for the Garnet Valley School District and Chairman of the PASBO Accounting Committee for his support with the PASBO workshop series to disseminate the new accounting and reporting requirements.
- * Mr. Jay Himes, CAE and PASBO Executive Directors, as well as Mr. James DiIorio, former PASBO Assistant Executive Director, for their support and dedication of resources for project meetings, PASBO report articles, and for providing association-sponsored workshops throughout the State. The Pennsylvania Association of School Business Officials helped the project team tremendously in their efforts to tap a broader base school community involvement with the content and refinement of the 2001 edition of the Pennsylvania Public School Accounting Manual.

Although this Manual is a complete and essential tool for school business officials, governmental accounting and financial reporting requirements continue to

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evolve as the public demands more and more accountability over the financial resources in our schools. As this project was coming to a close, the Governmental Accounting Standards Board issued their Statement #34, Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments, which changes financial reporting in all public school systems. This statement revolutionizes the way our schools prepare annual financial reports by adding a whole new dimension for reporting the long-term effects of financial transactions. It also requires additional accounting and reporting for capital assets and infrastructure.

In recognition of the new GASB Statement #34 requirements and our ever changing financial environment, we have posted this version of the Manual on the Pennsylvania Department of Education's website. Having the Manual on the website will enable the LECS Comptroller's Office staff to update the information contained in the manual and disseminate the information as changes arise. This could not have been made possible without the assistance of Mark Vanderslice of our Bureau of Management Information Systems, as well as Ann Witmer and Deborah Snyder of the Pennsylvania Department of Education's Bureau of Information Systems. We are sincerely grateful for their efforts on this project, also.

And finally, we want to express our gratitude and appreciation to all those individuals on the Accounting Manual Task Force who helped plan the contents of this Manual. Many of the Task Force members contributed a significant amount of their time to write or edit portions of the Manual and shared their knowledge, experience, and recommendations to make the Manual a useful tool for all Pennsylvania public school business administrators.

PASBO Accounting Manual Task Force

William E. Eisel, III, PRSBA, Business Administrator for Colonial Intermediate Unit #20
Venita Wood, CPA, CGFM, Private Consultant, Mechanicsburg, Pennsylvania
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Adrienne F. Craig, PRSBO, Business Manager, Jersey Shore Area School District
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Laura E. Cowburn, PRSBA, Business Manager / Board Secretary, Columbia Borough School
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Randy Hensing, PRSBA, Business Administrator, Lehigh Career and Technical Institute
Charles E. Linderman, PRSBA, Director of Business Affairs, Great Valley School District
Anna Maria Anderson, CPA, CGFM, PRSBS, Commonwealth of Pennsylvania, Office of the
Budget

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The following members of the Labor, Education and Community Services Comptroller's Office sincerely thank the PASBO Task Force for their assistance and contributions in compiling the 2001 edition of the Pennsylvania Manual of Accounting and Financial Reporting for Pennsylvania Public Schools.

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HONORABLE MENTIONS

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Charles Zogby, Acting Secretary
Ronald Tomalis, Executive Deputy Secretary
Donald Lunday, Deputy Secretary for Administration
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OFFICE OF THE BUDGET

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Jessica Byerly

Significant Contributions

Eugene Hickok, Former Secretary – Department of Education
Anna Maria Anderson, Former School Finance Division Chief, LECS Comptroller's Office
Vanessa M. Gibboney, Former Chief of School Accounting, LECS Comptroller's Office

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The updated Manual reflects accounting changes implemented since the original publication date of May 2001. Many chapters saw little revisions, while others required extensive updating. Most of the changes involved deleting guidance that was applicable to school entities pre GASB Statement #34. Other changes reflect items that appear to be of concern to school communities in Pennsylvania and require additional clarification from the Comptroller's Office. The updated Manual is available on the Comptroller's website at www.pde.state.pa.us/school_acct as downloadable PDF files.

The following members of the LECS Comptroller's staff were involved in the process of reviewing and updating the Manual:

*Connie S. Huber, Comptroller
Stanley J. McCollum, Assistant Comptroller for Accounting*

LECS Comptroller's Office – School Finance Division

*Bonnie Kabonick, Chief of the School Finance Division
Mary Kay Beer, School Accounting Section Chief
Collette Kelly, Staff member School Accounting Section
LouAnn Caldarella, Staff member School Accounting Section*

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School Acct. Chapters (Manual of Accounting)

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School Accounting Information

Manual of Accounting Chapters

The following chapters are all PDF documents which require the use of Adobe Acrobat Reader software, which can be downloaded for free.

<u>Chapter</u>	<u>Contents</u>	<u>Updated</u>
<u>Chapter 1:</u>	Principles of Accounting, Budgeting, and Financial Reporting for Pennsylvania Local Education Agencies.....	05/01/05
<u>Chapter 2:</u>	Fund Accounting.....	01/03/05
<u>Chapter 3:</u>	Measurement Focus and Basis of Accounting.....	01/03/05
<u>Chapter 4:</u>	The General Fund.....	07/19/06
<u>Chapter 5:</u>	Special Revenue Funds.....	01/03/05
<u>Chapter 6:</u>	Capital Projects Fund.....	07/19/06
<u>Chapter 7:</u>	Debt Service Funds.....	01/03/05
<u>Chapter 8:</u>	Permanent Funds.....	01/03/05
<u>Chapter 9:</u>	Proprietary Funds.....	01/03/05
<u>Chapter 10:</u>	Fiduciary Funds.....	03/04/05
<u>Chapter 11:</u>	Fixed Assets, Capital Assets, and Infrastructure....	03/04/05
<u>Chapter 12:</u>	Debt Management, Accounting, and Reporting.....	08/01/05
<u>Chapter 13:</u>	Accruals and Deferrals.....	01/03/05
<u>Chapter 14:</u>	The Budgeting Process.....	01/03/05
<u>Chapter 15:</u>	Financial Reporting for PA Public Schools.....	05/01/05
<u>Chapter 16:</u>	Audit Responsibilities.....	05/01/05
<u>Chapter 17:</u>	State and Federal Funding and Reporting.....	05/01/05
<u>Chapter 18:</u>	Special School Entities.....	05/01/05
<u>Chapter 19:</u>	Advanced Accounting Issues and Board Policies...	05/01/05

Chart of Accounts: Formerly Chapter 20 Updated 7/2009

Chart of Accounts - Summary of Changes Updated 7/2009

Glossary

Reference Section

For more information contact:

Central Agencies & School Finance Division

School Accounting Section

E-mail: RA-schlfm@state.pa.us

http://www.pde.state.pa.us/school_acct/cwp/view.asp?a=184&Q=60161&pp=12&n=1

10/24/2009

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Fax: (717) 425-6572

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**Manual of Accounting
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Public Schools**

Chart of Accounts

Revised 7-1-09

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Manual of Accounting and Reporting for PA Public Schools

Summary of Account Code Changes

Changes effective for the 2009-10 Fiscal Year			
Updated 7/17/09			
Code Type	Previous Code	New Code	Description
Revenue		6833*	ARRA – IDEA Received as Pass Through
		6834*	ARRA – Workforce Investment Act (WIA) Received as Pass Through
		8700*	Grants from American Reinvestment and Recovery Act (ARRA)
		8701*	ARRA – IDEA, Part B
		8702*	ARRA – IDEA, Section 619
		8703*	ARRA – Title I, Parts A & D
		8704*	ARRA – Title I, School Improvement
		8705*	ARRA – Title II, Part D Education Technology
		8706*	ARRA – McKinney-Vento Homeless
		8707*	ARRA – National School Lunch Program Equipment
		8708*	ARRA – State Fiscal Stabilization Fund
		8721*	ARRA – Head Start
Funding Source		981*	ARRA – IDEA, Part B
		982*	ARRA – IDEA, Section 619
		983*	ARRA – Title I, Part A
		984*	ARRA – Title I, School Improvement
		985*	ARRA – Title II, Part D Education Technology
		986*	ARRA – McKinney-Vento Homeless
		987*	ARRA – National School Lunch Program Equipment
		988*	ARRA – Basic Education Funding up to 4.1%
		989*	ARRA – Basic Education Funding over 4.1%
		990*	ARRA – State Fiscal Stabilization Grant
		991*	ARRA – Head Start
		992*	ARRA – Title I, Part D
		993*	ARRA – WIA Revenue Received as Pass Through

* All ARRA related codes may be used to record activity applicable to the 2008-09 fiscal year.

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Manual of Accounting and Reporting for PA Public Schools

Summary of Account Code Changes

Changes effective for the 2008-09 Fiscal Year			
Updated 7/17/09			
Code Type	Previous Code	New Code	Description
Revenue	6700	---	Title and description changes
	---	7340	State Property Tax Reduction Allocation – Added
	8518	---	Will no longer be funded effective 2008-09
	8810	---	Title and description changes
	8820	---	Title and description changes
Other Fin Source	9110		Title and description changes
Funding Source	---	204	State Property Tax Reduction Allocation – Added
	205	---	Read to Succeed – Deleted
	---	221	Accountability to Commonwealth Taxpayers (ACT) – Added
	---	281	Adult Education Impact Program – Added
	891	---	Added "Transportation" to title
	892	---	Removed "Transportation" from title
	952	---	Use of code discontinued
Expenditure	---	1140	Early Intervening Services – Added
		1500	NonPublic School Programs – description revised to include use by School Districts
	1800	1801 to 1807	Series has been expanded to include 1801 – 1807 (see Chart of Accounts for breakdown)
	---	2350	Title and description changes
Object	---	280	Other Postemployment Benefits (OPEB) - Added
	---	281	OPEB for Cost of Retiree's Health Benefits – Added
	---	282	OPEB for Retiree's Costs Other Than Health Benefits – Added
Asset	0133	---	Eliminated for 07-08 reporting; record all amounts due to/from Governmental/Business Type Activities to account code 0403.
Liabilities	0403	---	Description changes

* Please refer to Summary of Account Code Changes effective for 2009-10 for all ARRA related codes that may be used to record activity applicable to the 2008-09 fiscal year.

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Manual of Accounting and Reporting for PA Public Schools Summary of Account Code Changes

Changes effective for the 2007-08 Fiscal Year Updated 9/17/07			
Code Type	Previous Code	New Code	Description
Revenue	---	6131	Act 1 EIT – Added
	---	6132	Act 1 PIT – Added
	---	6431	Delinquent Act 1 EIT – Added
	---	6432	Delinquent Act 1 PIT - Added
	---	7292	Pre-K Counts - Added 8/6/07
	---	9130	Bond Premiums – Added
	---	9910	Other Financing Sources Not Listed Elsewhere in the 9000 series – Added
	---	9990	Insurance Recoveries – Added
Funding Source	---	216	College and Career Counseling Grants – Added
	---	217	Pre-K Counts – Added 8/6/07
		218	Full Day Kindergarten Supplement - Added 9/5/07
		281	Adult Education Impact Program – Added 9/17/07
Expenditure	1190	---	Federally Funded Regular Programs – Code was created to segregate federal expenditures within the 1100 function if desired by the LEA. The use of code 1490 for this purpose is no longer allowable starting with fiscal year 2007-08
	2823	---	Text added to description to include public information preparation for the internet
	---	5150	Bond Discounts – Added
Object	---	116	Employee Insurance Opt Out - Added
	230	---	Revise description to state: contributions to retirement plans other than PSERS should be recorded to object 290
	---	894	Student Conference fees and dues – Added

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Manual of Accounting and Reporting for PA Public Schools

Summary of Account Code Changes

Changes effective for the 2006-07 Fiscal Year			
Updated 10/19/06			
Code Type	Previous Code	New Code	Description
Revenue	---	6832	Pass thru IDEA Funds – Added
	---	7504	School Improvement/Professional Development (IU use only) - Added
	---	7920	Classrooms for the Future – Added
Funding Source	---	215	School Improvement/Professional Development (IU use only) - Added
		216	College and Career Counseling Grants – Added 10/19/06
	---	341	Classrooms for the Future – Added
Expenditure	---	1190	Federally Funded Regular Programs – Added (Use of this code is currently optional, but will be required starting with fiscal year 2007-08)
Object	170	---	Changed title and description to add laborer related duties to this object code
	180	---	Changed title and description to move laborer related duties from object code 180 to object code 170
	210	---	Changed title to Group Insurance – Contracted Provider
	270	---	Changed title to Group Insurance – Self Insurance
	---	324	Professional Educational Services – Added
	---	597	Direct Payments to IUs for Institutionalized Children's Programs – Added
Liabilities	---	0446	Other Postemployment Benefits Payable (OPEB) – Current Liability Account - Added
	---	0560	Other Postemployment Benefits (OPEB) – Long Term Liability Account - Added

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Manual of Accounting and Reporting for PA Public Schools Summary of Account Code Changes

Changes effective for the 2005-06 Fiscal Year Updated 1/10/06			
Code Type	Previous Code	New Code	Description
Revenue	---	7502	Dual Enrollment - Added
	---	7503	Project 720 High School Reform - Added
	8650	---	Energy Conservation Grants through the State - Deleted
	8670	8517	Drug Free Schools - code changed effective 7/1/03
	---	8830	Medical Assistance Reimbursements (Access) - Early Intervention - Added 1/3/06
Funding Source	---	213	Project 720 High School Reform - Added
	---	214	Dual Enrollment - Added
	890	891	Regular Medical Assistance - Added 1/3/06
	890	892	Medical Assistance Transportation and Admin Costs - Added 1/3/06
	---	893	Early Intervention Medical Assistance - Added 1/3/06
Expenditure	---	5140	Short Term Borrowing - Interest and Costs - Added
	1490	---	Additional text added to description regarding specific dual enrollment costs to code within this function
	1700	---	Additional text added to description regarding specific dual enrollment costs to code within this function
	1800	---	Additional text added to description stating Early Intervention costs should continue to be coded to Function 1280
Object	513	---	Additional text added to description stating fuel purchased for use by contracted carrier should be coded here
	561	---	Title changed to Tuition to Other School Districts Within the State
	565	566	Tuition to State University Lab Schools will now be included in 566
	567	566	Tuition to Community Colleges for AVTS will now be included in 566
	---	566	Tuition to Institutions of Higher Education and Technical Institutes will now include costs previously reported in objects 565 and 567
	---	568	Description changed to exclude APS costs
	568	567	APS costs originally reported in 568 will now be reported in 567
	---	891	Other Miscellaneous Expenditures - Added
	---	892	PA State Imposed Fines - Added
	---	893	Scholarships - Added

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Manual of Accounting and Reporting for PA Public Schools

Summary of Account Code Changes

Changes effective for the 2004-05 Fiscal Year			
Updated 7/1/05			
Code Type	Previous Code	New Code	Description
Revenue	---	7291	Educational Assistance Program revenue - Added
	---	7299	Other program subsidies not listed in 7290 - Added
	---	7290	This code is now a summary for lower level revenue accounts
	---	7501	PA Accountability Grants - Added
	---	7510	Voc Ed Tutoring Funds - Added (may be used in FY 2003-04)
	---	7500	This code is now a summary for lower level revenue accounts
	---	7599	Other State Revenue not listed in 7000 - Added
	6950	---	Education Impact Fees - Deleted
	7150	---	School Performance Incentives - Deleted
	8680	---	Goals 2000 Educate America - Deleted
Funding Source	---	211	Educational Assistance (tutoring) - Added
	---	212	PA Accountability Grants - Added
Expenditure	---	1450	Instructional Programs Outside the Established School Day - Added
	---	1800	Instructional Programs for Pre-K students - Added
Object	---	115	Impact of termination payouts - Added

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Chart of Accounts

**** Revised 7/1/09 ****



Specific text or codes can be easily located within this pdf document by using the search icon located above in the Adobe basic tool bar. If the icon is not available for your use, you can use the Edit - Search feature as an alternative search method.

Account code changes for this revision:

Revenue 6833 - added
..... 6834 - added
..... 8700 - added
..... 8701 - added
..... 8702 - added
..... 8703 - added
..... 8704 - added
..... 8705 - added
..... 8706 - added
..... 8707 - added
..... 8708 - added
..... 8721 - added

Funding Source 981 - added
..... 982 - added
..... 983 - added
..... 984 - added
..... 985 - added
..... 986 - added
..... 987 - added
..... 988 - added
..... 989 - added
..... 990 - added
..... 991 - added
..... 992 - added

Expenditures 1500 - revised

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Pennsylvania Public Schools

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Response – USDE OIG Preliminary Report

Attachment 2

Article VIII of the Public School Code of 1949 as amended

**Section 8-801 to 8-810 – Books, Furniture and Supplies
(24 PS 8-801 to 8-810)**

Article VIII of the Public School Code of 1949 as amended

**Section 807.1 – Purchase of Supplies
(24 PS §24-8-807.1)**

Article XXIV of the Public School Code of 1949 as amended

**Section 24-2401 to 24-2462 – Auditing of School Finances
(24 PS 24-2401 to 24-2462)**

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TITLE 24—EDUCATION

24 PS 8-804

Article VIII

BOOKS, FURNITURE AND SUPPLIES

24 PS 8-801	Purchases; use in schools; rules and regulations.	24 PS 8-808	Employee of district as agent.
24 PS 8-802	Repealed.	24 PS 8-809	Giving or offering bribes; penalty.
24 PS 8-803	Time and manner of adopting and furnishing textbooks and supplementary books.	24 PS 8-810	Seeking or receiving bribes; penalty.
24 PS 8-804	Use of school books during vacations.		
24 PS 8-805 to 8-807	Repealed.		
24 PS 8-807.1	Purchase of supplies.		

24 PS 8-801 Purchases; use in schools; rules and regulations

The board of school directors of each school district shall purchase all necessary furniture, equipment, textbooks, school supplies, and other appliances for the use of the public schools, or any department thereof, in their respective districts, and furnish the same free of cost for use in the schools of the district, subject to such rules and regulations regarding the use and safe-keeping thereof as the board of school directors may adopt. All furniture, equipment, books, school supplies, and other appliances purchased by the board of school directors of any school district, for the use of the public schools therein, shall be purchased in the manner provided in this act.

3-10-49, Act 14, Art VIII, § 801 (PL 30), eff. 7-1-49, 5-18-11, § 701 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Meek v. Pittinger, 374 F. Supp. 639 (E.D. Pa. 1974). State program of loaning textbooks to nonpublic school students, where loans were made on individual student basis and where books loaned had to be approved for use in the public schools, did not have the effect of advancing religion or involving the state in an impermissible entanglement with religion.

Cameron v. Farrell Area School Dist., 74 Pa. D. & C.2d 779, 1975 WL 16968 (Pa. C.P. 1975). A board of school directors has the authority to require students in the district to

use and pay for the use of bathing suits and towels provided by the district for a required course in swimming, if the district also provides for waiver of the cost upon application by indigent parents and students.

Mathias v. School Dist. of Trafford Borough, 35 Wes. C.L.J. 143 (Pa. C.P. 1953). Physical education is as much a part of the school curriculum as are subjects of intellectual study, and athletic supplies, therefore, are as necessary for school use as maps, globes, and similar objects.

24 PS 8-802 Repealed

HISTORY: 9-11-59, Act 346, § 1 (PL 869), eff. 9-11-59; 3-10-49, Act 14, Art VIII, § 802 (PL 30); 5-18-11, § 702 (PL 309)

24 PS 8-803 Time and manner of adopting and furnishing textbooks and supplementary books

All school textbooks, in school districts of the second, third and fourth class, shall be adopted by the board of school directors at any regular meeting between the first day of April and the first day of August following. Such books, so adopted, shall be provided for the use of the schools at the beginning of the school terms next following. If in said school districts there shall be a district superintendent, such district superintendent shall report in which subjects new textbooks are needed, and after consultation with the teachers under his supervision, what textbooks should be adopted or changed. No adoption or change of textbooks shall be made without his recommendation, except by a two-thirds vote of the board. Books, supplementary to textbooks regularly adopted, may be adopted and purchased for use in the schools at any time. Such supplementary books shall be adopted in the same manner as textbooks are herein required to be adopted.

HISTORY: 1-14-70, Act 192, § 20 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 3-10-49, Act 14, Art VIII, § 803 (PL 30); 5-18-11, § 703 (PL 309)

24 PS 8-804 Use of school books during vacations

The board of school directors in any district may allow any pupil in such district the use of school books during vacations, under such rules and regulations as it may adopt.

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24 PS 8-804

PENN. SCHOOL CODE OF 1949

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HISTORY: 3-10-49, Act 14, Art VIII, § 804 (PL 30), eff. 7-1-49; 5-18-11, § 704 (PL 309)

24 PS 8-805 to 8-807 Repealed

HISTORY: 7-31-68, Act 242, § 2 (PL 796), eff. 7-1-69; 1-18-68, Act 429, § 2, 3 (PL 963 (1967)); 10-21-65, Act 314, § 1, 2 (PL 640); 9-19-61, Act 630, § 1 (PL 1484); 6-15-61, Act 210, § 1 (PL 423); 6-8-61, Act 162, § 1 (PL 277); 5-24-51, Act 89, § 2 (PL 397); 3-10-49, Act 14, Art VIII, § 805 to 807 (PL 30); 5-29-31, § 18 (PL 243); 5-4-27, Act 348, § 1 (PL 689); 5-18-11, § 706 to 708 (PL 309)

Note: See now Sec. 8-807.1.

24 PS 8-807.1 Purchase of supplies

(a) All furniture, equipment, textbooks, school supplies and other appliances for the use of the public schools, costing ten thousand dollars (\$10,000) or more shall be purchased by the board of school directors only after due advertisement as hereinafter provided. Supplies costing ten thousand dollars (\$10,000) or more shall be purchased by the board of school directors only after public notice has been given by advertisement once a week for three (3) weeks in not less than two (2) newspapers of general circulation. In any district where no newspaper is published, said notice may, in lieu of such publication, be posted in at least five (5) public places.

(a.1) Written or telephonic price quotations from at least three qualified and responsible vendors shall be requested by the board of school directors for all purchases of supplies that exceed four thousand dollars (\$4,000) but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified vendors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the vendor and the vendor's representative, the supplies which were the subject of the quotation and the price of the supplies. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b) The board of school directors shall accept the bid of the lowest responsible bidder, kind, quality, and material being equal, but shall have the right to reject any and all bids, or select a single item from any bid. The board of school directors in any district may authorize or appoint the secretary of the board or other executive as purchasing agent for the district, with authority to purchase supplies costing less than ten thousand dollars (\$10,000).

(c) The following shall be exempt from the above provisions: maps, music, globes, charts, educational films, filmstrips, prepared transparencies and slides, pre-recorded magnetic tapes and disc recordings, textbooks, games, toys, prepared kits, flannel board materials, flash cards, models, projectuals and teacher demonstration devices necessary for school use.

(d) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials piecemeal for the purpose of obtaining prices under ten thousand dollars (\$10,000) upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than ten thousand dollars (\$10,000). This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.

HISTORY: 5-4-90, Act 38, § 2 (PL 164), eff. 7-3-90; 2-4-82, Act 1, § 4 (PL 1); 10-4-78, Act 236, § 2 (PL 1040); 2-25-72, Act 28, § 1 (PL 81); 7-31-68, Act 242, § 3 (PL 796); 3-10-49, Act 14, Art VIII, § 807.1 (PL 30)

NOTES ON DECISIONS AND OPINIONS

Committee to Keep Our Public Schools Public v. Schweiker, 803 A.2d 869 (Pa. Commw. Ct. 2002). School reform commission had power to suspend public bidding requirements, and thus provision of this section requiring that school boards advertise all purchases of \$10,000 or more of furniture, equipment, textbooks, school supplies, and other supplies did not apply.

J.P. Mascaro & Sons, Inc. v. Bristol Tp., 95 Pa. Commw. 376, 505 A.2d 1071 (1986). The court held that Mascaro, a disappointed bidder, has no standing to assert violations of its due process rights under either the federal or state constitutions as it had no legitimate claim of entitlement to the township's contract.

Berryhill v. Dugan, 89 Pa. Commw. 46, 491 A.2d 950 (1985) requiring competitive bidding served the purposes of inviting competition and guarding against favoritism, improvidence, extravagance, fraud, and corruption in the awarding of municipal contracts.

Clemson Corp. v. McKeesport Area School Dist., 87 Pa. Commw. 374, 487 A.2d 103 (1985). Competitive bid requirements of Sec. 807.1 create no cause of action for breach of contract damages in lowest bidder; where analysis of coal after acceptance of bid proved coal to be nonconforming, no enforceable contract had been formed.

Baum v. Hanover Township School District, 71 Pa. D. & C. 409, 1950 WL 11114 (Pa. C.P. 1950). Where the athletic

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TITLE 24—EDUCATION

24 PS 9-921 to 9-930

board consisted of all the members of the school board and had full authority to contract for and purchase supplies for athletic equipment in amounts less than \$300, and the school board at a later date took possession of all the athletic equipment purchased and continued to use the same, the school board is liable on the quantum meruit basis for the contract price on the theory of ratification.

Flinn v Sto-Rox School Dist., 122 PLJ 157 (1974). In accepting bids submitted pursuant to this section, a board is not bound to award a contract to the lowest bidder but it may exercise its discretion in considering such other matters as efficiency of the bidder and its ability to perform the particular service.

24 PS 8-808 Employe of district as agent

No person shall act as agent for school books or school supplies, in any district in which he is engaged or employed as a superintendent, teacher, or employe of the school district in any capacity, or in which he was thus employed during the preceding school year.

HISTORY: 3-10-49, Act 14, Art VIII, § 808 (PL 30), eff. 7-1-49; 5-18-11, § 709 (PL 309)

24 PS 8-809 Giving or offering bribes; penalty

Every person, firm, association, or corporation that shall directly or indirectly, individually or through an agent or representative, give or promise to give to any school director, officer of any school board, superintendent, teacher, or any other person, any sum of money or other valuable thing, or shall make any promise of any appointment or position, in order to secure, procure, or influence the recommendation, adoption, rejection, or purchase of any books, school furniture, or supplies, by any superintendent, teacher, or school district in this Commonwealth, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not less than five dollars (\$5) or more than five hundred dollars (\$500), or be sentenced to imprisonment in the county jail for not less than thirty (30) days or more than one (1) year, either or both, at the discretion of the court.

HISTORY: 3-10-49, Act 14, Art VIII, § 809 (PL 30), eff. 7-1-49; 5-18-11, § 710 (PL 309)

24 PS 8-810 Seeking or receiving bribes; penalty

Any school director, officer, superintendent, supervising principal, or teacher, who shall ask for or accept money or other valuable thing for his vote, recommendation, or influence, in order to secure the recommendation, adoption, rejection, or purchase of any school books, school furniture, or other school supplies, from any person, firm, association, or corporation, or any agent or representative thereof, either directly or indirectly, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not less than five dollars (\$5) or more than five hundred dollars (\$500), or to be sentenced to imprisonment in the county jail for not less than thirty (30) days or more than one (1) year, either or both, at the discretion of the court.

HISTORY: 3-10-49, Act 14, Art VIII, § 810 (PL 30), eff. 7-1-49; 5-18-11, § 711 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Com. v. Shipp, 30 Pa. D. & C.2d 368, 1963 WL 6250 (Pa. C.P. 1963). A transcript charging a defendant with having committed the crime of common law bribery by demanding money of a person for a position as a school teacher really

charges solicitation of a bribe, which is also a common law offense, not superseded by any of the provisions of the Public School Code of March 10, 1949, PL 30, and will not be dismissed.

Article IX

SCHOOL DIRECTORS' ASSOCIATIONS AND COUNTY BOARDS OF SCHOOL DIRECTORS

24 PS 9-901 to 9-908 Repealed

HISTORY: 1-14-70, Act 192, § 21 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 7-5-57, Act 294, § 1 (PL 523); 5-24-56, Act 560, § 1 (PL 1665 (1955)); 3-29-56, Act 429, § 1 (PL 1356 (1955)); 2-14-56, Act 330, § 1 (PL 1040 (1955)); 7-27-53, Act 177, § 1 (PL 619); 9-26-51, Act 364, § 1 (PL 1472); 8-10-51, Act 260, § 1 (PL 1159); 8-10-51, Act 257, § 1 (PL 1155); 5-2-49, Act 204, § 1 (PL 804); 3-10-49, Act 14, Art IX, § 901 to 908 (PL 30); 4-18-45, Act 118, § 1 (PL 258); 6-20-39, § 3, 4 (PL 491); 5-13-37, § 5, 6 (PL 605); 3-31-21, Act 40, § 1 (PL 71); 5-18-11, § 801 to 809 (PL 309)

24 PS 9-921 to 9-930 Repealed

HISTORY: 1-14-70, Act 192, § 21 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 6-18-68, Act 99, § 1 (PL 213); 5-14-68, Act 62, § 1 (PL 119); 12-22-65, Act 487, § 1 to 3 (PL 1209); 10-21-65, Act 312, § 17 to 19 (PL 601); 8-14-63, Act 463, § 1 (PL 1065); 7-31-63, Act 206, § 10 (PL 389); 10-2-61, Act 521, § 1 (PL 1159); 9-19-61, Act 631, § 1 (PL 1485); 9-12-61, Act 559, § 1 (PL 1274); 7-25-61, Act 361, § 1 (PL 841); 12-21-59, Act 715, § 1 (PL 1961); 12-18-

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their respective districts, and furnish the same free of cost for use in the schools of the district, subject to such rules and regulations regarding the use and safe-keeping thereof as the board of school directors may adopt. All furniture, equipment, books, school supplies, and other appliances purchased by the board of school directors of any school district, for the use of the public schools therein, shall be purchased in the manner provided in this act.

3-10-49, Act 14, Art VIII, § 801 (PL 30), eff. 7-1-49, 5-18-11, § 701 (PL 309)

NOTES ON DECISIONS AND OPINIONS

74 D&C(2d) 779 (1975), *Cameron v Farrell Area School Dist.* A board of school directors has the authority to require students in the district to use and pay for the use of bathing suits and towels provided by the district for a required course in swimming, if the district also provides for waiver of the cost upon application by indigent parents and students.

35 West 143 (1953), *Mathias v School Bd of Borough of Trafford.* Physical education is as much a part of the school curriculum as are subjects of intellectual study, and athletic supplies, therefore, are as necessary for school use as maps, globes, and similar objects.

374 F.Supp. 639 (1974), *Meek v Pittenger*; modified by 421 U.S. 349, 95 S.Ct. 1753, 44 L.Ed.2d 217 (1975). State program of loaning textbooks to nonpublic school students, where loans were made on individual student basis and where books loaned had to be approved for use in the public schools, did not have the effect of advancing religion or involving the state in an impermissible entanglement with religion.

24 PS 8-802 Repealed

HISTORY: 9-11-59, Act 346, § 1 (PL 869), eff. 9-11-59, 3-10-49, Act 14, Art VIII, § 802 (PL 30); 5-18-11, § 702 (PL 309)

24 PS 8-803 Time and manner of adopting and furnishing textbooks and supplementary books

All school textbooks, in school districts of the second, third and fourth class, shall be adopted by the board of school directors at any regular meeting between the first day of April and the first day of August following. Such books, so adopted, shall be provided for the use of the schools at the beginning of the school terms next following. If in said school districts there shall be a district superintendent, such district superintendent shall report in which subjects new textbooks are needed, and after consultation with the teachers under his supervision, what textbooks should be adopted or changed. No adoption or change of textbooks shall be made without his recommendation, except by a two-thirds vote of the board. Books, supplementary to

textbooks regularly adopted, may be adopted and purchased for use in the schools at any time. Such supplementary books shall be adopted in the same manner as textbooks are herein required to be adopted.

HISTORY: 1-14-70, Act 192, § 20 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 3-10-49, Act 14, Art VIII, § 803 (PL 30); 5-18-11, § 703 (PL 309)

24 PS 8-804 Use of school books during vacations

The board of school directors in any district may allow any pupil in such district the use of school books during vacations, under such rules and regulations as it may adopt.

HISTORY: 3-10-49, Act 14, Art VIII, § 804 (PL 30), eff. 7-1-49; 5-18-11, § 704 (PL 309)

24 PS 8-805 to 8-807 Repealed

HISTORY: 7-31-68, Act 242, § 2 (PL 796), eff. 7-1-69; 1-18-68, Act 429, § 2, 3 (PL 963 (1967)); 10-21-65, Act 314, § 1, 2 (PL 640); 9-19-61, Act 630, § 1 (PL 1484); 6-15-61, Act 210, § 1 (PL 423); 6-8-61, Act 162, § 1 (PL 277); 5-24-61, Act 89, § 2 (PL 397); 3-10-49, Act 14, Art VIII, § 805 to 807 (PL 30); 5-29-31, § 18 (PL 243); 5-4-27, Act 348, § 1 (PL 689); 5-18-11, § 706 to 708 (PL 309)

Note: See now Sec. 8-807.1.

24 PS 8-807.1 Purchase of supplies

(a) All furniture, equipment, textbooks, school supplies and other appliances for the use of the public schools, costing ten thousand dollars (\$10,000) or more shall be purchased by the board of school directors only after due advertisement as hereinafter provided. Supplies costing ten thousand dollars (\$10,000) or more shall be purchased by the board of school directors only after public notice has been given by advertisement once a week for three (3) weeks in not less than two (2) newspapers of general circulation. In any district where no newspaper is published, said notice may, in lieu of such publication, be posted in at least five (5) public places.

(a.1) Written or telephonic price quotations from at least three qualified and responsible vendors shall be requested by the board of school directors for all purchases of supplies that exceed four thousand dollars (\$4,000) but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified vendors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quo-

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24 PS 8-809

tations shall be made and shall contain at least the date of the quotation, the name of the vendor and the vendor's representative, the supplies which were the subject of the quotation and the price of the supplies. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(b) The board of school directors shall accept the bid of the lowest responsible bidder, kind, quality, and material being equal, but shall have the right to reject any and all bids, or select a single item from any bid. The board of school directors in any district may authorize or appoint the secretary of the board or other executive as purchasing agent for the district, with authority to purchase supplies costing less than ten thousand dollars (\$10,000).

(c) The following shall be exempt from the above provisions: maps, music, globes, charts, educational films, filmstrips, prepared transparencies and slides, pre-recorded magnetic tapes and disc recordings, textbooks, games, toys, prepared kits, flannel board materials, flash cards, models, projectuals and teacher demonstration devices necessary for school use.

(d) No board of school directors shall evade the provisions of this section as to advertising for bids or purchasing materials piecemeal for the purpose of obtaining prices under ten thousand dollars (\$10,000) upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than ten thousand dollars (\$10,000). This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price, or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.

HISTORY: 5-4-90, Act 38, § 2 (PL 164), eff. 7-3-90; 2-4-82, Act 1, § 4 (PL 1); 10-4-78, Act 236, § 2 (PL 1040); 2-25-72, Act 28, § 1 (PL 81); 7-31-68, Act 242, § 3 (PL 796); 3-10-49, Act 14, Art VIII, § 807.1 (PL 30)

NOTES ON DECISIONS AND OPINIONS

2003 A.2d 869 (Pa.Cmwlth.2002), Committee to Keep Our Public Schools Public v. Schweiker. School reform commission had power to suspend public bidding requirements, and this provision of this section requiring that school boards advertise all purchases of \$10,000 or more of furniture, equipment, textbooks, school supplies, and other supplies did not apply.

89 Pa.Cmwlth. 46, 491 A.2d 950 (1985), Berryhill v Dugan. Laws requiring competitive bidding served the purposes of

inviting competition and guarding against favoritism, improvidence, extravagance, fraud, and corruption in the awarding of municipal contracts.

87 Pa.Cmwlth. 374, 487 A.2d 103 (1985), Clemson Corp v McKeesport Area School Dist. Competitive bid requirements of Sec. 807.1 create no cause of action for breach of contract damages in lowest bidder, where analysis of coal after acceptance of bid proved coal to be nonconforming, no enforceable contract had been formed.

71 D&C 409, 41 Luz L Reg Rep 157 (1950), Baum v Hanover Twp School Dist. Where the athletic board consisted of all the members of the school board and had full authority to contract for and purchase supplies for athletic equipment in amounts less than \$300, and the school board at a later date took possession of all the athletic equipment purchased and continued to use the same, the school board is liable on the quantum meruit basis for the contract price on the theory of ratification.

95 Pa.Cmwlth. 376, 505 A.2d 1071 (1986), J.P. Mascaro & Sons, Inc v Bristol Twp. The court held that Mascaro, a disappointed bidder, has no standing to assert violations of its due process rights under either the federal or state constitutions as it had no legitimate claim of entitlement to the township's contract.

122 PLJ 157 (1974), Flinn v Sto-Rox School Dist. In accepting bids submitted pursuant to this section, a board is not bound to award a contract to the lowest bidder but it may exercise its discretion in considering such other matters as efficiency of the bidder and its ability to perform the particular service.

24 PS 8-808 Employee of district as agent

No person shall act as agent for school books or school supplies, in any district in which he is engaged or employed as a superintendent, teacher, or employee of the school district in any capacity, or in which he was thus employed during the preceding school year.

HISTORY: 3-10-49, Act 14, Art VIII, § 808 (PL 30), eff. 7-1-49; 5-18-11, § 709 (PL 309)

24 PS 8-809 Giving or offering bribes; penalty

Every person, firm, association, or corporation that shall directly or indirectly, individually or through an agent or representative, give or promise to give to any school director, officer of any school board, superintendent, teacher, or any other person, any sum of money or other valuable thing, or shall make any promise of any appointment or position, in order to secure, procure, or influence the recommendation, adoption, rejection, or purchase of any books, school furniture, or supplies, by any superintendent, teacher, or school district in this Commonwealth, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not less than five dollars (\$5) or

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24 PS 23-2302-A

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ing the policy, the institution of higher education shall consider all of the following:

- (1) Requiring registration of on-campus credit card marketers.
- (2) Limiting credit card marketers to specific areas of the campus designated by the institution of higher education.
- (3) Prohibiting credit card marketers from offering gifts to a student in exchange for completing a credit card application unless the student has been provided credit card debt education literature, which includes, but is not limited to, brochures of written or electronic information.
- (4) Providing, at least quarterly, credit card debt education literature with campus bookstore purchases.
- (5) Incorporating into orientation programming a credit card debt education presentation.

HISTORY: 7-15-04, Act 82, § 3 (PL722), eff. 9-13-04; 3-10-49, Act 14, Art XXIII-A, § 2302-A (PL 30), eff. 7-1-49

24 PS 23-2303-A Construction

Nothing in this article shall be construed to impose civil or criminal liability on an institution of higher education for any claim involving student credit card debt.

HISTORY: 7-15-04, Act 82, § 3 (PL722), eff. 9-13-04; 3-10-49, Act 14, Art XXIII-A, § 2303-A (PL 30), eff. 7-1-49

Article XXIV

AUDITING OF SCHOOL FINANCES

(a) GENERAL PROVISIONS		(d) SCHOOL DISTRICTS OF THE FOURTH CLASS	
24 PS 24-2401	By whom audited.	24 PS 24-2441	Time of audit; filing copies; publication.
24 PS 24-2401.1	Controllers and auditors not to be otherwise employed by school districts or joint school boards.	24 PS 24-2442	Notice of audit; districts not electing auditors.
24 PS 24-2402	Statements of accounts, etc.	24 PS 24-2443	Compensation of auditors and certified public accountants.
24 PS 24-2403	Subpoenas; administering oaths; perjury.	(e) APPEALS FROM AUDITS; DISTRICTS SECOND, THIRD AND FOURTH CLASS	
24 PS 24-2404	Disobedience to subpoena; contempt.	24 PS 24-2451	Who may appeal; conditions.
24 PS 24-2405	Witness fees.	24 PS 24-2452	Accounts investigated de novo; burden of proof; single proceeding.
24 PS 24-2406	Audits; surcharges; examination of official bonds.	24 PS 24-2453	Procedure; jury trials; appeals to appellate courts.
24 PS 24-2407	Notice of surcharges.	24 PS 24-2454	Judgment; enforcement; rights of taxpayers.
24 PS 24-2408	Copies of reports.	24 PS 24-2455	Surcharges; judgments; enforcement.
24 PS 24-2409	Employment of attorneys.	(f) ACCOUNTS OF TEACHERS' INSTITUTES AND SCHOOL DIRECTORS' ASSOCIATIONS	
24 PS 24-2410	Investigation of financial records by Superintendent of Public Instruction.	24 PS 24-2461	Repealed.
(b) SCHOOL DISTRICTS OF THE FIRST CLASS		24 PS 24-2462	School directors' association.
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TITLE 24—EDUCATION

24 PS 24-2401

(a) GENERAL PROVISIONS

24 PS 24-2401 By whom audited

The finances of every school district and of every joint school board, in every department thereof, together with the accounts of all school treasurers, school depositories, teachers' retirement funds, teachers' institute funds, directors' association funds, sinking funds, and other funds belonging to or controlled by the district, shall be properly audited as follows:

- (1) In all school districts of the first class, by the school controller.
- (2) In all school districts of the second, third and fourth class, except as hereinafter otherwise provided, by the controller or auditors of the city, borough, incorporated town, or township in which the whole or the greater or greatest portion of the area of the district is located.
- (3) When in any school district of the second class the annual expenditures, exclusive of moneys received from the sale of bonds, exceeds the sum of five hundred thousand dollars (\$500,000), such district may employ a certified public accountant within sixty days from the close of the fiscal year.
- (4) Any school district of the second, third or fourth class and any joint school board may employ an independent auditor who shall be a certified public accountant or competent public accountant prior to the end of the fiscal year, and when so employed, such independent auditor shall audit the finances of such school district or such joint school board for such fiscal year instead of the controller or auditors hereinbefore referred to, and shall have all the powers and duties of such auditors, except that the audits shall be made in accordance with generally accepted auditing standards. The compensation of the independent auditor shall be fixed by the employing board of directors and shall be paid from the funds of the school district or of the joint school board, as the case may be.
- (5) In any school district constituted of two or more municipal divisions by reason of the creation of a new city, borough or township, and the fact that such new city, borough or township, or a part of the original school district remaining after its separation, would constitute a fourth class school district, and the creation of such fourth class school district has not been approved, the auditors or the controllers of the cities, boroughs, towns, or townships last created and which do not form a separate school district shall meet annually with the auditors of the school district and participate in the audit of the school accounts, and such auditors or controllers shall have the same rights and powers as are conferred by this act upon the auditors of school accounts.
- (6) In all independent school districts, by the proper auditors, herein provided for school districts of the class in which they belong, and where an independent school district of the fourth class is taken from two or more school districts, its accounts shall be audited by the auditors of the school district in which its buildings are located.
- (7) In union or merged school districts the court of common pleas of the county in which the district is located, upon petition of the board of school directors of such union or merged school district, shall, as soon as convenient after the creation of the district, appoint three persons to audit the financial accounts of the district. The auditors so appointed shall, on the first day of July, at the time of organization, or within five days thereafter, and within thirty days, carefully audit and adjust the financial accounts of the school district for the preceding school year. At the first municipal election after a union or merged school district is created there shall be elected three school auditors, one for a term of two years, one for a term of four years, and one for a term of six years, and their successors thereafter shall be elected for terms of six years each. When a vacancy occurs in the office of auditor in any union or merged school district by reason of death, resignation, removal from the school district, or otherwise, the court of common pleas of the county in which the district is located, upon petition of the board of school directors of such union or merged school district, shall appoint a person to hold such office for the unexpired term of the person whose place he is appointed to fill. The compensation of both the appointed and elected auditors shall be ten dollars (\$10) per day for each day necessarily spent by each auditor. The total expense of such auditing, including the cost of filing the report, advertising, and other necessary costs, shall be paid by the union or merged school district.
- The board of school directors of any union or merged school district may employ a certified public accountant to audit the finances of such school district for such fiscal year instead of the auditors, hereinabove referred to, and such certified public accountant shall have all the powers and duties of said auditors and shall receive the compensation fixed by the board of directors of the union or merged school district and shall be paid by the said district.

(8) In county vocational school districts, by the county auditors or county controller.

(9) The financial accounts of each annual county or district teachers' institute shall be audited by three auditors, two to be elected by the teachers' institute and one by the directors' association for a county institute, and

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by the board of school directors for the district institute.

(10) The financial accounts of the directors' association shall be audited by the county auditors or county controller.

(11) In all school districts established as a result of the provisions of the act of August 8, 1963 (P.L. 564), by a certified public accountant, a firm of certified public accountants, a competent independent public accountant or a firm of competent independent public accountants who shall be named prior to the end of the fiscal year and shall have all the powers and duties of such other auditors hereinbefore provided, except that the audit shall be made in accordance with generally accepted auditing standards. The compensation of the accountant or firm of accountants shall be fixed by the employing board of school directors and shall be paid from the funds of the school district.

The accountant or firm of accountants may be designated for a term of years, and, at the discretion of the board, may be authorized to conduct a monthly audit of accounts.

HISTORY: 1-25-66, Act 546, § 2 (PL 1565 (1965)), eff. 1-25-66; 12-1-65, Act 361, § 1 (PL 980); 10-21-65, Act 312, § 49 (PL 601); 7-31-63, Act 206, § 14 (PL 389); 6-18-59, Act 100, § 2 (PL 472); 8-9-55, Act 121, § 1 (PL 310); 9-29-51, Act 426, § 1 (PL 1634); 3-10-49, Act 14, Art XXIV, § 2401 (PL 30); 5-23-45, Act 348, § 1 (PL 856); 5-21-43, Act 148, § 1 (PL 320); 7-24-41, Act 237, § 1 (PL 565); 6-24-39, Act 351, § 1 (PL 785); 6-1-33, Act 288, § 13, 14 (PL 1152); 4-24-29, Act 271, § 1 (PL 642); 4-30-25, Act 228, § 1 (PL 382); 6-29-23, Act 378, § 1 (PL 949); 3-23-23, Act 22, § 1 (PL 31); 5-20-21, Act 369, § 1 (PL 1023); 5-18-11, § 101, 132, 2601 to 2607 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Sutcliffe v. W.-B. Bd. of Education, 60 Luz. L.R. 249 (Pa. C.P. 1970). A board of school directors cannot be compelled by equity to commence legal proceedings against a contractor to correct alleged deficiencies in performance, nor has equity jurisdiction in a controversy between a taxpayer and the school directors where the taxpayer alleges that a painting contract was not awarded to the appropriate bidder and the contract was not performed properly. The court will not substitute its judgment for that of the school directors, nor will it rescind the acceptance of the work and take action against the contractor or its surety since the action of the school directors was not shown to have been arbitrary or capricious. Proper remedy exists under these sections if a contract is based on an unlawful award.

Halifax Area Joint School System v. Chaundy, 29 Pa. D. & C.2d 729, 1962 WL 9072 (Pa. C.P. 1962). Plaintiff school system may recover from defendant, the former secretary of the joint school system, compensation for damages sustained by her unlawful appropriation of certain school funds which include the cost of hiring the services of a firm of certified public accountants since such expenditures were damages reasonably and probably flowing directly as a consequence of defendant's tort of fraud. Plaintiff was not precluded from seeking special accounting and auditing services merely because its annual audit was performed by the duly elected township auditors, especially where the annual audit did not

disclose the losses due to the defendant's actions.

Audit of Finances of School Dist. for Fiscal Year Ending July 3, 1960, of Carlisle Borough, 13 Cumb. L.J. 7 (Pa. C.P. 1962). Where an audit previously filed fails to fix the entire liability of the tax collector for the year, a supplemental report may be filed even though the time for appeal from the original audit had expired.

Frushon v. Pittston Tp. School Dist., 8 Pa. D. & C.2d 165, 1957 WL 6299 (Pa. C.P. 1957). Sec. 2401 et seq. provide an exclusive remedy to taxpayers seeking to surcharge school directors, and directors cannot be added as defendants in an equity action against the school district which asks cancellation of a contract with a tax collector and repayment of moneys paid to him.

OAG No 164 (1958). The department of the auditor general has the power and the duty to audit the accounts and records of every school district within the Commonwealth; the audit power may be exercised as far as may be necessary to satisfy the auditor general that Commonwealth moneys have been or are being expended in accordance with law and the purposes for which it was paid; the costs of instituting and conducting such an audit program may be charged to the general fund appropriation made to the department of the auditor general.

24 PS 24-2401.1 Controllers and auditors not to be otherwise employed by school districts or joint school boards

No elected county, city, borough, town or township controller or auditor, and no controller or auditor appointed to fill a vacancy in the office of county, city, borough, town or township controller or auditor for the unexpired term of the previous controller or auditor, shall be employed in any other capacity by a school district or joint school board if he audits any finances or any funds belonging to or controlled by the school district or joint school board.

HISTORY: 7-25-63, Act 162, § 1 (PL 307), eff. 7-25-63; 3-10-49, Act 14, Art XXIV, § 2401.1 (PL 30)

24 PS 24-2402 Statements of accounts, etc.

In order that the aforesaid accounts may be thoroughly and properly audited, it shall be the duty of all boards of school directors and their proper officers, school depositories, district superintendents, treasurers of directors' associations, treasurers of teachers' retirement funds, and other proper persons, to furnish to such

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auditors, whenever required by them for auditing purposes, statements and accounts of all finances of the district, of teachers' institutes or directors' associations, and other funds belonging to or controlled by the district, including assets and liabilities, together with access to all books, records, tax duplicates, vouchers, school orders, payrolls, letters, and other matters pertaining to the same.

HISTORY: 1-14-70, Act 192, § 67 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 3-10-49, Act 14, Art XXIV, § 2402 (PL 30); 5-18-11, § 2608 (PL 309)

24 PS 24-2403 Subpoenas; administering oaths; perjury

The several auditors herein provided shall have power, and are hereby authorized, to issue subpoenas to compel the attendance of school officers or other persons whom they may deem necessary to examine as witnesses, and to compel the production of all books, records, vouchers, letters, and papers relating to any accounts being audited by them.

The auditors shall have power to administer oaths or affirmations to all persons appearing before them as witnesses, and any person guilty of testifying falsely in any such examination shall be guilty of perjury, and be liable for and subject to all the penalties provided therefor.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2403 (PL 30), eff. 7-1-49; 5-18-11, § 2609, 2610 (PL 309)

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Frushon v. Pittston Tp. School Dist., 8 Pa. D. & C.2d 165, 1957 WL 6299 (Pa. C.P. 1957). In a taxpayer's suit in equity against a school district seeking cancellation of a contract for payment of commissions by the district to a collector of delinquent taxes and the repayment of money paid to him pursu-

ant to its terms, the court granted leave to add the collector as a defendant but did not permit the addition of the school directors since the Public School Code sets forth a complete and adequate remedy against them.

24 PS 24-2404 Disobedience to subpoena; contempt

In case of disobedience to a subpoena to appear and testify, or to produce any papers, books, records, vouchers, letters, or other written or printed matter, as required by the provisions of this act, the Superintendent of Public Instruction, school controller, or auditors, as the case may be, may invoke the aid of the court of common pleas of the county, within whose jurisdiction such hearing is held, or accounts are being audited, to compel compliance with the same. Any such court, in case of contumacy or refusal to obey a subpoena, may issue its orders to such person so refusing to appear and testify, or to produce books, papers, vouchers, or other written or printed matter. Any failure to obey such order of court may be punished by the court as contempt thereof.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2404 (PL 30), eff. 7-1-49; 5-18-11, § 2611 (PL 309)

24 PS 24-2405 Witness fees

Every witness attending before any auditors in any school district shall receive, out of the funds of the district, to be paid by a proper order drawn on the school treasurer, the same witness fees and mileage as a witness is allowed in the court of common pleas of the county in which such district is located.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2405 (PL 30), eff. 7-1-49; 5-18-11, § 2612 (PL 309)

24 PS 24-2406 Audits; surcharges; examination of official bonds

The auditors herein provided to audit the finances of school districts of the second, third and fourth class, shall carefully inspect every school order issued for the payment of money by the board of school directors, and the accounts of each official or person whose accounts are to be audited in the district for which they are acting as auditors during the period of time covered by their audit. Any school order issued in any other manner or for any other purpose than herein authorized shall, if paid, be disallowed by the auditors, and charged against the person or persons voting for or approving the same. All such orders disallowed shall be set forth in the report to be made by the several auditors as herein provided, together with such other sum or sums as should be properly charged against any person or persons. Such auditors shall also examine, and report to the proper boards of school directors upon, the sufficiency and the security of the bonds of the officers, employees, and appointees of the boards of school directors and of the school depositories.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2406 (PL 30), eff. 7-1-49; 5-18-11, § 2613 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Audit of Finances of School Dist. for Fiscal Year Ending 1962). Where an audit previously filed fails to fix the entire July 3, 1960, of Carlisle Borough, 13 Cumb. L.J. 7 (Pa. C.P.

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liability of the tax collector for the year, a supplemental report may be filed even though the time for appeal from the original audit had expired.

Appeal from Controller's Report of Olyphant School Dist., 61 Lack. Jur. 197 (Pa. C.P. 1960). In the absence of fraud or collusion, school directors may be surcharged only where there has been an expenditure in violation of the law and where the school district has suffered a financial loss.

Frushon v. Pittston Tp. School Dist., 8 Pa. D. & C.2d 165, 1957 WL 6299 (Pa. C.P. 1957). Sec. 24-2401 et seq. provide an exclusive remedy to taxpayers seeking to surcharge school directors, and directors cannot be added as defendants in an equity action against the school district which asks cancellation of a contract with a tax collector and repayment of moneys paid to him.

24 PS 24-2407 Notice of surcharges

In all school districts of the second, third, and fourth class, when any sum is charged against any person, such person shall be notified by the auditors, at or before the time of filing their report, by mail or otherwise, of such fact, setting forth the amount charged against him.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2407 (PL 30), eff. 7-1-49; 5-18-11, § 2614 (PL 309)

24 PS 24-2408 Copies of reports

In all school districts the auditors' report of the finances of the district for the preceding year, as made by the auditors herein provided, shall be filed with the board of school directors, entered on the minutes of the board by the secretary thereof and forwarded to the Superintendent of Public Instruction. A copy of such report shall be filed with the intermediate unit board of directors.

HISTORY: 1-14-70, Act 192, § 67 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 3-10-49, Act 14, Art XXIV, § 2408 (PL 30); 6-20-39, § 6 (PL 491); 5-13-37, § 10 (PL 605); 5-18-11, § 2615 (PL 309)

24 PS 24-2409 Employment of attorneys

In all school districts where the accounts are audited by borough or township auditors, the auditors may employ an attorney whenever the same is deemed advisable. The compensation of such attorney shall be fixed by the auditors, and shall not exceed the sum payable to one auditor for the making of the annual audit, unless additional compensation shall be specially allowed by a court of record in connection with any proceeding before such court, and shall be payable by the school district out of the general fund of the district.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2409 (PL 30), eff. 7-1-49; 7-1-37, Act 475, § 1 (PL 2546); 5-18-11, § 2616 (PL 309)

24 PS 24-2410 Investigation of financial records by Superintendent of Public Instruction

The Superintendent of Public Instruction may investigate the financial records of any school district in person or by his authorized representative.

For the purpose of such investigation, the same duties are imposed upon all boards of school directors, their members, their officers, agents and employees as are imposed by this act with respect to the audit of the accounts of school districts and the officers thereof, and the same powers are conferred upon the Superintendent of Public Instruction or his authorized representative as are conferred by this act upon school auditors in auditing the finances of school districts.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2410 (PL 30), eff. 7-1-49; 5-21-31, Act 130, § 19 (PL 243); 5-18-11, § 1019, 1020 (PL 309)

(b) SCHOOL DISTRICTS OF THE FIRST CLASS

24 PS 24-2421 Duties of controller

The school controller herein provided in each school district of the first class, shall properly audit the finances of the school district, including the accounts of the receiver of school taxes, school treasurer, or other proper authority collecting school taxes, school depositories, and all other funds under the control of the board of public education.

The school controller shall, at the end of each school year, certify to the board of public education that he has audited the several accounts above stated, and shall report to it the result of such audit.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2421 (PL 30), eff. 1-1-50; 5-18-11, § 2617, 2618 (PL 309)

(c) SCHOOL DISTRICTS OF THE SECOND AND THIRD CLASSES

24 PS 24-2431 Time of audit; filing of copies

In every school district of the second and third classes, the proper auditors herein provided to audit the fi-

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24 PS 24-2433

nances of the school district shall begin their duties on the first day of July each year, and promptly within thirty days audit the accounts of the school district for which they were appointed, including the accounts of the treasurer, the school depositories, and other school funds, for the preceding fiscal year, in the manner herein provided. On the completion of the audit they shall make correct copies thereof, which shall contain an itemized statement of all receipts, expenditures, and credits, whatsoever, of school officials, and the assets and liabilities of the district. One copy shall be filed with the board of school directors of the district, one copy in the court of common pleas of the county in which the district is located, and one copy with the intermediate unit board of directors, one copy in the Department of Public Instruction, by mailing the same sealed, stamped, and addressed to the Superintendent of Public Instruction, Harrisburg, Pennsylvania, by registered mail with return registry receipt requested.

HISTORY: 1-14-70, Act 192, § 68 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 7-31-63, Act 206, § 15 (PL 389); 3-10-49, Act 14, Art XXIV, § 2431 (PL 30); 4-13-43, Act 21, § 1 (PL 39); 5-29-31, § 43 (PL 243); 4-5-27, § 3 (PL 111); 6-29-23, Act 378, § 3 (PL 949); 5-18-11, § 2620 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). The audit of school district finances provided for in the School Code concerns only the accounts of the preceding year. No remedy is afforded by the School Code to deal with alleged improprieties in the collection of levied taxes prior to the close of the fiscal year.

24 PS 24-2432 Notice of audit

The auditors shall, within ten days after completing their report of audit, advertise a notice that the audit report for the district has been filed and is available for public inspection at the business office of the district in one newspaper of general circulation published or generally circulated in such district, once a week for three successive weeks. Such notice shall call attention to the fact that the report was filed on a date therein stated, and give notice that the same will be confirmed absolutely unless an appeal is taken therefrom within thirty days after the filing thereof. Any auditor neglecting or refusing to comply with this section shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than one hundred dollars (\$100), and, in default of the payment of such fine and costs, shall be sentenced to imprisonment for not more than ten days.

HISTORY: 12-19-80, Act 237, § 4 (PL 1314), eff. 2-17-81; 5-2-49, Act 205, § 1 (PL 805); 3-10-49, Act 14, Art XXIV, § 2432 (PL 30); 5-18-11, § 2621 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). The audit of school district finances provided for in the School Code concerns only the accounts of the preceding year. No remedy is afforded by the School Code to deal with alleged improprieties in the collection of levied taxes prior to the close of the fiscal year.

24 PS 24-2433 Compensation of auditors

(a) In school districts of the second class, the compensation for auditors shall, together with suitable allowances for qualified assistants and for other necessary expenses, be fixed by the board of school directors of the district on application from time to time made by the auditors, with itemized statements of services, assistants, and other necessary expenses.

(b) In school districts of the third class, the compensation for auditors shall be ten dollars (\$10) per day for each day necessarily spent by each auditor, except in the case of a certified public accountant employed to act as auditor, in which event the compensation shall be fixed by the board of directors of the district.

(c) In school districts of the second and third class, the compensation of any certified public accountant employed to act as auditor shall be fixed by the directors of such district and paid by the district.

(d) In school districts of the second and third class, where the accounts are audited by the controller of the municipality in which the whole or the greater or greatest portion of the area of each such district shall be located, the compensation of the controller shall be fixed by the directors of such district and paid by said district.

(e) The total expense of auditing, including the cost of filing the report, advertising, and other necessary costs, shall be paid by the school district.

HISTORY: 8-9-55, Act 121, § 2 (PL 310), eff. 9-1-55; 4-26-49, Act 186, § 1 (PL 760); 3-10-49, Act 14, Art XXIV, § 2433 (PL 30); 5-21-43, Act 163, § 1 (PL 351); 5-21-43, Act 148, § 1 (PL 320); 5-4-27, Act 342, § 1 (PL 679); 4-30-25, Act 228, § 2 (PL 382); 6-29-23, Act 378, § 4 (PL 949); 6-17-15, Act 434, § 1 (PL 1019); 6-5-13, Act 293, § 2 (PL 439); 5-18-11, § 2623 (PL 309)

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Halifax Area Joint School System v. Chaundy, 29 Pa. D. & C.2d 729, 1962 WL 9072 (Pa. C.P. 1962). Plaintiff school system may recover from defendant, the former secretary of the joint school system, compensation for damages sustained by her unlawful appropriation of certain school funds which include the cost of hiring the services of a firm of certified public accountants since such expenditures were damages

reasonably and probably flowing directly as a consequence of defendant's tort of fraud. Plaintiff was not precluded from seeking special accounting and auditing services merely because its annual audit was performed by the duly elected township auditors, especially where the annual audit did not disclose the losses due to the defendant's actions.

(d) SCHOOL DISTRICTS OF THE FOURTH CLASS

24 PS 24-2441 Time of audit; filing copies; publication

In every school district of the fourth class, the auditors shall meet annually with the board of school directors, on the first day of July, at the time of organization, or within five days thereafter, and within thirty days carefully audit and adjust the financial accounts of the school district for the preceding school year: Provided, That the meeting of the auditors with the board of school directors shall not be held on the Fourth of July. At the completion of the audit, they shall make a careful statement, in duplicate, of the finances of the district for the preceding year, setting forth the assets and liabilities, and an itemized statement of all receipts, expenditures, and credits, whatsoever, of all school officials, and including therein any sums that have been charged against any person or persons. One copy of such annual statement shall be filed by the auditors with the secretary of the board of school directors and one in the court of common pleas of the county in which such district or the greater or greatest part thereof in area shall be located. A notice that the audit report for the district has been filed and is available for public inspection at the business office of the school district, shall be published in a newspaper having general circulation in the district, once a week for three successive weeks, beginning the first week after filing the same, or be promptly posted, by not less than six copies, in as many places in the district. The auditors shall also file one copy of their report with the Superintendent of Public Instruction.

HISTORY: 12-19-80, Act 237, § 5 (PL 1314), eff. 2-17-81; 1-14-70, Act 192, § 68 (PL 468 (1969)); 5-4-70, Act 103, § 1 (PL 326); 7-31-63, Act 206, § 15 (PL 389); 3-10-49, Act 14, Art XXIV, § 2441 (PL 30); 4-13-43, Act 21, § 2 (PL 39); 6-1-33, § 15 (PL 1152); 4-5-27, § 4 (PL 111); 5-18-11, § 2625 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Frushon v. Pittston Tp. School Dist., 8 Pa. D. & C.2d 165, 1957 WL 6299 (Pa. C.P. 1957). In a taxpayer's suit in equity against a school district seeking cancellation of a contract for payment of commissions by the district to a collector of delinquent taxes and the repayment of money paid to him pursu-

ant to its terms, the court granted leave to add the collector as a defendant but did not permit the addition of the school directors since the Public School Code sets forth a complete and adequate remedy against them.

24 PS 24-2442 Notice of audit; districts not electing auditors

In school districts of the fourth class that do not elect auditors, the prothonotary of the court in which the auditors' report is filed shall advertise a concise summary or statement thereof, including the assets and liabilities of the district, in one newspaper published or generally circulated in such district, once a week for three successive weeks, beginning within a week after the filing of such report. Such notice shall call attention to the fact that the report was filed on a date therein stated, and give notice that the same will be confirmed absolutely unless an appeal is taken therefrom within thirty days after the filing thereof.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2442 (PL 30), eff. 7-1-49; 5-18-11, § 2621 (PL 309)

24 PS 24-2443 Compensation of auditors and certified public accountants

The auditors herein required to audit the accounts of a school district of the fourth class shall be allowed for their services ten dollars (\$10) per day for each day necessarily spent by each of them in performance of his duty, which, together with the cost of advertising their report, shall be paid by the school district. The compensation of any certified public accountant employed by a school district of the fourth class to audit the finances of the school district shall be fixed by the directors of the district, and paid by the district.

HISTORY: 9-27-55, Act 176, § 1 (PL 653), eff. 9-27-55; 8-9-55, Act 121, § 2 (PL 310); 4-26-49, Act 186, § 1 (PL 760); 3-10-49, Act 14, Art XXIV, § 2443 (PL 30); 5-1-23, Act 94, § 1 (PL 127); 5-18-11, § 2628 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Halifax Area Joint School System v. Chaundy, 29 Pa. D. & C.2d 729, 1962 WL 9072 (Pa. C.P. 1962). Plaintiff school

system may recover from defendant, the former secretary of the joint school system, compensation for damages sustained

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by her unlawful appropriation of certain school funds which include the cost of hiring the services of a firm of certified public accountants since such expenditures were damages reasonably and probably flowing directly as a consequence of defendant's tort of fraud. Plaintiff was not precluded from

seeking special accounting and auditing services merely because its annual audit was performed by the duly elected township auditors, especially where the annual audit did not disclose the losses due to the defendant's actions.

(e) APPEALS FROM AUDITS; DISTRICTS SECOND, THIRD AND FOURTH CLASS

24 PS 24-2451 Who may appeal; conditions

The Commonwealth, the school district of the second, third or fourth class, or any taxpayer thereof on behalf of said Commonwealth, district, or any person or persons against whom any sum has been charged in any report filed by the auditors of such school district, may appeal from any auditors' report. Such appeal shall be taken to the court of common pleas of the proper county by the Commonwealth within ninety (90) days after said report is filed in the Department of Public Instruction, and by all other appellants within forty-five (45) days after said report is filed in the court of common pleas. Any taxpayer taking or intervening in an appeal shall file in said court of common pleas a bond, with one or more sufficient sureties, conditioned that the party appealing will prosecute said appeal with effect and that said party will indemnify and save harmless said district from all costs that may accrue upon said appeal or by reason of such intervention subsequently thereto. When any person or persons charged with any sum of money in any such report of auditors shall appeal therefrom, such person or persons shall file in said court a bond with one or more sufficient sureties conditioned to prosecute the appeal with effect, and to pay all costs accruing thereupon if the final decision obtained shall not be more favorable to him than the report appealed from.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2451 (PL 30), eff. 7-1-49; 5-27-37, Act 243, § 1, 2 (PL 908); 5-29-31, Act 130, § 44, 45 (PL 243); 4-11-29, Act 210, § 10, 11 (PL 497); 5-21-13, Act 200, § 1, 3 (PL 288); 5-18-11, § 2622, 2626 (PL 309)

Note: Sections 2622 and 2626 of the Public School Code of 1911, from which this section and Sec. 2453 and 2454 were drafted, were suspended by Rule 2350 of the Rules of Civil Procedure "in so far as it relates to intervention by a taxpayer in an appeal from an auditors' report of any school district . . . but these rules shall not be deemed to suspend or affect the provisions of such section relating to the giving of a bond and the settlement of pending actions."

Bennett v. Mountain View School Bd., 693 A.2d 651 (Pa. Commw. Ct. 1997). Appeal from the yearly audit report is the exclusive means of challenging the legality of school district expenditures, absent fraud, even where it is alleged that report is erroneous, illegal, biased, or unfair.

Bennett v. Mountain View School Bd., 693 A.2d 651 (Pa. Commw. Ct. 1997). Blanket allegations of fraud and claim that auditors failed to recognize "hidden expenses" for baseball dugout construction project carried out by school personnel as "maintenance project" could not bypass exclusive statutory remedy for challenging legality of school district expenditures, by appeal from yearly audit, where project was conducted openly and expenditures for the project were accounted for on the books with receipts, and were approved by formal votes of the school board.

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Rankin v. Chester Upland School Dist., 11 Pa. Commw. 232, 312 A.2d 605 (1973). Although this section provides for a right of appeal from an audit, it does not provide a complete and adequate remedy for an illegal expenditure of funds by a board of school directors, so that a court of equity may enjoin any expenditure which is illegal under Sec. 610.

Yough Dist. Taxpayer's League v. Yough School Dist., 62 Pa. D. & C.2d 206, 1973 WL 15173 (Pa. C.P. 1973). The method to challenge an improper expenditure of funds by a board of school directors is by appeal of the audit as provided in this section.

Appeal of Lefcourt, 49 Pa. D. & C.2d 176, 1970 WL 8776 (Pa. C.P. 1970). Under Sec. 2451 where all that is required is the filing of an appeal within the time limitation, the court acquires jurisdiction and, absent prejudice, the taking of post-appeal procedural steps leading toward the perfection of the appeal must be accomplished merely within a reasonable time. An appeal from a surcharge by a tax collector filed within the time limit will not be stricken by reason of the failure to file a bond until five days after the period for taking the appeal has expired.

In re *Bristol Tp. School Dist. Audit Report*, 19 Bucks 568 (Pa. C.P. 1970). The auditor for the school district surcharged

the district's tax collector for alleged loss of interest upon sums collected but delayed in remittance to the district. The tax collector filed a timely appeal and the district filed a motion to quash the appeal. The court held that bond need be filed only within a reasonable time and not within the time required for filing the appeal. Motion to quash was denied.

Appeal from Controller's Report of Olyphant School Dist., 61 Lack. Jur. 197 (Pa. C.P. 1960). In the absence of fraud or collusion, school directors may be surcharged only where there has been an expenditure in violation of the law and where the school district has suffered a financial loss.

Frushon v. Pittston Tp. School Dist., 8 Pa. D. & C.2d 165, 1957 WL 6299 (Pa. C.P. 1957). Sec. 2401 et seq. provide an exclusive remedy to taxpayers seeking to surcharge school directors, and directors cannot be added as defendants in an equity action against the school district which asks cancellation of a contract with a tax collector and repayment of moneys paid to him.

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). The audit of school district finances provided for in the School Code concerns only the accounts of the preceding year. No remedy is afforded by the School Code to deal with alleged improprieties in the collection of levied

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taxes prior to the close of the fiscal year.

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). Where the law does not provide an adequate remedy, equity will restrain the exoneration of taxes levied against real estate owners. Such exonerations are illegal, void and contrary to law in that the assessment, levy

and collection of taxes must be uniform in accord with Const IV, § 1.

Southern Fulton School Dist v McCray, 8 Adams LJ 42 (1966). Technical opinion on question of filing procedure before trial.

24 PS 24-2452 Accounts investigated de novo; burden of proof; single proceeding

In any proceeding in the court of common pleas upon an appeal from a report of auditors of any school district of the second, third or fourth class, the accounts of the officer or officers in question may be investigated de novo, but the figures and facts found and stated by the auditors in their report of audit shall be taken as prima facie correct as against any such officer, and the burden shall be upon each officer whose accounts are in question of establishing the credits to which he shall be entitled.

When more than one appeal from a report of auditors has been taken, whether by the Commonwealth, the school district, an officer or officers thereof, or by a taxpayer, or any or all of them, the court of common pleas shall, upon petition of any party interested, direct the several appeals to be disposed of in a single proceeding. HISTORY: 3-10-49, Act 14, Art XXIV, § 2452 (PL 30), eff. 7-1-49; 5-13-15, Act 191, § 1, 2 (PL 311)

NOTES ON DECISIONS AND OPINIONS

Appeal of Auditors' Report, Aliquippa School Dist., 27 Beaver 22 (Pa. C.P. 1965). The Pennsylvania rules of civil procedure are not applicable to an appeal from auditors' reports; and hence preliminary objections to an appeal must be overruled.

Frushon v. Pittston Tp. School Dist., 8 Pa. D. & C.2d 165, 1957 WL 6299 (Pa. C.P. 1957). Sec. 2401 et seq. provide an exclusive remedy to taxpayers seeking to surcharge school directors, and directors cannot be added as defendants in an equity action against the school district which asks cancellation of a contract with a tax collector and repayment of moneys paid to him.

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL

4501 (Pa. C.P. 1952). The audit of school district finances provided for in the School Code concerns only the accounts of the preceding year. No remedy is afforded by the School Code to deal with alleged improprieties in the collection of levied taxes prior to the close of the fiscal year.

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). Where the law does not provide an adequate remedy, equity will restrain the exoneration of taxes levied against real estate owners. Such exonerations are illegal, void and contrary to law in that the assessment, levy and collection of taxes must be uniform in accord with Const IV, § 1.

24 PS 24-2453 Procedure; jury trials; appeals to appellate courts

When any appeal is taken, the appeal may be placed upon the argument list by direction of any party interested by intervention or otherwise. Depositions of witnesses, and other evidence to be used at the argument, may be taken on behalf of any party, before any person competent to administer an oath, upon rule for that purpose, served upon the opposite party or such party's counsel. After hearing argument the court shall file its finding of fact and conclusions of law, and enter judgment in accordance therewith. If, after argument, the court shall deem any question or questions of fact so doubtful, under the evidence submitted, as to render it desirable that an issue be directed as to such question or questions to be tried by a jury, the court may direct such an issue.

HISTORY: 6-3-71, Act 6, § 1 (§ 509(a)(141)) (PL 142), eff. 9-11-70; 3-10-49, Act 14, Art XXIV, § 2453 (PL 30); 5-27-37, Act 243, § 1, 2 (PL 908); 5-29-31, Act 130, § 44, 45 (PL 243); 4-11-29, Act 210, § 9, 10 (PL 497); 5-21-13, Act 200, § 1, 3 (PL 288); 5-18-11, § 2622, 2626 (PL 309)

Note: The last sentence of this section was repealed by the Appellate Court Jurisdiction Act of 1970 in accordance with the section added by 1971 Act 6, § 1 (PL 142), eff. 9-11-70. It was also repealed by 1973 Act 152, (PL 433).

Note: See suspension by Rules of Civil Procedure note under Sec. 2451.

24 PS 24-2454 Judgment; enforcement; rights of taxpayers

If any sum shall be found by the court to be chargeable to any person whose accounts are involved in any appeal, the prothonotary shall enter judgment for said sum in favor of the district, and against the person charged. The Commonwealth, school district, or appealing or intervening taxpayer, may cause said judgment to be collected from the person charged or his sureties, for the benefit of said district, by any appropriate method, executionary or otherwise. Any such taxpayer may defend the district, in any appeal taken by any person charged by the report of auditors, as fully and effectively in both instances as the officers of the district might do. When any taxpayer has intervened, or when an appeal has been taken by any taxpayer, the officers of the school district shall not make settlement with any person or persons charged with any sum or sums, or whose

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accounts shall be involved in any appeal, without the consent of such taxpayer.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2454 (PL 30), eff. 7-1-49; 5-27-37, Act 243, § 1, 2 (PL 908); 5-29-31, Act 130, § 44, 45 (PL 243); 4-11-29, Act 210, § 9, 10 (PL 497); 5-21-13, Act 200, § 1, 3 (PL 288); 5-18-11, § 2622, 2626 (PL 309)

Note: See suspension by Rules of Civil Procedure note under Sec. 2451.

NOTES ON DECISIONS AND OPINIONS

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). The audit of school district finances provided for in the School Code concerns only the accounts of the preceding year. No remedy is afforded by the School Code to deal with alleged improprieties in the collection of levied taxes prior to the close of the fiscal year.

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL

4501 (Pa. C.P. 1952). Where the law does not provide an adequate remedy, equity will restrain the exoneration of taxes levied against real estate owners. Such exonerations are illegal, void and contrary to law in that the assessment, levy and collection of taxes must be uniform in accord with Const IV, § 1.

24 PS 24-2455 Surcharges; judgments; enforcement

If in any report filed by the auditors of any school district of the second, third or fourth class, there has been any sum charged against any person or persons, the amount charged against such person or persons shall, in the absence of an appeal by such person or persons within the time prescribed by this act, become a judgment, and shall be entered by the prothonotary in favor of the school district against the person or persons charged therewith. Such judgment shall be collected from such person or persons or his or their sureties by the school district, for its use and benefit. Any taxpayer of such district may, on its behalf, proceed to enforce collection of such judgment for the school district, by any appropriate proceeding, executionary or otherwise, upon filing bond, with sufficient surety or sureties, conditioned to indemnify and save harmless the school district from any costs accruing by reason of such proceeding.

HISTORY: 3-10-49, Act 14, Art XXIV, § 2455 (PL 30), eff. 7-1-49; 5-21-13, Act 200, § 2, 4 (PL 288); 5-18-11, § 2624, 2627 (PL 309)

NOTES ON DECISIONS AND OPINIONS

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL 4501 (Pa. C.P. 1952). The audit of school district finances provided for in the School Code concerns only the accounts of the preceding year. No remedy is afforded by the School Code to deal with alleged improprieties in the collection of levied taxes prior to the close of the fiscal year.

Hare v. Olyphant School Dist., 82 Pa. D. & C. 88, 1952 WL

4501 (Pa. C.P. 1952). Where the law does not provide an adequate remedy, equity will restrain the exoneration of taxes levied against real estate owners. Such exonerations are illegal, void and contrary to law in that the assessment, levy and collection of taxes must be uniform in accord with Const IV, § 1.

(f) ACCOUNTS OF TEACHERS' INSTITUTES AND SCHOOL DIRECTORS' ASSOCIATIONS

24 PS 24-2461 Repealed

HISTORY: 1-14-70, Act 192, § 69 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 3-10-49, Act 14, Art XXIV, § 2461 (PL 30); 5-18-11, § 2629 (PL 309)

24 PS 24-2462 School directors' association

The account of the treasurer of a school director association within an intermediate unit shall be properly audited annually by a certified public accountant, and filed with the association.

HISTORY: 1-14-70, Act 192, § 70 (PL 468 (1969)), eff. 7-1-70; 5-4-70, Act 103, § 1 (PL 326) amended effective date of Act 192 to 7-1-71; 3-10-49, Act 14, Art XXIV, § 2462 (PL 30); 5-18-11, § 2630 (PL 309)

Article XXV

REIMBURSEMENTS BY COMMONWEALTH AND BETWEEN SCHOOL DISTRICTS

(a) DEFINITIONS

24 PS 25-2501 Definitions.

(b) INSTRUCTION

24 PS 25-2502 Payments on account of instruction.
24 PS 25-2502.1 Repealed.

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Response – USDE OIG Preliminary Report

Attachment 3

OVERVIEW

**PDE System for the Programmatic and Fiscal Management and Administration of State
and Federal Special Education Programs and Funding**

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PDE System for the Programmatic and Fiscal Management and Administration of State and Federal Special Education Programs and Funding

OVERVIEW

Over the course of at least the past twenty-five years and consistently since 1993, PDE has established a bifurcated system for the programmatic and fiscal management and administration of state and federal special education programs and funding. The Bureau of Special Education (BSE) is the lead partner regarding the development of program and fiscal policy to ensure adherence with federal program requirements. To this end, BSE exercises educational; procedural; and fiscal program oversight through the establishment and administration of program and fiscal policy.

BSE works in concert with PDE's Bureau of Budget and Fiscal Management -- Fiscal Management Division (FMD) and the two entities provide a coordinated, comprehensive system of program and fiscal management processes supporting the federal Individuals with Disabilities Part B, Grants to States Program (IDEA-B §611). While BSE remains the principal entity responsible for IDEA-B general program supervision, including the IDEA-B fiscal program, day-to-day program administration and management is delegated to FMD.

PDE has established extensive procedures determined as necessary for reviewing and approving IDEA-B §611 applications for subgrants and amendments to those applications, for providing technical assistance, for evaluating projects, and for performing other administrative responsibilities.

Each of PDE's IDEA-B §611 local education agency subgrantees (LEA) submits eligibility and separate annual funding applications as required by Statute. BSE is responsible for reviewing and approving these LEA applications. The Funding Application includes detailed narrative and budgetary information describing general compliance with IDEA-B §611 program requirements and proposed use and distribution of IDEA-B §611 funds.

All LEA IDEA-B §611 budgets and expenditure reports must conform to pre established reporting parameters and criteria. Detailed guidance is provided to LEAs regarding proper budget/expenditure report preparation. Each LEA IDEA-B §611 funding application, budget revision (as applicable) and final expenditure report includes detailed budgetary information regarding proposed (Application) and actual (Expenditure Report) use of IDEA-B §611 funds. IDEA-B §611 budgets and expenditure reports are reviewed to ensure that expenditures are appropriate; adhere to program requirements and guidelines; are supported; and properly coded by Expenditure Function and Object/Sub object

Additionally each LEA also submits to BSE a separate annual Special Education Plan that provides descriptive information regarding specific services and programs to be operated/provided during the upcoming school year. The Plan separates activities between state funded and IDEA-B §611 funded activities. Each LEA's Funding Application data must correlate to its Plan's IDEA-B §611 Section data in order to be approved for funding.

Although BSE conducts formal on-site monitorings on a six year cycle, LEA IDEA-B §611 program and fiscal operations are reviewed on an on-going annual basis through current existing review cycles and procedures. PDE special education program and fiscal staff provide follow-

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up and technical assistance to LEAs on an ongoing basis through regular meetings – usually each month during the school term -- and/or on an as needed basis throughout the program year.

BSE does not have separate procedures to ensure that its LEAs have an accounting system because each of Pennsylvania's LEAs is required to adhere to the principles and accounting structures contained in the Manual of Accounting and Financial Reporting for Pennsylvania Public Schools. This Manual provides for a uniform and standardized system of financial management and reporting for all Pennsylvania public schools and ensures comparability in subsidy distribution and annual financial reporting among all public schools. The key features of the Pennsylvania School Accounting System provide for a standard account code structure that allows for the accumulation of program costs at the level of detail the school administration chooses, as well as provides for financial reporting in conformance with Generally Accepted Accounting and Financial Reporting Principles for all state and local governments, including public school systems. The account code structure in this Manual is modeled after the Federal Accounting Handbook II, as revised, and promulgated by the National Center for Education Statistics, U.S. Department of Education.

Enclosure PDE Comments

Response – USDE OIG Preliminary Report

Attachment 4

Policy to Disclose ARRA Data Deficiencies to the US Department of Education

Enclosure

PDE Comments

Policy to Disclose ARRA Data Deficiencies to the US Department of Education

POLICY: ARRA Data Deficiency Disclosure

DATE: January 26, 2010

PURPOSE: To ensure compliance of Pennsylvania recipients, sub recipients and vendors of ARRA education funds with Section 1512 of the American Recovery and Reinvestment Act of 2009 (ARRA); Office of Management and Budget (OMB) guidance regarding Recipient Reporting Requirements; and the United States Department of Education (USDE) guidance regarding Recipient Reporting Requirements.

STATEMENT: Section 1512 of the American Recovery and Reinvestment Act of 2009 (ARRA) requires quarterly reports be submitted on the use of funds by all ARRA recipients and sub recipients to the federal government.

In Pennsylvania, the process of 1512 reporting is being overseen by the Pennsylvania Governor's Office of Administration (OA) and the Office of the Budget in the Pennsylvania Office of the Governor. The OA has charged each state agency with the responsibility of collecting all data required under Section 1512 of ARRA and submitting this to the OA for submission to the federal Office of Management and Budget.

The Pennsylvania Department of Education is responsible for facilitating the collection of data required under Section 1512 of ARRA from within the PDE and from any sub recipients and vendors of ARRA awards overseen by the PDE.

Section IX of the US Department of Education clarifying guidance, entitled "U.S. Department of Education Clarifying Guidance on American Recovery and Reinvestment Act of 2009 Section 1512 Quarterly Reporting," revised on October 5, 2009, states that:

If the prime recipient identifies material omissions or significant reporting errors in its reports (or that of its sub recipients), take action to correct the deficiencies. If the report cannot be corrected or if a known deficiency cannot be remedied, contact the Department of Education to advise it of the deficiencies and the actions being taken to correct the deficiency.

Thus, since the Commonwealth of Pennsylvania and the PDE are considered the recipients of several ARRA education awards, any "material omissions or significant reporting errors" in the 1512 reports identified at the recipient level will be communicated to the appropriate contact at the USDE.

Likewise, any sub recipient or vendor of ARRA education awards in Pennsylvania must contact the appropriate contact at the PDE if any "material omissions of significant reporting errors" are identified. The PDE will then evaluate these reporting deficiencies and communicate them to the USDE if warranted. Corrections or questions should be directed to ra-stimulus-pde@state.pa.us.