



**New Jersey State Legislature
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Office of the State Auditor**

**Department of Education
Administration**

July 1, 2014 to July 31, 2016

**Stephen M. Eells
State Auditor**

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New Jersey State Legislature

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Enclosed is our report on the audit of the Department of Education, Administration for the period of July 1, 2014 to July 31, 2016. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in black ink, appearing to read "Stephen M. Eells".

Stephen M. Eells
State Auditor
December 20, 2016

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Scope

We have completed an audit of the Department of Education, Administration (department) for the period July 1, 2014 to July 31, 2016. Our audit included financial activities accounted for in the state's General Fund. We did not include Marie H. Katzenbach School for the Deaf and the State Aid appropriations. These accounts are audited separately. We also reviewed selected general controls over the department's information systems.

The mission of the department, as stated in the State of New Jersey budget message, is to prepare all students, regardless of ZIP code, to graduate from high school ready for college and career. Total expenditures included in the scope were \$184 million and total revenues included were \$13 million.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems. An additional objective was to determine whether the department was meeting its administrative responsibilities for various programs and annual reports. We also determined the adequacy of selected general controls over the department's information systems.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. 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.

In preparation for our testing, we studied legislation, the administrative code, circular letters promulgated by the Department of the Treasury, and policies of the agency. Provisions we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

A statistical sampling approach was used for expenditures and revenue. Our samples of financial transactions were designed to provide conclusions on our audit objectives, as well as internal controls and compliance.

Conclusions

We found that the financial transactions included in our testing were related to the agency's programs, were reasonable, and were recorded properly in the accounting systems. We also found selected general controls over the department's information systems to be adequate. In making these determinations, we noted several areas meriting management's attention. We found criminal history background checks are not required for department staff entering school facilities as part of their job responsibilities and staff working a flexitime schedule without the required Civil Service Commission approval.

We also found the department does not accurately track and enforce the certified educational facilities manager certification, and it does not charge the established fee for the educational facilities review of projects handled by the New Jersey Schools Development Authority.

We further found controls over receipts and contract oversight should be strengthened and that the department has not complied with legislation regarding preparation of specific annual reports.

Background Checks

Background checks should be performed on department staff entering school facilities as well as individuals with access to background check related sensitive data.

N.J.S.A. 18A:6-7.1 requires that all prospective employees of a school district under the supervision of the Department of Education (department) must submit to a criminal history background check as a condition of their employment. In addition, individuals performing contracted services which involve regular contact with pupils shall also submit to a background check. The department's Office of Fiscal Accountability and Compliance, Criminal History Review Unit (CHRU) monitors for compliance with these requirements. Our review found the department's staff, whose job duties include entering school facilities, are not required to have background checks. School districts have not been notified by the department that this is not a requirement. Individuals who may have been or would be "disqualified" from working in school districts could be allowed on campus, therefore putting the students at risk.

Previously, the Office of Fiscal Accountability and Compliance required staff working within the CHRU to submit to a background check based on the sensitivity of the criminal history data. These background checks were performed based on a Federal Bureau of Investigation (FBI) audit which identified possible concerns since these employees of the department had not been required to undergo a criminal history background check to assure they are suitable for having access to this information.

The department does not perform background checks on current staff unless there is some specific statutory authorization. We determined authorization to perform background checks does require a federally approved state statute. The Code of Federal Regulations Title 28 indicates the FBI may exchange identification records, if authorized by state statute and approved by the Director of the FBI, with officials of state government for purposes of employment and licensing. The department has currently stopped performing background checks for the CHRU staff. However, all of the individuals currently within the CHRU have previously completed a background check.

Recommendation

To ensure the safety of all students in the state, we recommend the department request legislation requiring criminal history background checks for all staff entering school facilities as part of their job responsibilities. Until such time, school districts should be made aware that not all department staff have undergone a criminal history background check. We further recommend the department request legislation requiring background checks for all staff within the CHRU due to the sensitivity of the criminal history data. All proposed legislation would also require approval by the Director of the FBI.



Learning Resource Center

Receipts should be recorded in the state accounting system when deposited to allow utilization of funds for program purposes.

The Department of the Treasury Circular Letter 12-02-OMB requires agencies to ensure all deposited funds are recorded in the state accounting system. Since 2010, receipts totaling approximately \$42,250 have been collected by the Department of Education's (department's) Learning Resource Center – Central (LRC) and have not been recorded in the state accounting system. Documentation for the receipts during this time period were not always supported by deposit slips but rather other internal documents causing the accuracy of the amount received to be in question.

The LRC is funded through federal special education grants that assist states in providing special education and related services to all children with disabilities. The LRC provides materials, resources, and training to educators and parents of students with disabilities. An annual \$2 membership fee provides access to the LRC services ranging from information services, materials, circulation services, production services, and outreach services. Additional fees are charged for production, workshops, and fines for late or damaged borrowed materials. Receipts generated are appropriated to the program for related program expenses.

According to LRC staff, deposit slips are not forwarded to the department's fiscal office for recording in the state accounting system. The lack of recording of receipts prevented the department from utilizing these funds to supplement this program. Reconciliations are also not performed by program staff to ensure receipts agree with membership or usage of supplies and the state accounting system. The lack of reconciliation by the department increases the risk of misappropriated funds and funds not being utilized for program expenses.

Recommendation

We recommend the department record all receipts in the state accounting system in accordance with the Department of the Treasury circular letter and retain all supporting deposit slips. We further recommend they coordinate with the Department of the Treasury to ensure all prior receipts have been properly recorded in the state accounting system. In addition, we recommend the department perform reconciliations to ensure deposited funds are accounted for in the state accounting system.



Flexitime

Work schedules should be approved by the Civil Service Commission prior to implementation.

N.J.A.C. 4A:6-2.6 requires state departments to obtain the Civil Service Commission's approval prior to allowing employees to work Flexitime (also referred to as flexitime). Requests for approval shall include justification, impact, details of flexible time, procedures governing employee participation, and monitoring and evaluation procedures. Our review found that department staff worked flexitime without the Civil Service Commission's approval and preparation of the required documentation. The department was unable to provide us the number of employees working on a flexitime schedule, as flexitime was at the discretion of each individual's director. In addition, the department stated there was no limitation as to when employees started and ended their workday, but all employees were supposed to work their seven-hour days. The lack of established procedures and oversight may not ensure efficient customer service, financial assistance, and support to approximately 600 school districts and approximately 1,000 charter, private, and vocational schools throughout New Jersey. When brought to its attention, the department established an adjusted hours of operation work schedule with the required Civil Service Commission's approval.

Recommendation

We recommend the department obtain the Civil Service Commission's approval as required by the New Jersey Administrative Code for future work schedule changes.



Certified Educational Facilities Manager

Certification of individuals overseeing school facilities should be accurately tracked and verified.

Any person employed by a board of education of a school district as a buildings and grounds supervisor is required by N.J.S.A. 18A:17-50 to be a Certified Educational Facilities Manager (CEFM). This includes any individual who performs administrative and supervisory duties relating to structural, mechanical, and physical maintenance and repair of public school facilities. Also included are those who consult with contractors and school district officials to ensure proper compliance and administration of the various laws, regulations, technical practice, and repair of public school facilities. Specific requirements must be met before an individual can obtain certification and subsequently be placed on the department's master list of CEFMs. Certification is valid for a period of three years from the date of issuance.

Our review found the department has issued and posted application guidance on their website but has no internal policy or procedure for issuing certifications, tracking continued education

requirements, and enforcement of the school districts' compliance. In addition, the department has not developed a process to determine which job titles should require the CEFM to allow for enforcement of a school district's compliance with the statutory requirements.

Our review of the CEFM database, which is utilized for the department's master list, noted blank fields, 70 individuals with no certification number, 144 individuals with no expiration date, 3 individuals with three certifications, and 8 individuals with two certifications. The lack of a complete and accurate database hinders enforcement by the department and utilization of the information by the boards of education.

Recommendation

We recommend the department establish and enforce internal policies and procedures that include issuing certifications, tracking continued education requirements, and enforcement of the school districts' compliance. In addition, we recommend the department maintain a complete and accurate database in compliance with established legislation for enforcement utilization by the department and hiring by the boards of education.



Educational Facilities Review Fees

Established fees for reviews of plans and specifications for educational adequacy should be collected by the department.

All capital projects that affect the number, configuration, size, location, or use of educational spaces within a school facility shall be reviewed and approved by the department for educational adequacy. For projects handled by the New Jersey Schools Development Authority (authority), the authority, on behalf of the school district, shall apply for the review and approval for educational adequacy. This review shall cover several project documents such as the educational specification and schematic plans. A fee is collected by the department for its review of detailed and final plans and specifications for educational adequacy. A tiered fee schedule established in N.J.A.C. 6A:26-5.5 is based on the construction cost estimate. The base fee for construction costs up to \$1 million is one-half of one percent. The highest tier fee for construction costs over \$10 million is \$27,500 plus one-tenth of one percent of the amount over \$10 million. Our review found that during our audit period, these fees were not collected from the authority. Based on the information on the authority's website, we calculated the uncollected fees for new construction projects in progress as of March 2016 would be \$829,000.

The department stated that in fiscal year 2008, they were directed to stop collecting fees from the authority; however, a formal basis for this decision was not provided. The administrative code did not reflect this change.

Recommendation

We recommend the department comply with the administrative code by collecting the established fees from the New Jersey Schools Development Authority.



Partnership for Assessment of Readiness for College and Careers

Contract oversight needs to be strengthened.

The department is responsible for administering contracts for the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments. The PARCC is a consortium of states working together to develop a common set of assessments in English language arts and mathematics aligned to the Common Core State Standards.

There are two primary vendors that are utilized by the department to provide administrative services for the PARCC assessment. The first was selected through the Rhode Island Pricing Agreement for program management and support services with the fee shared by the states in the PARCC consortium. Expenditures by the department to this vendor totaled \$1.7 million in fiscal year 2016, which included the 2015 and 2016 contract fees. The second vendor was selected through the New Mexico Pricing Agreement for the provisions of the PARCC assessment system. Expenditures to this vendor total \$21 million and \$17 million for fiscal years 2015 and 2016, respectively. The PARCC system contains the assessments that the students take. In addition, this second vendor conducts training for test administrators and performs the grading of the assessments.

In accordance with the Department of the Treasury Circular Letter 14-08-DPP, the department is responsible for monitoring the terms and conditions of the contract and the vendor's performance to ensure the value of services received is commensurate with the amount paid. Our audit disclosed that the department has not effectively monitored these contracts and has paid the vendors without adequate support. In addition, the department does not track contract adjustments, but instead relies on one of the vendors to self-report them at year-end. Our review of the contracts and payments noted the following issues.

Fiscal Year 2015

- \$1.4 million was paid twice and then credited the following month.
- \$1.4 million was spent on the PARCC assessment because the actual number of students who took the assessment was 59,223 students less than estimated. Adequate documentation was not available from the department regarding how the number of actual registered students was determined. The PARCC vendor runs a special query to determine the actual number of students which the department does not replicate to confirm its accuracy.

Fiscal Years 2015 and 2016

- The contract manager did not maintain a record of adjustments to the contract for additional services provided or removed throughout the year. For fiscal year 2015, we received a list of the detailed adjustments from the vendor through the contract manager. These adjustments resulted in a \$417,000 refund which the department was unaware of until it received the final invoice. When the contract manager was asked for the list of adjustments eight months into fiscal year 2016, this information was again requested from the vendor who stated there was a zero balance at that time. The department should be keeping track of these adjustments throughout the year to ensure propriety.
- Biannual reports identifying overall project status are to be sent to the Department of the Treasury every six months beginning six months after the contract start date. Our review of these reports as of March 2016 disclosed two biannual reports should have been sent for one vendor but none had been received by the Department of the Treasury. In addition, the first required biannual report for the other vendor was almost three months late, was incomplete, and was returned to the department for completion.

Recommendation

We recommend the department strengthen the PARCC assessment contract oversight in accordance with the Department of the Treasury circular letter to ensure payments are accurate and properly supported, adjustments are tracked throughout the year, and biannual reports are complete and submitted timely.



Annual Reports

Annual reports should be completed in compliance with the New Jersey Statute.

Title 18A of the New Jersey Statutes requires the Commissioner of Education to report annually to the Legislature on specific areas. Our review found five citations within the statute in which annual reports are required but have not been submitted to the Legislature during our audit period. These reports can be used to assess and report on the performance of various programs in accordance with established legislation.

- N.J.S.A. 18A:7B-13 – The Commissioner shall report annually to the Legislature describing the condition of educational programs in state facilities.
- N.J.S.A. 18A:7C-10 – The Commissioner shall report annually to the Legislature on the impact of state graduation proficiency tests required and to enumerate the efforts by the department to assist local school districts in the areas of pupil retention, curriculum alignment, and remediation.

- N.J.S.A. 18A:36B-24 – The Commissioner shall report annually to the State Board of Education, the Legislature, and the Joint Committee on Public Schools on the effectiveness of the interdistrict public school choice program.
- N.J.S.A. 18A:40A-20 – The Commissioner, in consultation with the Commissioners of Health and Human Services, shall report annually to the Governor and the Legislature on substance abuse, including data concerning incidence of substance abuse in public schools, the nature and scope of intervention, prevention and treatment referral programs: an assessment of the impact of those programs, and any recommendation for modifications in the program.
- N.J.S.A. 18A:54D-4 – The Commissioner shall report annually to the Legislature the most recent data on the participation of minorities and women attending training programs for technical trades.

The department did not respond when requested if the reports are still applicable and whether they would be of use to the Legislature.

Recommendation

We recommend the department comply with Title 18A by submitting the required reports to the Legislature.





State of New Jersey
DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

KIMBERLEY HARRINGTON
Acting Commissioner

December 15, 2016

Mr. Stephen M. Eells, State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, NJ 08625-0067

Dear Mr. Eells:

SUBJECT: Response to OLS Audit Report of the Department of Education, Administration

The New Jersey Department of Education (DOE) has received and reviewed the Office of Legislative Services (OLS) Audit Report of the Department of Education, Administration, for the period July 1, 2014 to July 31, 2016. The auditors' findings and recommendations, along with our responses are as follows:

Finding Number 1

Background Checks – Background checks should be performed on department staff entering school facilities as well as individuals with access to background check related sensitive data.

Recommendation

To ensure the safety of all students in the state, we recommend the department request legislation requiring criminal history background checks for all staff entering school facilities as part of their job responsibilities. Until such time, school districts should be made aware that not all department staff have undergone a criminal history background check. We further recommend the department request legislation requiring background checks for all staff within the CHRU due to the sensitivity of the criminal history data. All proposed legislation would also require approval by the Director of the FBI.

NJDOE Response

The Department of Education respectfully submits that, as an administrative agency, we do not have the ability to request legislation as suggested in this finding. If legislation is passed, the Department of Education will comply with said legislation. Also note that all DOE staff entering school facilities as part

of their job responsibilities comply with the school's visitor policy and are accompanied by a staff member during their visit.

Finding Number 2

Learning Resource Center – Receipts should be recorded in the state accounting system when deposited to allow utilization of funds for program purposes.

Recommendation

We recommend the department record all receipts in the state accounting system in accordance with the Department of Treasury Circular Letter and retain all supporting deposit slips. We further recommend they coordinate with the Department of the Treasury to ensure all prior receipts have been properly recorded in the state accounting system. In addition, we recommend the department perform reconciliations to ensure deposited funds are accounted for in the state accounting system.

NJDOE Response

We agree that all deposit slips stamped as processed by the bank for LRC-Central, along with the LRC-Central's daily reconciliation, be sent to the Office of Accounting daily so that a Cash Receipt (CR) document to the New Jersey Comprehensive Financial System (NJCFSS) can be prepared and approved, with the deposits posted to the proper account in a timely manner. This has been the revised procedure since this issue was brought to our attention in May 2016. It should be noted that the deposits in question were made to the bank by the LRC-Central; however, they were never recorded on NJCFSS and it does not appear that there was any actual loss of funds to the State.

In addition, the Office of Accounting is in the process of analyzing the SFY 2010-2016 Department of Treasury bank reconciliations to identify any unrecorded deposits from those years so we can process any necessary CR documents in order to post these deposits to the correct accounts on NJCFSS.

Also, the Office of Special Education Programs is currently working with the department's Office of Fiscal Accountability and Compliance to review and revise procedures for operating the LRCs, including fiscal procedures. All new and revised procedures will be compliant with all applicable requirements, including Department of Treasury circulars.

Finding Number 3

Flextime – Work schedules should be approved by the Civil Service Commission prior to implementation.

Recommendation

We recommend the department obtain the Civil Service Commissioner's approval as required by the New Jersey Administrative Code for future work schedule changes.

NJDOE Response

The Department of Education will endeavor to obtain the Civil Service Commissioner's approval as required by the New Jersey Administrative Code for future work schedule changes.

Finding Number 4

Certified Educational Facilities Manager – Certification of individuals overseeing school facilities should be accurately tracked and verified.

Recommendation

We recommend the department establish and enforce internal policies and procedures that include issuing certifications, tracking continued education requirements, and enforcement of the school districts' compliance. In addition, we recommend the department maintain a complete and accurate database in compliance with established legislation for enforcement utilization by the department and hiring by the boards of education.

NJDOE Response

The Office of School Facilities (OSF) is in the process of updating the documentation of our internal processes and procedures pertaining to all of the duties and responsibilities of the OSF. This will include the Certified Educational Facilities Manager (CEFM) program. It is anticipated that the internal review and development of the processes and procedures will be completed within the next six months.

The OSF is currently pursuing several avenues to validate each district's compliance. First, an indicator regarding CEFM compliance will be included in the Quality Single Accountability Continuum (QSAC). Revisions to the QSAC are currently being developed and the OSF is working to add an indicator to validate that a CEFM is held by the appropriate staff members in each district. Second, a confirmation request will be added in the new Long Range Facilities Plan/Project Application software system by requesting the name of the CEFM holder along with the names of the Superintendent and Business Administrator. The new software is currently under development and is expected to be finished within one calendar year.

The current CEFM database is complete and accurately reflects the information that is available to the OSF. The original database reviewed by the OLS auditors contained information collected from two other databases which were combined together. This led to some overlapping and duplication of information. Since the time of the OLS auditors' review, most of this has been cleaned up in the latest posting of the ID list on the OSF CEFM webpage. Those individuals without a CEFM number and expiration date never completed the application and did not receive their CEFM authorization. The OSF has included these records to allow that any district considering hiring those individuals missing authorization will know they have not been approved by the OSF. While we are aware that there are a small number of duplicates in the database, along with people that have retired, left school district employment, passed away, moved out of state, etc.; the OSF is actively working to validate the status of each individual that may fall into these categories.

Finding Number 5

Educational Facilities Review Fees – Established fees for reviews of plans and specifications for educational adequacy should be collected by the department.

Recommendation

We recommend the department comply with the administrative code by collecting the established fees from the New Jersey Schools Development Authority.

NJDOE Response

The Department of Education respectfully disagrees with this finding. The Office of School Facilities (OSF) was notified in 2008, through the Department of Treasury, that the Office of the Attorney General had advised them to discontinue the collection of fees from the SDA. This was based on the Attorney General's office's interpretation of N.J.S.A. 18A:7G-1 et seq. and the holding in *Lance v. McGreevey* (which limits the use of bond proceeds for capital purposes). As a follow-up to the OLS auditors' questions, we again checked with the Attorney General's office and received confirmation of this interpretation.

The Department will consider appropriate amendments to N.J.A.C. 6A:26 when that section of administrative code is scheduled for revision.

Finding Number 6

Partnership for Assessment of Readiness for College and Careers (PARCC) – Contract oversight needs to be strengthened.

Recommendation

We recommend the department strengthen the PARCC assessment contract oversight in accordance with the Department of Treasury circular letter to ensure payments are accurate and properly supported, adjustments are tracked throughout the year and biannual reports are complete and submitted timely.

NJDOE Response

In accordance with the current Pearson contract, we are required to estimate the number of students tested many months in advance of testing to ensure Pearson prints enough ancillary materials for the testing cycle (i.e., test coordinator manuals, etc.). The contract stipulates that states must estimate within 2% of student enrollment, or Pearson can hold states to the estimated number of tests. Therefore, numbers were estimated based on previous assessment valid test scores to ensure the state would not be charged for any unused tests. However, an unforeseeable number of parent refusals reduced the number of test-takers, accounting for the disparity in the estimated number of tests and the number of tests actually taken.

In the future, the department will seek to eliminate interagency communication gaps preventing timely submission of status reports as requested by the Department of Treasury.

Mr. Stephen M. Eells, State Auditor

December 15, 2016

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Finding Number 7

Annual Reports – Annual Reports should be completed in compliance with the New Jersey Statute.

Recommendation

We recommend the department comply with Title 18A by submitting the required reports to the Legislature.

NJDOE Response

The Department of Education will endeavor to comply with Title 18A by submitting relevant required reports to the Legislature in the future.

We trust that our responses satisfy the concerns raised in the audit report. Should you have any questions or need further information, please contact me at (609) 633-6681.

Sincerely,



Karin Garver, Chief of Staff
Division of Executive Services

KD/CP/doe response- Admin. 2016

c: Kimberley Harrington
Robert J. Cicchino