

July 1, 2008

Ms. Connie L. Derr, Audit Coordinator  
Division of Budget  
Bureau of Budget and Fiscal management  
Commonwealth of Pennsylvania  
Department of Education  
333 Market Street  
Harrisburg, PA 17126-0333

RE: Response to the Auditor General's (Performance) Audit Report of  
Fiscal Years Ending June 30, 2004 and 2003

Dear Ms. Derr:

As directed in your May 21, 2008 correspondence, I provide the following response to the Auditor General's (Performance) Audit Report of Fiscal Years Ending June 30, 2004 and 2003.

**1. Finding No. 1 The District Failed to Provide Adequate Termination Provisions in the Superintendent's Employment Contract Leading to a Buy-Out of the Contract; It is Questionable Whether This Buy-Out was in the Best Interest of the Taxpayers of the District**

**1.1 Statement indicating the concurrence or nonoccurrence with the Audit Report's Findings/Observations and Recommendations:**

On August 30, 2006, the Management disagreed with the finding and submitted to the Bureau of School Audits a response (see Attachment #1).

Warren County School District attorney, Mark Wassell submits a response (dated June 16, 2008) to Finding No. 1. (see Attachment #2)

**1.2 Specific steps to be taken to correct the situation or specific reasons why corrective action is not necessary:**

Attachment #2 responds to this requested element.

**1.3 A timetable for the implementation of each corrective action step.**

As stated in Attachment #2, the Board will consider proposing that future employment contracts contain a buy-out provision.

**1.4 A description of monitoring procedures performed to ensure implementation of the corrective action steps.**

Attorney Wassell will review future superintendent employment contracts to determine the need to include a buy-out provision.

**2. Finding No. 2 Board Members Failed to File Statement of Financial Interests in Violation of the State Public Official and Employee Ethics Act.**

**2.1 Statement indicating the concurrence or nonoccurrence with the Audit Report's Findings/Observations and Recommendations:**

On June 16, 2006, the Management agreed with the finding and submitted to the Bureau of School Audits a response (see Attachment #3).

**2.2 Specific steps to be taken to correct the situation or specific reasons why corrective action is not necessary:**

Board members are notified in February of each year and given an April 30<sup>th</sup> deadline to submit the Ethics Statement of Financial Interest. The notification includes the state mandates and fine for not submitting the required form.

On March 31<sup>st</sup> of each year, Board members are sent a second notice to submit the Ethics Statement of Financial Interest.

On April 30<sup>th</sup> of each year, Board members who have not submitted their forms are sent a third notice. In addition, the Board attorney and entire Board of School Directors will be notified of the Board member's failure to submit the required form.

**2.3 A timetable for the implementation of each corrective action step.**

Timetable is shown in 2.2 above.

**2.4 A description of monitoring procedures performed to ensure implementation of the corrective action steps.**

The Board Secretary and Superintendent will monitor the submission of the Ethics Statement of Financial Interest.



**3. Finding 3: Internal Control Weaknesses in Administrative Policies Regarding Bus Drivers Qualifications.**

**3.1 Statement indicating the concurrence or nonoccurrence with the Audit Report's Findings/Observations and Recommendations:**

The management agrees with the finding.

**3.2 Specific steps to be taken to correct the situation or specific reasons why corrective action is not necessary:**

A written procedure was revised and effective as of June 12, 2008. (See Attachment #4)

**3.3 A timetable for the implementation of each corrective action step.**

Timetable is shown in 3.2 above.

**3.4 A description of monitoring procedures performed to ensure implementation of the corrective action steps.**

The Transportation Manager will monitor the compliance of this procedure by transportation contractors. In addition, the Transportation Manager will check existing drivers criminal records annually.

This response was approved by the Warren County Board of School Directors, at an advertised public meeting on June 30, 2008.

Respectfully Submitted



Robert E. Terrill, Ed.D.  
Superintendent of Schools

Copies to: Warren County Board of School Directors  
Ms. Ruth A. Huck, Board Secretary

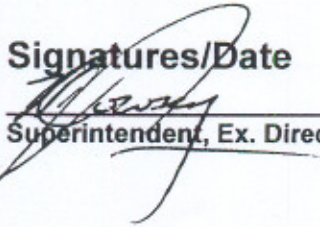
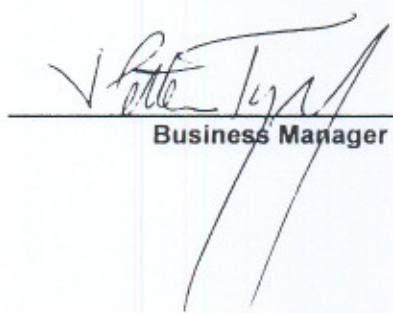
**Management Reply Form**LEA: Warren County School DistrictDate Requested: August 30, 2006Audit Period: June 30, 2004 and 2003Date Due: September 6, 2006

Finding Title: The District Failed to Provide Adequate Termination Provisions in the Superintendent's Employment Contract Leading to a Buy-Out of the Contract; It is questionable Whether This Buy-Out was in the Best Interest of the taxpayers of the District.

- ☐ Management agrees with the finding.
- ☒ Management disagrees with the finding.
- ☐ Management waives the opportunity to reply at this time.

**MANAGEMENT COMMENTS:** (Please explain the cause of the problem and note what corrective action is planned. (If necessary, attach additional paper.)

Response is attached.

**Signatures/Date**  
\_\_\_\_\_  
Superintendent, Ex. Director, Director  
\_\_\_\_\_  
Business Manager





**WARREN COUNTY SCHOOL DISTRICT**  
CENTRAL ADMINISTRATIVE OFFICES  
185 HOSPITAL DRIVE  
WARREN PA 16365-4885

ROBERT B. TOWSEY, PH.D.  
INTERIM SUPERINTENDENT

September 6, 2006

**MANAGEMENT REPLY TO FINDING:**

The School District disagrees with the finding that the District failed to provide adequate termination provisions in the Superintendent's employment contract. Pennsylvania School Code Section 10-1080 sets forth the circumstances under which a superintendent's employment contract may be terminated. That Code section dictates that a removal of the superintendent may occur only upon a majority vote of the Board of School Directors, following a hearing. The removal must be predicated upon "neglect of duty, incompetence, intemperance, or immorality."

Article VI of the School District's contract with John Grant specifically incorporated the statutory provisions contained at Section 10-1080. Contractual provisions vesting more unilateral termination power in the Board of School Directors would have constituted a violation of School Code.

In the months prior to the execution of Mr. Grant's retirement agreement in May, 2006, the Board sought and received extensive legal advice from both its labor and general counsel concerning the aforementioned termination provisions and the operation of School Code. The Board instructed its counsel to undertake a review of certain administrative actions or believed to be omissions, and to apply the information learned to the law. Following those actions the Board received advice from counsel concerning the procedure for and expense of the hearing required under School Code Section 10-1080. The Board also received advice concerning the length of time, cost, and resources involved in any appeal taken from a hearing determination.

At the request of the Board, the School District's labor and general counsel then negotiated with Mr. Grant the retirement agreement executed in May, 2006. The Board approved that agreement upon the recommendation of both its labor and general counsel.



**TO BE INSERTED INTO DISTRICT'S RESPONSE  
TO PERFORMANCE AUDIT REPORT**

**Response to Finding No. 1**

**I. INTRODUCTION**

On July 14, 2003, the Board of Directors of the Warren County School District approved an employment contract with an individual (the "Superintendent") to serve as the District's Superintendent of Schools. The term of the contract began on July 15, 2003 and expired on July 14, 2008. Subsequently, on May 8, 2006, the Board approved a buy-out agreement with the Superintendent, which retained him as Superintendent only through and including June 30, 2006.

**II. A. First Conclusion of Auditors**

The Auditors recommended that the District should ensure that future employment contracts with superintendents contain adequate provisions sufficient to protect the interest of the District and its taxpayers in the event that the employment ends prematurely for any reason. The Auditors believe that the time to negotiate the compensation and benefits payable upon premature termination of an original employment contract is during the negotiation of the original contract, not during the negotiation of the buy-out of that contract.

**B. Response/Corrective Action to First Conclusion**

The District does not disagree that an employment contract could contain buy-out provisions. However, in reality, the negotiation of an employment contract requires the agreement of two parties -- the District and the prospective candidate for superintendent. Both parties must agree to the terms of the contract. While the District certainly can suggest that buy-out provisions be contained in the original contract, the candidate could object to the provisions. Disagreement over those provisions could prevent the parties from entering into an original employment contract.

Moreover, the terms of a buy-out (including economic items that would be payable to the superintendent), are necessarily dependent on the circumstances leading to the consideration of the buy-out. Without knowing in advance the specific facts, it is extremely difficult to specify with any clarity the specific terms of a buy-out.

Finally, as a school board and prospective candidate for superintendent begin discussing terms of an initial employment contract, the mood is typically very positive. Both the Board and the prospective candidate wish to set a tone of high expectations as they begin their relationship. Discussing the terms of a buy-out at this stage -- that is, discussing the basis and consequences of terminating the initial contract prematurely (i.e., a buy-out) -- suggests that things may not work out.

Despite the foregoing, the Board will consider proposing that future employment contracts contain a buy-out provision.



**III. A. Second Conclusion of the Auditors**

The Auditors recommended that the taxpayers of the District be given more information explaining the reasons for the termination of a superintendent's contract. The Auditor's concern is that taxpayers could not evaluate the merits of the decision to buy-out a superintendent's contract without full disclosure.

**B. Response/Corrective Action to Second Conclusion**

The District is fully aware of its responsibility to provide information to its taxpayers. Sometimes, however, the public statement of the basis for a district's belief that a buy-out is necessary and in the best interest of the district will necessarily be less than specific. In the negotiation of buy-outs, numerous provisions are discussed, including the release of information to the public. This is being done in order to provide for the efficient and orderly transition of a superintendent from a district and is sometimes a superintendent's wish. Indeed, when a board and its superintendent find it necessary to part ways, the board sometimes bases its belief on grounds which the superintendent strongly disagrees. Rather than air out the disagreement in a fashion that could cause damage to the reputation of the parties and lead to litigation (which could be more costly to taxpayers), both the board and the superintendent agree to the cause of separation.

The Board is fully aware of its responsibility to the taxpayers of the District. It will continue to share all information that it is obligated to provide.

# 786343

## Management Reply Form

LEA: Warren County School District Date Requested: 6-9-2006  
Audit Period: June 30, 2004 and 2003 Date Due: 6-16-2006  
Finding Title: Board Members Failed to File Statement of Financial Interests in Violation of the  
State Public Official and Employee Ethics Act

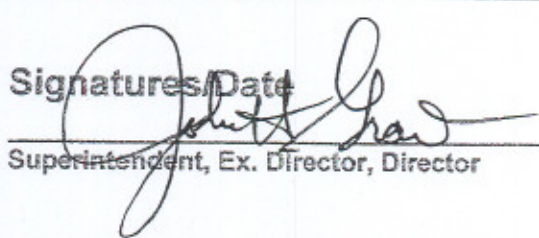
- ☒ Management agrees with the finding.  
☐ Management disagrees with the finding.  
☐ Management waives the opportunity to reply at this time.

**MANAGEMENT COMMENTS:** (Please explain the cause of the problem and note what corrective action is planned. (If necessary, attach additional paper.)

Problem: Individuals were contacted initially by memo with the deadline for submission of the required form. A follow-up memo was sent when the first deadline was missed. Board members did not respond.

Corrective Action: The Board of School Directors will seek the advice of Mr. Stewart, WCSD solicitor, in regards to Board responsibilities when an elected or appointed member fails to file a statement of financial interest as required and will develop policy and procedures to ensure that Board members file the required form in compliance with the State Ethics Commission Act.

Signatures/Date

  
\_\_\_\_\_  
Superintendent, Ex. Director, Director\_\_\_\_\_  
Business Manager



WARREN COUNTY SCHOOL DISTRICT  
PERFORMANCE AUDIT REPORT

Attachment #3

[^ - However, our audit did reveal internal control weaknesses, as detailed in the following observation. The observation and recommendations were reviewed with representatives of Warren School District and their comments have been included in this report. Use when no findings]

**Finding No. 1 – Board Members Failed to File Statement of Financial Interests in Violation of the State Public Official and Employee Ethics Act**

Our review of district records disclosed that <sup>three</sup> ~~four~~ of the nine elected board members failed to file statements of financial interest for the year ended December 31, 2004.

Public Official and Employee Ethics Act (Ethics Act), 65 Pa C.S. § 1101 *et seq.* requires all candidates for public office, public officials and certain public employees to complete financial statements annually, every May 1<sup>st</sup>, for the preceding calendar year, including the last year of public service and the year following termination of public service. The State Ethics Commission Act was established to resolve conflicts of interest involving certain public officials serving in state agencies and local political subdivisions and to prohibit certain public employees from engaging in conflict of interest activities. The board members' failure to file the statements of financial interests violated the Ethics Act.

Ethics Act, § 1104(d) failure to file required statement provides:

No public official shall be allowed to take the oath of office or enter or continue upon his duties, nor shall he receive compensation from public funds, unless he has filed a statement of financial interests.

Any person who is required to file a statement of financial interests and fails to do so may be found guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than one year.

Furthermore, any person who is required to file a statement of financial interests and fails to do so in a timely manner or who files a deficient statement of financial interests may be fined not more than \$250.

The failure to file the statement of financial interest reports is the board members', the district has made numerous attempts to secure the appropriate statements from the board members to no avail.

A copy of this finding will be forwarded to the State Ethics Commission for additional review and investigation, as it deems necessary.



WARREN COUNTY SCHOOL DISTRICT  
PERFORMANCE AUDIT REPORT

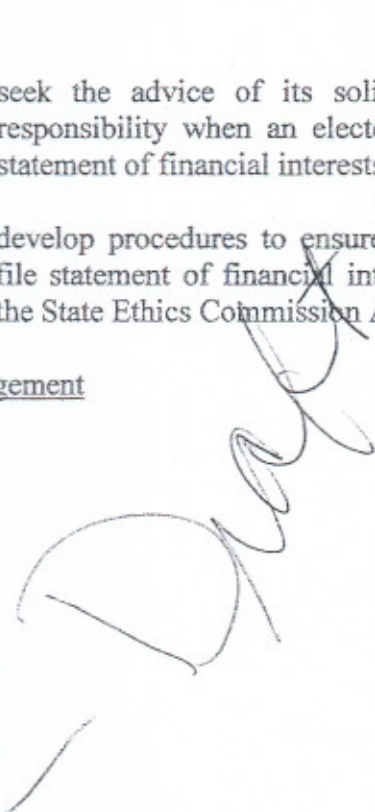
**Finding No. 1 (Continued)**

Recommendations

The board should:

- seek the advice of its solicitor in regard to the board's responsibility when an elected board member fails to file a statement of financial interests; and
- develop procedures to ensure that all individuals required to file statement of financial interests do so in compliance with the State Ethics Commission Act.

Response of Management

A large, stylized handwritten signature in black ink, appearing to be 'D. J. [unclear]', is written over the 'Response of Management' section.



Warren County School District  
Policy and Procedure  
Transportation Department

5400-100: Driver Certification

Revised: 6/12/08

Effective: 6/12/08

**Purpose:** The Warren County School District and its Contractors shall be in conformance with all State and Federal Clearance Regulations related to hiring drivers in the service of transporting the County's Students to and from their designated schools or extra-curricular activities.

**Procedures:**

- All private contractors, in consideration of their contract with the District, agree to provide services in conformance with the rules and regulations of the District and all contractual terms
- Contractors must assure that all drivers meet the regulations of the Pennsylvania Department of Education and the Warren County School District in regard to application, age, fitness, competence, conduct, licensing, current clearances and annual physical examinations by a licensed Physician.
- Contractors shall take all steps necessary to insure that all new drivers fulfill the following requirements and procedures before being approved to drive a vehicle with students aboard.
  - Satisfy all pre-employment requirements and clearances
    - Act 34 PSP Criminal History Check
    - Act 151 Pa Child Abuse History Check
    - FBI Fingerprint Check
    - Annual Physical Exam
    - Medical waiver exams as required
    - Clear Pa. driving record
    - Completion of the twenty hour state required training course for yellow buses
    - Completion and passing of the Federal required CDL licensing course for Yellow Buses.
- Contractors shall insure that all drivers fulfill the following requirements on an ongoing basis:
  - Successful completion of an annual physical examination
  - In addition to yearly evaluations, all regular and substitute drivers must complete the ten hour state required driver training course every four years for yellow buses.
  - Substitute Drivers: Contractors shall insure that all substitute drivers meet the following requirements:
    - Substitute drivers meet all the qualifications as a regular driver
    - Substitute drivers be registered with the Transportation Office
    - Substitute drivers have pre-driven the route and have identified all stops
- All such copies of verification records shall be provided to the Transportation Office by the Contractors before the driver begins transporting students.



done and maintain ongoing records of required training, annual physicals, and dates of CDL s, active and inactive drivers, and driving infractions. Attachment #4