

Oswego City School District

Separation Payments

APRIL 2022



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Contents

Report Highlights	1
Separation Payments	2
How Can Officials Ensure Separation Payments Are Accurately Calculated?	2
Officials Did Not Establish Adequate Separation Payment or Benefit Procedures.	2
What Do We Recommend?	7
Appendix A – Response From District Officials	8
Appendix B – Audit Methodology and Standards	11
Appendix C – Resources and Services.	13

Report Highlights

Oswego City School District

Audit Objective

Determine whether Oswego City School District (District) officials calculated separation payments to certain District employees in accordance with Board-approved employment contracts or collective bargaining agreements (CBAs).

Key Findings

District officials did not accurately calculate separation payments or benefits for five of the 10 employees that we reviewed. Officials made separation payments totaling \$38,477 that were inconsistent with language in the employees' CBA or employment contract. For example, officials provided:

- A teaching assistant with a credit of \$18,087 to be used toward her future health insurance coverage and a \$2,908 separation payment. However, the teaching assistant did not meet the CBA requirements to receive these benefits.
- The former Superintendent with a separation benefit that was \$18,680 higher than it should have been, according to his employment contract.

Key Recommendations

- Establish written procedures for calculating separation payments and benefits.
- Review language in current CBAs and employment contracts, and consult with the Board and legal counsel, to help ensure that these documents contain the benefits the Board intends.

District officials generally agreed with our findings and recommendations and indicated they have taken corrective action.

Background

The District serves the City of Oswego and the Towns of Minetto, Oswego, Scriba and Volney in Oswego County and the Town of Sterling in Cayuga County. The District operates seven schools and is governed by an elected seven-member Board of Education (Board).

The Superintendent of Schools (Superintendent) is the District's chief executive officer. He is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction.

Quick Facts

2021-22 Appropriations	\$91.2 million
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2020-21 Payroll Expenditures	\$52.6 million
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Separation Payments and Benefits Paid During Audit Period

Amount	\$640,090
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Employees	32
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Reviewed During Audit

Amount	\$458,914
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Employees	10
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Audit Period

July 1, 2019 – March 31, 2021

Separation Payments

In addition to paying wages and salaries, school districts generally have the authority to make cash payments to school district officials (officers) and employees for the monetary value of all, or a portion of, their earned but unused leave accruals when they separate from service (leave school district employment). A school district's authority to make these payments generally is defined by a collective bargaining agreement (CBA) or individual employment agreement (employment contract).

A school district also may establish other separation-from-service benefits, typically pursuant to a CBA, for officers or employees that meet certain specified requirements. For example, a school district may allow officers or employees who retire from the school district to apply their unused leave accruals toward the cost of future health insurance payments.

The District's Executive Director for Business and Finance (Director) oversees Business Office functions, which includes calculating separation payments. A payroll clerk, with assistance from the District's personnel department, processes all separation payments.

How Can Officials Ensure Separation Payments Are Accurately Calculated?

Because separation payments and benefits can represent significant expenditures for a school district, school district officials should establish written procedures to ensure that these payments and benefits comply with the terms and conditions of a CBA or employment contract. This helps ensure that former employees receive the amounts to which they are entitled and that the payments and benefits are accurate, have adequate supporting documentation and are properly authorized.

Officials should maintain supporting documentation for the calculation and payment of employee separation benefits. Adequate supporting documentation can include accrual balance reports and employee contracts, and it should be attached to payment and benefit calculations. To help ensure calculations are accurate, school district officials should independently review and approve them before disbursing payments to officers and employees.

Officials Did Not Establish Adequate Separation Payment or Benefit Procedures

Officials did not establish adequate written procedures to ensure separation payments and benefits were made in accordance with the terms and conditions of CBAs or employment contracts. As a result, we found that five individuals received separation payments or benefits in excess or below the amounts authorized by the applicable CBA or employment contract.

Officials should maintain supporting documentation for the calculation and payment of employee separation benefits.

During our audit period, the District had four Board-approved CBAs and five employment contracts. The CBAs and employment contracts stipulated the terms and benefits of District employees, including provisions related to separation payments or benefits.

Language in the CBAs and employment contracts authorized eligible employees to receive payments for accrued, but unused, sick and/or vacation leave, upon leaving District employment. Also, when eligible employees retired from District employment, the CBAs and certain employment contracts authorized them to apply the value of their unused sick leave toward the cost of their future health insurance coverage.

When an employee left District employment, the personnel department confirmed that individual’s accrued unused leave balances and wage rates. For eligible employees who retired, the personnel department also would calculate the value of unused sick leave to be applied toward the cost of future health insurance coverage. This information was then given to the District’s payroll clerk, who calculated each individual’s separation payment.

Although we did not find any evidence that District officials reviewed the payment and benefit amounts for accuracy or compliance with applicable CBAs or employment contracts, the Director told us that she checked the mathematical accuracy of payment calculations for each eligible employee prior to disbursement. However, the Director acknowledged she did not review the calculations to ensure they were in accordance with eligibility criteria in each employee’s applicable CBA or employment contract.

During our audit period, the District had 112 employees who either retired from or left District employment, of which 32 employees received separation payments or benefits totaling \$640,090. We examined the separation payments and benefits totaling \$458,914 for 10 of the 32 employees to determine whether they were calculated correctly, supported by adequate documentation and disbursed in accordance with applicable CBAs or employment contracts. We found that the District generally conformed to the applicable CBA and/or employment contract for five of the 10 employees that we reviewed.

However, we identified separation payments or benefits made to the remaining five employees that were inconsistent with language in their applicable CBA or employment contract (Figure 1).

Figure 1: Questionable Separation Payments or Benefits

Former Employee	Payments/Benefits Over (Under) Amount Allowed by CBA or Employment Contract
Teaching Assistant	\$20,995
Superintendent	\$18,680
Elementary Teacher	(\$500)
School Counselor	(\$400)
Mathematics Teacher	(\$298)
Total	\$38,477

Teaching Assistant – A teaching assistant retired on June 30, 2020 after 19 years of service (employment) with the District. At the time of her retirement, she had accumulated 119.125 days of unused sick leave.

Upon retiring, the teaching assistant received a separation payment of \$2,908. The calculation of this payment was based upon 19.125 days of unused sick leave, paid at a rate of 1/200 of her salary per day. Using this same rate, the personnel department credited the teaching assistant with an additional \$18,087 for all 119.125 days of unused sick leave. This \$18,087 credit would be used toward offsetting her future health insurance payments.

However, our reading of the CBA applicable to the teaching assistant at the time of her retirement indicated that teaching assistants need 20 years of service with the District at the time of retirement to be eligible for credit toward their future health insurance coverage. According to the CBA, a teaching assistant with 20 years of service, who had accumulated more than 100 sick days, could “turn in” 100 days for lifetime health insurance coverage.

The remaining unused sick days would be converted at 1/200 of the teaching assistant’s final school year’s salary to a payment upon retirement. As for teaching assistants with fewer than 100 unused sick days, their unused sick days would be converted to a bank of cash value¹ at the same rate of 1/200 of their final school year’s salary. After their retirement date, their annual cost of health insurance coverage would then be deducted from the banked value.

We discussed the difference between the teaching assistant’s years of service (19 years) and the CBA eligibility requirement (20 years), and the duplicate credit and payout of the 19.125 days, with the Director. The Director acknowledged that the applicable CBA did not contain language to allow teaching assistants who had less than 20 years of service at the time of retirement to apply accumulated unused sick leave toward the cost of future health insurance coverage. The Director also acknowledged that the applicable CBA did not allow teaching assistants who had less than 20 years of service to receive direct payments for unused sick leave.

However, the Director told us she believed that the language allowing these benefits was mistakenly omitted from the applicable CBA. The Director also told us that the benefits granted to the teaching assistant at the time of her retirement were based on the previous CBA, which expired on June 30, 2016.

...[T]he Director told us she believed that the language allowing these benefits was mistakenly omitted from the applicable CBA.

¹ The conversion of these teaching assistants’ remaining unused sick days results in a credit that is tracked in the District’s records. After the teaching assistants retire, the payroll clerk deducts their annual health insurance premium amounts from this credit, rather than requiring the retirees to pay for their premiums.

We reviewed the previous CBA and found that it did not include language indicating that teaching assistants needed 20 years of service with the District at the time of retirement to be eligible to receive credit toward future health insurance coverage. Instead, the previous CBA generally indicated that when teaching assistants retire, they have the option to apply up to 100 unused sick days, at a rate of 1/200 of their annual salary, toward the cost of their future health insurance coverage.

The previous CBA also stated that the District would pay for accumulated, but unused, sick days totaling more than 100 days (but not to exceed 310 days) at a rate of \$75 per day to the retired teaching assistants' 403(b) retirement plan. While the previous CBA allowed teaching assistants with less than 20 years of service to receive these benefits, the CBA in effect when the teaching assistant retired did not include the same provisions. In addition, neither CBA authorized teaching assistants to receive a direct payment for unused sick days and apply those same unused sick days toward the cost of their future health insurance coverage.

Because the CBA that was applicable at the time of the teaching assistant's retirement suggests that retiring teaching assistants must have 20 years of service with the District to be eligible to receive credit toward future health insurance coverage and to receive a payout for unused sick days exceeding 100 days, we question the appropriateness of the \$18,087 health insurance credit granted, and the \$2,908 separation payment paid, to this teaching assistant.

Former Superintendent – A former Superintendent retired from the District on August 31, 2020. Upon his retirement, the District calculated that the former Superintendent was eligible to receive a separation payment totaling \$280,650 to be paid over five years through annual installments to his 403(b) retirement plan.

As part of the separation payment, the District calculated that the former Superintendent was eligible to receive \$17,077 for 23 vacation days, which he accrued at the beginning of the 2020-21 school year (i.e., on July 1, 2020). This calculation was based on the former Superintendent's employment contract, which stated that he was to receive 23 vacation days at the beginning of each school year.

However, the employment contract also stated that if the former Superintendent did not work the full school year, the 23 days of accrued vacation leave would be prorated according to his actual time worked. Because the former Superintendent worked only for two months during the 2020-21 school year, we calculated that the former Superintendent was entitled to be paid only for 3.84 days of vacation leave, instead of the 23 days he received at the beginning of that school year. Consequently, the former Superintendent's calculated separation payment was \$14,225 more than it should have been.

In addition, the former Superintendent received six days of personal leave on July 1, 2020. As a result, the District calculated that the former Superintendent was eligible to receive \$4,455 for these six days when he retired on August 31, 2020.

While the former Superintendent's employment contract stated that unused personal days will be added to sick leave accumulations as of July 1 of the following school year, we found that the contract was silent with respect to whether unused personal days could be paid out upon separating from service. Because the employment contract did not expressly allow for the payment of personal days when leaving District employment, we question the District's \$4,455 calculation and the payment. Therefore, based on our calculations, the former Superintendent's separation payment was \$18,680 more than it should have been.

When we discussed our findings with the Director, she agreed that the former Superintendent's separation payment related to his vacation days was not calculated correctly and in accordance with his employment contract. She told us that the District will reduce the former Superintendent's final 403(b) retirement plan installment payment to correct the \$14,225 error. However, she disagreed with our assertion that the \$4,455 payout for his personal days was incorrectly calculated.

Two Teachers and a Counselor – We found that the District did not correctly pay two teachers and a school counselor for all their unused sick days when they left District employment. The CBA applicable to these individuals stated that unused days of personal leave shall be converted to sick leave on June 30 of each year. Prior to their date of separation from service, each of these individuals had unused personal leave days at the end of the school year (i.e., June 30). However, their unused personal days were not converted to sick leave. As a result, these three employees were not paid for a combined 12.5 days of sick leave totaling \$1,198 when they left District employment.

These errors occurred, in part, because officials did not have formal written procedures for calculating and reviewing separation payments and benefits. Consequently, officials cannot ensure separation payments and benefits were consistently calculated and made in accordance with the written terms of the applicable CBAs or employment contracts.

...[T]he former Superintendent's separation payment was \$18,680 more than it should have been.

What Do We Recommend?

The Superintendent should:

1. Ensure that the Director compares the calculated separation payments and benefits to the appropriate CBA or individual employment contract when finalizing the amount of the separation payment or benefit to each individual who separates from District service.

The Board should:

2. Consult with legal counsel regarding the underpayments made to two teachers and a school counselor, and the inaccurate, unauthorized, and/or questionable payments made, or credits provided, to the teaching assistant and former Superintendent, and seek recovery of the funds as appropriate.

District officials should:

3. Establish written procedures for calculating separation payments and benefits. These procedures should require an independent review and approval process for all separation payments and benefits to ensure they are accurately calculated, have adequate supporting documentation and are disbursed in accordance with applicable CBAs and employment contracts.
4. Review language in current CBAs and employment contracts, and consult with the Board and legal counsel, to help ensure that these documents clearly define separation benefits to be provided to District officials and employees.

Appendix A: Response From District Officials



OSWEGO
CITY SCHOOL DISTRICT
Fully prepared and life ready!

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March 21, 2022

Dear Ms. Wilcox,

The Oswego City School District is in receipt of the audit report by the State Comptroller on Separation Payments. We appreciate the time and consideration the staff has extended to the district. The district has thoroughly reviewed the report and has already implemented procedural improvements as outlined below.

Please accept the comments that follow as the official district response as it relates to the report on Separation Payments (2021M-194) submitted to the Oswego City School district on 3/3/2022.

General District Response to the Audit Report:

The district acknowledges the purpose of the State Comptroller's role in providing assistance to our school district and given the length of the audit, are pleased that all of the recommendations in the report have already been addressed prior to the release of the report. District officials and the Board of Education continue to maintain transparency and accountability of all district funds. The state audit recommendations are noted below.

1. Ensure that the Director compares the calculated separation payments and benefits to the appropriate CBA or individual employment contract when finalizing the amount of the separation payment or benefit to each individual who separates from service.
2. Consult with legal counsel regarding the underpayments made to two teachers and a school counselor, and the inaccurate, unauthorized, and/or questionable payments made, or credits provided, to the teaching assistant and former Superintendent, and seek recovery of the funds as appropriate.
3. Establish written procedures for calculating separation payments and benefits. These procedures should require an independent review and approval process for all separation payments and benefits to ensure they are accurately calculated, have adequate supporting

documentation and are disbursed in accordance with applicable CBAs and employment contracts.

4. Review language in the current CBAs and employment contracts, and consult with the Board and legal counsel, to help ensure that these documents clearly define separation benefits to be provided to district officials and employees.

The district agrees that the calculated separation payments and benefits should be compared to the CBAs as appropriate, for individuals that separate from service. It should be noted that there is also institutional knowledge and past practice that may allow for interpretation of benefits that remain silent in a contract. With any iteration of a bargaining unit contract the written language is extremely important and the district and their counsel strive to build clarity each time contracts in the CBA are settled.

The district has reached out to counsel on the underpayments to the individuals identified in the report and will continue to rectify this issue. In the 2017-2020 contract, Teaching Assistants having less than 20 years of service was not addressed with respect health insurance payout. While we understand and have corrected this issue in the current CBA, 2021-24, there was no intention to diminish benefits due to the lapse in language. In addition, the bank of days for this retired employee has been adjusted to properly reflect the bank of sick days to 100 for health insurance which resulted in her insurance credit being reduced from \$18,087 to \$15,199. Again there was no monetary amount that needs to be recovered from the retired Teaching Assistant.

It was identified in the audit report that the former Superintendent's contract payout was incorrectly calculated by \$18,680.00, \$4,455 for personal leave and \$14,225 to a 403B retirement plan, respectively. The district acknowledges and has corrected the former Superintendent's payout to his 403B by reducing future payments to the 403B by \$14,225.00, adjusting his payout accrual and notifying the former superintendent of this change. Additionally, the district respects the State Comptroller's view on the personal day payout. The language in the employment contract of the Superintendent for payout of personal days expressly says that they are to roll to sick leave at the end of the year. In the district's view the personal days would have rolled to sick and been paid out accordingly. Therefore, the district contends that there has been no overpayment to the Superintendent in this area. The district does agree that stronger language, not subject to interpretation, should be put into all employment agreements of the district. Again, it should be noted that there was no cash paid to the Superintendent which must be recovered.

The district explicitly agrees with the State Comptroller finding that there should be written procedures for the calculation of separation payments and benefits, for continuity of operations. Prior to the release of the auditor's report, the district had already developed a form to document all separation payments, including calculations which are approved by both the Executive Director of Business and Finance and the Executive Director of Secondary Education and Personnel. Since these two departments work in conjunction for separation payments, inclusive of benefits and payroll, this was integral to the process. Appended to the new district form is all supporting documentation, validating any calculated separation payment.

The district agrees that the current CBA's and employment contracts should be reviewed with the Board and legal counsel to ensure that these documents clearly define separation benefits for all employees.

Again, the Superintendent and the Board of Education want to thank the State Comptroller's office for their review of our records and the recommendations to help improve our separation payment review process. If we can be of any further assistance in this matter please let me know.

Sincerely,

Mathis Calvin, III
Superintendent of Schools

Heather Delconte
Board President

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed District officials and staff to gain an understanding of the calculation and disbursement process for separation payments.
- We reviewed all Board-approved CBAs and employment contracts to gain an understanding of the terms authorizing separation payments.
- We identified 112 employees who left District employment during our audit period by reviewing Board meeting minutes and a list provided by the payroll clerk. Of this amount, 32 employees received separation payments totaling \$640,090.
- We used our professional judgment to select 10 employees who received separation payments and benefits totaling \$458,914. We determined whether the payments and benefits had adequate supporting documentation and were accurately calculated in accordance with the terms and conditions of Board-approved CBAs or employment contracts. We selected these employees to test a cross section of different positions that were covered by various CBAs or employment contracts. Our sample included teachers, clerks, a teaching assistant, a counselor, a custodian, a maintenance worker, a security officer and an administrator.
- When applicable, we recalculated final accrued unused leave balances by reviewing accrued leave schedules in CBAs and employment contracts and employee leave usage on time sheets.
- We traced our sample of separation payments to cash disbursement data for 403(b) retirement plan investments, or payroll data from the computerized accounting systems, to bank withdrawals.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The CAP should be posted on the District's website for public review.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

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