

Green Island Union Free School District

Separation Payments

JUNE 2019



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

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Report Highlights

Green Island Union Free School District

Audit Objective

Determine whether separation payments were calculated correctly and supported by employee contracts.

Key Findings

- The former Business Manager's separation payment was inadequately supported, and he was overpaid by \$16,700.
- The District paid the former Business Manager's separation payment totaling \$84,063 over a period of time, including \$64,063 before his effective retirement date.
- The District inappropriately provided an advance of \$15,000 of separation pay to the former Business Manager.

Key Recommendations

- Provide an independent review and approval of separation payments.
- Discuss the separation overpayment to the former Business Manager with the District's legal counsel and take appropriate action to recover funds.
- Discontinue paying separation payments prior to the employee's resignation/retirement date.

Except as specified in Appendix A, District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comment on an issue raised in the District's response letter.

Background

The Green Island Union Free School District (District) serves the Town of Green Island in Albany County.

The five-member Board of Education (Board) is responsible for managing the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the District's chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction. The Treasurer determines employees' eligibility to receive separation payments upon leaving employment with the District and calculates the payments. The Business Manager verifies separation payment calculations and supervises functions in the Business Office.

Quick Facts

Student Enrollment	285
Employees	73
Separation Payments Made During Audit Period	\$286,872
2017-18 Payroll Expenditures	\$3,200,921
2018-19 Appropriations	\$7,405,876

Audit Period

July 1, 2014 – September 30, 2018

Separation Payments

How Should Separation Payments Be Made?

In addition to established wages and salaries, school districts often provide separation payments to employees for all or a portion of their earned but unused leave time when the employee retires or otherwise leaves district employment. A district may also provide other retirement incentives to employees that are not based on remaining leave balances (e.g., lump sum payment based on years of service).

Separation payments can represent significant expenditures. As such, boards should approve the terms and amounts to be paid through collective bargaining agreements (CBAs) and individual contracts, and also establish procedures to ensure employees are paid separation payments according to the terms and amounts authorized by the board. Adequate supporting documentation, such as an accrual balance report and employee contracts, should be attached to payment calculations. The amounts should be independently reviewed and approved before payments are made to employees to help ensure they were accurately calculated. The disbursement of approved separation payments, through payroll or to an employee's 403(b) investment account, should also be reviewed to ensure payments were accurately processed.

The District has three CBAs and two individual employment contracts that stipulate the terms and benefits for all employees, including provisions related to separation payments.¹ The CBAs and individual contracts allow for the payment of accrued unused sick and personal time upon separating from the District. Two of the CBAs² and the individual contract with the former Business Manager include provisions for eligible employees to receive a retirement incentive.³

The Former Business Manager's Separation Payment Was Incorrectly Calculated and Inadequately Supported

During our audit period, the District disbursed separation payments totaling \$286,872 to 13 employees who retired or otherwise left the District. While District officials generally made accurate separation payments,⁴ the former Business Manager was overpaid by \$16,700.

The former Business Manager, who retired on March 31, 2016, incorrectly calculated his separation payment of \$86,324 without an independent review.

1 CBAs are for 12-month employees, 10-month employees and teachers. Individual contracts are for the Superintendent and the Business Manager.

2 Excludes employees covered on the teachers' contract.

3 Eligible employees who retire with at least 14 years of service are paid 35 percent of an amount that is \$24,000 less than their final year's salary.

4 We discussed minor calculation errors and an underpayment with District officials.

As of September 30, 2018, separation payments made to the former Business Manager had accumulated to \$84,063 in accordance with a Board agreement to distribute the separation payment over several fiscal years,⁵ beginning before his effective retirement date.⁶ The amount paid was \$16,700 more than he was eligible for and \$64,063 was paid prior to his actual retirement date.⁷

We determined the former Business Manager's separation payment should have been \$67,363 and that his calculation included ineligible amounts for unused vacation leave of 307.5 hours totaling \$17,282 and \$1,679 for accumulated excess time worked but unpaid over his tenure with the District. The former Business Manager's contract did not allow for the payout of unused vacation hours, and the variance for the accumulated excess time occurred because he used the wrong rate to calculate the payout for 750 hours of excess time worked.

Additionally, the former Business Manager's regular time, excess time and accruals were not tracked in the payroll system used by every other employee. Instead, he tracked the 25 hours per week he worked and accumulated hours worked in excess of the 25 hours to be used as vacation leave in his own calendars. Although the excess hours were required to be reviewed and approved annually, the Business Manager only sought approval from the Superintendent twice⁸ from July 1, 2007 through March 31, 2016.

These discrepancies occurred because District officials did not establish adequate procedures and oversight over separation payments. Specifically, if the former Business Manager's separation payment was independently reviewed, the District may have detected and corrected the amounts that should not have been paid.

The District Inappropriately Advanced Separation Pay to the Former Business Manager

The District provided a \$15,000 interest-free advance of separation pay to the former Business Manager on February 12, 2016. The former Business Manager requested the Board President to authorize a \$15,000 advance to be deducted from his future separation payments the District was in the process of paying because he needed to make a lump sum payment on loans he took out to acquire

⁵ Annual separation payments totaled \$40,500 in 2014-15, \$23,563 in 2015-16 and \$20,000 in 2016-17.

⁶ Based on the former Business Manager's calculation, he was still owed \$2,261 as of September 30, 2018 because not all of the payments had been made yet. If the full amount had been paid, the overpayment would have been \$18,961.

⁷ The former Business Manager retired on March 31, 2016 in order to collect his retirement from New York State and Local Retirement System. However, he continued his employment with the District as an hourly employee through October 31, 2018. Because he was over the age of 65, there was no limit to his yearly earnings while collecting a service retirement benefit.

⁸ The excess time worked was approved on June 24, 2010 and July 24, 2015, although the former Business Manager accumulated excess hours each fiscal year, which totaled 1,305 as of March 31, 2016.

residential property. However, he incorrectly stated in his email request to the Board President⁹ that he was able to receive his separation payment as a cash disbursement when his contract allowed for separation payments only to his 403(b) investment account.

Additionally, he led the Board President to believe that, as Chief Financial Officer, she had the authority to authorize a cash advance of \$15,000, which would reduce his separation payments by the same amount. As a result, the Board President approved the cash advance without discussing it with the Board. However, the Board President does not have the authority to act without the Board's approval and, as Chief Financial Officer, had the responsibility to question the situation and determine whether it was appropriate. The former Business Manager repaid the cash advance on June 30, 2016, which made it appear as though he intended for the payment to be a loan rather than an advance of his separation payment. As such, the District used cash in a manner prohibited by the New York State Constitution,¹⁰ which does not allow school districts to loan or gift money to individuals. This kept \$15,000 from being used for other appropriate District purposes.

What Do We Recommend?

The Board should:

1. Discuss the separation overpayment to the former Business Manager with the District's legal counsel and take appropriate action to recover the overpayments.

District officials should:

2. Implement an independent review and approval of separation payments to ensure they are accurately calculated and disbursed in accordance with the terms of CBAs and individual contracts.
3. Discontinue paying separation payments prior to the employee's effective resignation/retirement date.
4. Ensure no additional loans are made to employees.

⁹ The former Business Manager did not include the Superintendent or other Board members in his email request.

¹⁰ The New York State Constitution Article VIII Section 1

Appendix A: Response From District Officials

Green Island Union Free School District
171 Hudson Avenue
Green Island, NY 12183
(518) 273-1422

Dr. Teresa Snyder, Superintendent
Erin Peteani, Principal
Jodi Mazzeo, Associate Principal
Tiffany Dzembo, Director of Curriculum

Christopher Karwiel, Business Official
Kim Watkins, Treasurer
Angela Legault, District Clerk,

May 23, 2019

New York State Comptroller's Office
Division of Local Government and School Accountability
110 State Street, 12th Floor
Albany, New York 12236

Re: Green Island Union Free School District

Dear Sirs:

Please accept this as the response from the Green Island Union Free School District (District) to the audit report issued for the period July 1, 2014 to September 30, 2018.

Based upon its investigation and examination of records your office determined:

1. The former business manager's separation payment was incorrectly calculated and inadequately supported.
2. The District inappropriately advanced separation pay to the former business manager.

The report recommends:

1. That the board discuss the separation over payment to the former business manager with the district's legal counsel and take appropriate action to recover the over payments.
2. District officials implement an independent review and approve of separation payments to ensure they are accurately calculated and disbursed in accordance of the terms of CBAs and individual contracts.

-
3. Discontinue paying separation payments prior to the employee's effective resignation/retirement date.
 4. Insure no additional loans are made to employees.

The District's response to above follows:

1. In regard to the miscalculation of the former business official's separation payment, the Board did its best, based upon limited supporting documentation, to approve an accurate number. In fact, the business manager had requested additional payments that were denied by the Board of Education. Unfortunately, the supporting documentation was not adequate to insure the accurateness of the figures and the Board had only the business manager to rely on. The District will attempt to recover the over payment to the former business manager as follows:

- a. The District's attorneys will serve a demand letter seeking voluntarily repayment by the business manager.
- b. If there is no response or a negative response to such letter, the Board of Education will determine, based on a cost benefit analysis, if it is worthwhile to bring legal action against him to recover the money. In making this decision it will look at the cost of litigation verses the likelihood of recovery.

2. In regard to the recommendation that the District implement an independent review and approve of separation payments to ensure they are accurately calculated and disbursed in accordance of the terms of CBAs and individual contacts, the Board has already taken such steps. Upon learning of the practices of the business manager, changes were immediately made in order to prevent this from ever happening again. The District has implemented a system whereby separation payments will be initially calculated by the District Treasurer. Thereafter, such payments will be reviewed, based on appropriate documentation, by both the Business Official and the Superintendent, who will both be required to approve of and sign off on their review of the calculations that the amounts are accurate. In addition, the District will engage its legal counsel prior to signing any such agreements to ensure that all parties understand what is going to be due and owing at the time of separation.

3. In regard to paying separation payments prior to the employee's effective resignation/retirement date this is not, and was never, a practice of the District. Unfortunately, the former business manager misled the Board President to believing she was signing off on something he legitimately was due at that time. Given that the money was going to be due him at some point in time (i.e. at retirement), the business manager led the Board President to believe that it was okay to disburse it early. Clearly, that is not the case and that has never been done in any other circumstance and will not be done in the future.

We would like to make a few points of clarification: The business manager and this audit report references the Board of Education President as the "CFO". The Board of Education President is not the CFO of the District and we request that be corrected in your report. One last comment the business manager did treat that payment as a loan and did repay the money prior to his retirement. No "loans" will be made to employees in the future.

See Note 1 Page 8

In sum, as soon as the Board of Education was made aware of irregularities in the former business manager's time keeping and payment practices, they made immediate changes. For example, all hourly employees must report through the District's management system to track hours. In addition, the system of checks and balances referenced above in regard to separation payments will be utilized. No payments in advance or loans will be made. The District will make efforts to recover the over payments to the former business manager as set forth above. Please accept this letter as response of the Green Island Union Free School District in regard to your audit letter.

Very truly yours,

GIRVIN & FERLAZZO, P.C.

By: Kristine Amodeo Lanchantin

Received and Accepted by the District

Teresa Thayer Snyder
Superintendent

Appendix B: OSC Comment on the District's Response

Note 1

Under Local Finance Law Section 2.00 5(e), the board president is named as the chief fiscal officer of a school district.

Appendix C: 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, approval and disbursement process for separation payments.
- We reviewed Board-approved CBAs and individual contracts to determine the terms authorizing separation payments.
- We identified 13 employees who received separation payments during the audit period by reviewing 403(b) investment account reports, electronic payrolls and accounts payable data from the computerized accounting system.
- We reviewed the supporting records for all separation payments totaling \$286,872 during the audit period to determine whether they were supported, accurately calculated and disbursed in accordance with the terms of Board-approved CBAs and individual contracts.

We conducted this performance audit in accordance with GAGAS (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 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.

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 2116-1(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 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. We encourage the Board to make the CAP available for public review in the District Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

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

www.osc.state.ny.us/localgov/costsavings/index.htm

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

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

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

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

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

www.osc.state.ny.us/localgov/planbudget/index.htm

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

www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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www.osc.state.ny.us/localgov/index.htm

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