

Pulaski Academy and Central School District

Separation Payments

MARCH 2020



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

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Report Highlights

Pulaski Academy and Central School District

Audit Objective

Assess whether separation payments to certain District officials were authorized and accurately calculated in accordance with Board-approved employment contracts.

Key Findings

District officials need to improve the separation payment procedures. We found officials:

- Paid five former administrators a total of \$24,989 for accrued unused vacation leave upon separation from the District based on past practice, even though their individual employment agreements did not provide for such payments.
- Did not realize the former Superintendent was to reimburse the District \$2,813 for previously received tuition assistance upon his separation from the District.

Key Recommendations

- Implement an independent review and approval process for all separation payments to ensure they are accurately calculated, supported and disbursed in accordance with Board-approved contracts.
- Consult with legal counsel as to seeking recovery of payments identified in this report that are inconsistent with the individual employment agreements or any other applicable laws.

District officials agreed with our recommendations and indicated they would take corrective action.

Background

The Pulaski Academy and Central School District is located in the Towns of Richland, Sandy Creek and Albion in Oswego County. The District, which operates two schools, is governed by an elected seven-member Board of Education.

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 Business Manager oversees all functions of the Business Office, including making separation payments. A payroll clerk (Clerk) processes all separation payments.

Quick Facts

Students	1,065
Employees	208
Separation Payments Made During Audit Period	\$319,132
2019-20 Appropriations	\$27,295,000
2018-19 Payroll Expenditures	\$8,959,704

Audit Period

July 1, 2017 – June 30, 2019

Separation Payments

How Should Separation Payments Be Made?

In addition to established wages and salaries, school districts generally have the authority to make cash payments of the monetary value for all or a portion of an officer's or employee's earned but unused leave accruals when they separate from service. Authority to make such payments may be pursuant to a collective bargaining agreement (CBA), individual employment agreement, or, in some circumstances, pursuant to a preexisting local enactment. However, in the absence of a preexisting local enactment or agreement, courts have found that the local government should not make such payments. A school district may also establish, typically pursuant to a CBA, "retirement incentives/retirement award" to officers or employees that meet certain specified requirements (e.g., lump sum payment based on years of service).

Separation payments, such as for unused leave accruals or "retirement incentives/retirement award," can represent significant expenditures for a school district. As such, district officials should establish procedures to ensure officers or employees receiving such payments are paid the amounts which they are entitled to and that each payment is accurate, adequately supported and authorized pursuant to a board-approved CBA, employment agreement or, in some circumstances, local enactment. Adequate supporting documentation, such as accrual balance reports and employee contracts, should be attached to payment calculations. The amounts should be independently reviewed and approved before payments are made to officers and employees to help ensure they are accurately calculated.

District Officials Have Not Established Adequate Separation Payment Procedures for Accrued Unused Vacation Leave

Eligible District employees, pursuant to language set forth in a CBA, may receive a "retirement award" payment based upon their years of service with the District at the time of retirement. For individuals eligible for the retirement award, the Clerk will review the CBA applicable to the retiree to verify their eligibility for the award, gather the documentation necessary to support the award and calculate the award amount. Prior to payment, the Business Manager reviews the award calculation and supporting documentation to ensure the award was properly calculated and supported.

Though District officials have established adequate procedures to ensure that "retirement awards" are authorized by the CBA and are independently reviewed and approved prior to payment, similar procedures have not been established for payments of accrued unused vacation leave. When an employee separates from District employment, the Clerk first verifies his or her accrued vacation leave balance by ensuring all leave requests have been entered into the financial system. The Clerk then generates a report from the system that calculates the

employee's separation payment by multiplying their accrued unused vacation leave balance by their daily wage rate. This payment is processed through the District's payroll, and paid to the employee in their final check. However, the CBA or employment agreement applicable to the officer or employee is not reviewed to determine eligibility for the payment of accrued unused vacation leave upon separation, and the payment calculation is not independently reviewed to ensure it is accurate and supported.

The District had 80 employees who either retired or separated from service during our audit period, 25 of which received some form of separation payments totaling \$319,132. We reviewed all separation payments (retirement incentives and payments for unused leave accruals) to ensure such payments were calculated correctly, adequately supported and in accordance with CBAs, employment agreements and District procedures. While these payments generally conformed to written agreements and procedures, we found:

- Five former administrators received payments for accrued unused vacation leave totaling \$24,989 even though their individual employment agreements did not provide for such payments. In the absence of specific authorization in the individual employment agreement, or another pre-existing local enactment or court order/decision,¹ under such circumstances we question the appropriateness of the payments for accrued unused vacation leave.
- A former Superintendent received a payment for accrued unused vacation leave that was \$773 less than what he was apparently entitled to pursuant to his individual employment agreement. The former Superintendent's individual agreement specified how to calculate what he was to receive for accrued unused vacation leave upon separation. However, District officials used a different method for the calculation because they did not review his agreement when calculating the separation payments for accrued unused vacation leave.

Furthermore, our review of the former Superintendent's agreement indicates that the former Superintendent, upon separation from service, was responsible for reimbursing the District for a portion of previously received tuition assistance payments. Because District officials had not reviewed the former Superintendent's employment agreement prior to his separation, they were unaware of this provision in the agreement until we brought it to their attention during audit fieldwork. Based on the amount of tuition assistance the former Superintendent had received and the reimbursement schedule in his agreement, District officials determined the former Superintendent owed \$2,813 back to the District.

¹ See New York State General Municipal Law, Section 92[1]

District officials said they had paid the former administrators for accrued unused vacation leave upon separation from service because it had been the District's long-standing practice to make such payments. However, because of our audit, District officials have engaged the District's attorney to examine these payments. Furthermore, in July 2019, the Board passed a resolution amending all current administrative employment agreements to allow for such payments in the future. Also in July 2019, District officials paid the former Superintendent the \$773 owed him for accrued unused vacation leave and billed him for the \$2,813 owed from him for the reimbursement of tuition assistance. The District received the \$2,813 payment from the former Superintendent in February 2020.

Had District officials reviewed the employment agreement terms and payment calculations for accrued unused vacation leave prior to employee separations, they may have avoided making payments that were not specified in the agreements, detected and prevented the erroneous underpayment to the former Superintendent and identified the reimbursement he owed for tuition assistance upon his separation.

What Do We Recommend?

District officials should:

1. Implement an independent review and approval process for all separation payments to ensure they are accurately calculated, supported and disbursed in accordance with the terms of CBAs and individual employment agreements.
2. Consult with legal counsel as to seeking recovery of payments identified in this report that are inconsistent with the individual employment agreements or any other applicable laws.

Appendix A: Response From District Officials



PULASKI ACADEMY & CENTRAL SCHOOLS

TOM JENNINGS • SUPERINTENDENT

March 9, 2020

Office of the New York State Comptroller
Division of Local Government & School Accountability
PSU – CAP Submission
110 State Street, 12th Floor
Albany, NY 12236

Re: Separation Payments – Corrective Action Plan

Dear Sir/Madam:

The Pulaski Academy and Central School District has received the audit report of the District's Separation Payments for the period July 1, 2017 – June 30, 2019. Please accept this letter as the District's response and corrective action plan to the audit findings.

The audit objective was to assess employee separations payments for proper authorization and accuracy of the payment calculations. We have found the results of the audit to be valuable and immediately took steps to implement the auditor's recommendations.

Listed below are the District's Corrective Action Plans from the Comptroller's audit recommendations.

Comptroller's Recommendation #1: Implement an independent review and approval process for all separation payments to ensure they are accurately calculated, supported and disbursed in accordance with the terms of CBAs and individual employment agreements.

District's Corrective Action Plan: Upon notice of an employee's separation from employment and prior to payment of unused leave accrual, we have implemented the following procedures.

Upon receipt of notice of separation of an employee, the Business Manager will notify the payroll clerk of an employee's resignation or retirement.

Payroll Clerk will compile the following information prior to payment: A copy of the individual employment contract or CBA and a compensated absence report from the district's accounting software that lists the remaining unused leave accruals and daily rate of the employee.

Business Manager will review all documentation and verify for accuracy. The Business Manager will review the individual employee contract or CBA while comparing number of unused leave time calculated by the accounting software. This information is used to calculate the separation payment and to verify the accuracy of the calculation.

Once the calculation is verified, all supporting documentation is returned to the payroll clerk and payment will be processed. All supporting documentation is filed with payroll reports to substantiate the transaction.

Comptroller's Recommendation #2: Consult with legal counsel as to seeking recovery of payments identified in this report that are inconsistent with the individual employment agreements or any other applicable laws.

District's Corrective Action Plan: During the Comptroller's audit it was noted that five former administrators received payments for accrued unused vacation leave that was not specifically authorized in accordance with the individual employee contract. Although the administrators' contracts did not specifically authorize these payments, it has been the district's long standing practice to do so and in fact this process is in agreement with the District's other CBA contracts. The contracts and long standing practice were discussed with the District's attorney and BOE. As a result, in July 2019 all individual employee agreements were amended and adopted by the BOE to include authorization of separation payments for unused leave accruals.

The District will consult with legal counsel regarding recovery of payments identified in this report.

The District would like to thank the Comptroller's Office and especially thank the staff members who conducted the field audit for their professionalism and for being polite, courteous, and helpful in their dealings with our staff. We appreciate the opportunity to work with the Comptroller's office and for their guidance to help us to continuously improve our financial processes.

Sincerely,

Tom Jennings, Superintendent

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, approval and disbursement process for separation payments.
- We reviewed Board-approved CBAs and individual employment agreements to determine the terms authorizing separation payments.
- We traced a list of employees who separated from the District, as received from the payroll clerk, to Board minutes, electronic payroll data from the computerized accounting systems and cleared check images to identify all employees who left District employment during our audit period and who received a separation payment. We identified 80 employees who left the District, 25 of which received separation payments totaling \$319,132.
- We examined the supporting records for all separation payments totaling \$319,132 during the audit period to determine whether they were supported and accurately calculated in accordance with the terms and conditions of Board-approved CBAs and individual employment agreements. When applicable, we recalculated final accrued unused vacation leave balances by reviewing accrual schedules in CBAs and individual employment agreements, and leave usage on time sheets. We also recalculated final daily wage rates by reviewing pay schedules in CBAs and individual employment agreements.

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-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/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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