



Kiryas Joel Union Free School District

Financial Condition and Selected Employee Reimbursements

Report of Examination

Period Covered:

July 1, 2014 – March 16, 2016

2016M-331



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

March 2017

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Kiryas Joel Union Free School District, entitled Financial Condition and Selected Employee Reimbursements. This audit was conducted 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.

This audit's results and recommendations are resources for district officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Kiryas Joel Union Free School District (District) is located in the Village of Kiryas Joel, Orange County. The District is governed by the Board of Education (Board), which is composed of five elected members. The Board is responsible for the general management and control of 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 is responsible for certifying payroll, preparing budgets, maintaining the accounting records and receiving, disbursing and maintaining custody of District moneys.

The District operates one school with approximately 200 special needs students and provides transportation, health and welfare services and textbooks to approximately 11,400 resident students attending nonpublic schools. The District has 477 employees and had budgeted appropriations for the 2015-16 fiscal year of \$23 million, which were funded primarily with real property taxes, tuition charges and State aid.

Scope and Objective

The objective of our audit was to evaluate the District's financial condition and selected employee reimbursement payments for the period July 1, 2014 through March 16, 2016. We extended our scope period back to July 1, 2011 and forward to June 30, 2016 to analyze the District's fund balance. Our audit addressed the following related questions:

- Did District officials ensure reserves and fund balance were maintained at reasonable levels and in accordance with statutory requirements?
- Did the Board ensure that employees received only the reimbursements they were entitled to?

Audit Results

The Board and District officials need to improve the budget process to ensure reserves and fund balance are maintained at reasonable levels. From fiscal years 2011-12 through 2015-16, the Board adopted budgets that resulted in operating surpluses each year ranging from \$216,000 to \$2.6 million. The Board used surplus funds to increase reserves and accumulate fund balance up to the 4 percent statutory limit. Restricted funds grew from \$285,000 as of June 30, 2012 to \$4.5 million by June 30, 2016.

The appropriation of fund balance and transfers of surplus funds to increase reserves at year-end resulted in the District's reported unrestricted fund balance remaining within the 4 percent statutory limit. By not establishing adequate reserve policies and not funding reserves through budget appropriations, the Board may have missed the opportunity to use fund balance as a financing source, fund one-time expenditures or reduce the tax levy.

We also found that the Board did not ensure that employees received only the reimbursements they were entitled to. The District reimbursed three employees \$15,000 for use of personal vehicles to commute from home to work, which was not provided in a written agreement. The District also reimbursed an ineligible employee for \$4,726 in daycare expenses.

Comments of District Officials

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as indicated in Appendix A, District officials generally agreed with our recommendations and indicated they plan to initiate corrective action. Appendix B includes our comments on issues District officials raised in their response.

Introduction

Background

The Kiryas Joel Union Free School District (District) is located in the Village of Kiryas Joel, Orange County. The District is governed by the Board of Education (Board), which is composed of five elected members. The Board is responsible for the general management and control of 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 is responsible for certifying payroll, preparing budgets, maintaining the accounting records and receiving, disbursing and maintaining custody of District moneys.

The District operates one school with approximately 200 special needs students and provides transportation, health and welfare services and textbooks to approximately 11,400 resident students attending nonpublic schools. The District has 477 employees and had budgeted appropriations for the 2015-16 fiscal year of \$23 million, which were funded primarily with real property taxes, tuition charges and State aid.

Objective

The objective of our audit was to evaluate the District's financial condition and selected employee reimbursement payments. Our audit addressed the following related questions:

- Did District officials ensure reserves and fund balance were maintained at reasonable levels and in accordance with statutory requirements?
- Did the Board ensure that employees received only the reimbursements they were entitled to?

Scope and Methodology

We examined the District's financial condition and selected employee reimbursement payments for the period July 1, 2014 through March 16, 2016. We extended our scope period back to July 1, 2011 and forward to June 30, 2016 to analyze the District's fund balance.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report. 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.

**Comments of
District Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as indicated in Appendix A, District officials generally agreed with our recommendations and indicated they plan to initiate corrective action. Appendix B includes our comments on issues District officials raised in their response.

The Board has the responsibility to initiate corrective action. 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, 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, with a copy forwarded to 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 Board should make the CAP available for public review in the District Clerk's office.

Financial Condition

The Board is responsible for making sound financial decisions that are in the best interests of the District, the students it serves and the residents who fund the District's programs and operations. Sound budgeting practices based on accurate estimates, along with prudent fund balance management, help ensure that sufficient funding will be available to sustain operations, address unexpected expenses and satisfy long-term obligations or future expenditures. Fund balance represents resources remaining from prior fiscal years. A district may retain a portion of fund balance but must do so within the limits established by New York State Real Property Tax Law. Currently, the amount of fund balance that a school district can retain may not be more than 4 percent of the ensuing fiscal year's budget.

Districts are legally allowed to establish reserve funds and accumulate funds for certain future purposes (e.g., compensated absences and retirement expenditures). The Board is responsible for developing a formal plan for funding and using reserves. Funding reserves should be done through appropriations in budgets that are voted on by District residents. Funding reserves at greater than reasonable levels can contribute to real property tax levies that are higher than necessary because the excess reserve balances are not being used to fund operations. Therefore, the appropriate use of reserve funds is also an important part of the budget process.

The Board and District officials need to improve the budget process to ensure reserves and fund balance are maintained at reasonable levels in accordance with statutory requirements. The District started fiscal year 2011-12 with a deficit fund balance of \$285,091. From fiscal years 2011-12 through 2015-16, the Board adopted budgets that resulted in operating surpluses each year, ranging from \$216,000 to \$2.6 million. The Board used surplus funds to establish and increase reserves and accumulate fund balance up to the 4 percent limit. Restricted funds grew from \$285,000 as of June 30, 2012 to \$4.5 million by June 30, 2016. The appropriation of fund balance and transfers of surplus funds to increase reserves at year-end resulted in the District's unrestricted fund balance remaining within the 4 percent statutory limit (Figure 1).

Figure 1: Unrestricted Fund Balance at Year-End

	2011-12	2012-13	2013-14	2014-15	2015-16 ^a
Total Beginning Fund Balance	(\$285,091)	\$125,323	\$341,980	\$1,341,497	\$3,175,594
Prior Period Adjustment to Beginning Fund Balance	(\$2)	\$0	\$11	\$5	
Add: Operating Surplus	\$410,416	\$216,657	\$999,506	\$1,834,092	\$2,618,523
Total Ending Fund Balance	\$125,323	\$341,980	\$1,341,497	\$3,175,594	\$5,794,117
Less: Restricted Funds	\$284,925	\$186,795	\$436,138	\$1,887,409	\$4,489,118
Less: Appropriated Fund Balance for the Ensuing Year	\$0	\$0	\$0	\$366,432	\$363,503
Total Unrestricted Funds at Year-End	(\$159,602)	\$155,185	\$905,359	\$921,753	\$941,496
Ensuing Year's Budgeted Appropriations	\$21,431,158	\$23,107,807	\$22,633,965	\$23,043,815	\$23,537,408
Unrestricted Funds as a Percentage of the Ensuing Year's Budget	(0.74%)	0.67%	4.00%	4.00%	4.00%

^a Includes nonspendable fund balance

Appropriating fund balance that is not used to fund operations can result in excess accumulation of fund balance. The Board appropriated fund balance of \$366,432 in 2014-15 to fund operations in 2015-16. However, due to operating surplus in 2015-16, the fund balance appropriated was not used to fund operations. Had the Board used appropriated fund balance to finance operations, it could have accumulated less fund balance or used the excess funds to fund one-time expenditures or reduce the tax levy. Also, the Board appropriated \$363,503 in 2015-16 to be used in 2016-17. Because the fiscal year is not completed, we cannot determine if the funds will be used.

Although the District's financial condition has improved, the Board has not established formal budgeting procedures to properly monitor the budget and fund reserves. In addition, the Board has not funded reserves through appropriations in budgets that were voted on by District residents. Instead, the Board used surplus funds to establish and increase the retirement reserve, which had a total balance of \$2.5 million as of June 30, 2016, and the compensated absence reserve, which had a total balance of \$1.5 million as of June 30, 2016.

By not establishing adequate reserve fund policies for each reserve and not funding reserves through budget appropriations, the Board may have missed the opportunity to use fund balance as a financing source, fund one-time expenditures or reduce the tax levy.

District officials told us that they increased the fund balance by closely monitoring each budget line item and budgeting conservatively with a plan to use the 4 percent allowable fund balance as a guideline. The District is planning for deficits in future years to keep the tax

levy down through appropriation of any fund balance that exceeds 4 percent.

Recommendations

The Board should:

1. Use surplus fund balance as a financing source for:
 - Funding one-time expenditures;
 - Funding needed reserves; or
 - Reducing property taxes.
2. Ensure that any appropriation of fund balance is based on need.
3. Establish reserve fund policies that identify use and replenishment of funds to ensure reserves are used properly and amounts reserved are justified, necessary and reasonable.

Employee Reimbursements

Payroll and employee benefit costs comprise the most significant portion of the District's budget, representing nearly 57 percent of annual budget expenditures on average. District officials and administrators must ensure that benefits are reasonable, employees receive benefits according to contract provisions and payments are properly supported and authorized.

District officials have not established policies and procedures that provide adequate oversight of vehicle reimbursement costs and dependent care reimbursements. As a result, the District incurred \$15,000 in commuting expenses for three District employees that were not provided by their contracts and reimbursed an ineligible employee for \$4,726 in daycare expenses.

Vehicle Reimbursements

District officials are responsible for ensuring that employees are reimbursed for expenses according to their respective collective bargaining agreements or employee handbook. Costs incurred in commuting from home to the usual place of work generally are not considered District expenses and, therefore, not reimbursable.

We identified five administrative employees who were reimbursed for commuting to and from the District office based on Board approval. Two of the five employees had individual employment agreements that included provisions for commuting: the Superintendent was provided a District vehicle and the Treasurer was reimbursed \$600 per month for his commute to and from work. However, three other employees also received commuting reimbursements totaling approximately \$15,000 in the absence of employment agreements. Two employees, the Principal and Accounts Payable Clerk, received reimbursement for 50 miles a day (or approximately \$6,000 each per year) for their commute to the District. The Purchasing Agent/District Clerk/Payroll Clerk received \$250 a month (or \$3,000 a year) in auto allowance for his daily commute to the District office.

District officials believed that the allowance/reimbursement for commuting to and from home is an appropriate expense, as long as the auto reimbursement payments were Board approved and added to the employee's W-2 as taxable income. While school districts, by Board resolution, may reimburse officers and employees for actual and necessary expenses incurred in the performance of official duties,¹ costs incurred in commuting from home to the usual place of work

¹ See Education Law sections 1604(27), 1710, 2118; a mileage allowance may be paid in lieu of auditing claims for actual and necessary expenses.

are considered private expenses and, therefore, are not reimbursable by Board resolution. This is regardless of whether the reimbursement is considered taxable for federal income tax purposes. As a result, the District reimbursed those administrative employees for personal commuting expenses, which was not provided in a written agreement.

Dependent Daycare Assistance Plan

The District established a flexible benefit plan in 2011, which included a Daycare Assistance Program (DAP) for eligible employees with dependents. To be eligible for reimbursement, the plan requires that the employee earns no more than \$50,000 per year and the child receiving daycare services must be between six weeks and two years and eight months old. The District contributes up to \$5,000 per calendar year per employee. However, unlike most flex care plans, the employee does not contribute to the plan. Therefore, reimbursements are added to the employee's earnings as taxable income. Minimally, the plan requires the claim form to include a statement from an independent third party as proof that the expense has been incurred during the plan year and the amount of the expense. Following the end of the plan year, the W-2 serves as a statement of the account showing the total amount paid as a benefit.

The Board and District officials could improve their efforts to ensure employees enrolled for DAP benefits are eligible and payments are sufficiently documented and approved. District officials have not developed written policies or procedures to monitor dependent care reimbursement eligibility as defined in the plan. The District made payments to 139 employees totaling over \$307,000 in the 2014-15 fiscal year without ensuring the continued eligibility of employees. District officials did not document spousal information proving full-time employment or full-time enrollment as a student. Further, District officials are not receiving statements or other verification from daycare providers as proof of expense.

When a dependent child turns six weeks old, the eligible employee prepares an enrollment form certifying the dependent's name and birthdate. A clerk maintains a list of eligible employees and the qualifying dependents' enrollment forms. She establishes the end of eligibility date based on the qualifying dependent's birthdate to ensure payments are not made beyond the age of two years and eight months old. We tested end of eligibility dates for 13 dependents belonging to 10 randomly selected employees and found end date calculations were accurate.

The Treasurer verifies employees' budgeted salaries to determine eligibility at the beginning of each school year. We randomly selected 10 employees receiving daycare assistance payments to determine employee eligibility (earnings did not exceed \$50,000),

whether payments per employee did not exceed \$5,000 and if proper documentation and approval of payment existed. One employee received benefits of \$4,726 but had gross earnings of \$56,818. This employee's earnings exceeded the \$50,000 limit by \$2,092 after excluding the \$4,726 paid by the District for dependent care. Therefore, the employee was ineligible and received benefits she was not entitled to.

In addition, two of the reimbursements totaling \$700 did not contain supervisor approval, and statements from independent third party providers were not documented as proof of amounts paid. District officials told us there are no approved written procedures for addressing how daycare assistance payments should be administered. The lack of written policies and procedures for reviewing employee and dependent eligibility could result in an increased risk of inappropriate payments.

Recommendations

The Board should:

4. Ensure vehicle allowances do not include nondeductible personal commuting expenses unless stipulated by agreement.
5. Establish written procedures for addressing how daycare assistance payments should be administered.

District officials should:

6. Ensure that all employees receiving dependent care reimbursements are eligible to receive payments.
7. Ensure that dependent care reimbursement requests are properly documented, authorized and supported.
8. Ensure the required child care provider verification is received and documented.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The District officials' response to this audit can be found on the following pages.



KIRYAS JOEL UNION FREE SCHOOL DISTRICT

48 Bakertown Road, Suite 401 Monroe, NY 10950 • (845) 782-2300 / Fax (845) 782-4176

JOEL PETLIN
Superintendent of Schools

HARRY POLATSEK
Board President

February 6, 2017

Ms. Tenneh Blamah, Chief Examiner
NYS Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, NY 12553

Re: Response to Draft Audit Report; Audit No. 2016M-331

Dear Ms. Blamah,

This letter is in response to your revised draft audit report dated January 25, 2017. We are pleased that after the Office of the State Comptroller’s (“OSC”) exhaustive review of our finances, you concur in finding that the District maintained its reserves and fund balance at reasonable levels and in accordance with statutory requirements. This is significant in light of the fact that the District’s financial condition has dramatically improved in recent years, mainly due to the fact that our reserves and fund balance have been adequately maintained.

We generally concur with your audit findings and recommendations as they relate to the need for strengthening certain policies and procedures, and we have already begun to address these issues. With respect to the substance of your findings, our response is set forth below.

1) Financial Condition

The Districts financial condition can be properly understood in the context of the Fiscal Monitoring System created by the Comptroller to gauge the fiscal stress of school districts and municipalities. Our improvement over the years in this OSC report is described below:

FYE	Score	Fiscal Stress Designation
2013	75%	Significant Fiscal Stress
2014	25%	Susceptible to Fiscal Stress
2015	16.7%	No Designation
2016	20%	No Designation

In his fiscal stress press release dated January 29, 2015, the Comptroller specifically noted our remarkable accomplishment of reducing our fiscal stress score by 50 percentage points. Appropriately maintaining our reserves and fund balance at a reasonable level has also enabled us to keep our property taxes below the tax-cap for the past two years. We think the fiscal stress monitoring system is a helpful and important tool for districts, and we thank the Comptroller for recognizing our significant improvement in this area.

We further note that while OSC points out that the District did not fund reserves through budget appropriations voted on by District residents, the law does not require the District to do so. The District is required to pay 100% of its liability for accumulated absences, making a public vote unnecessary, and funding a reserve to pay for such liability is not only appropriate, but also responsible. Notably, the EBLAR reserve was funded in an amount that did not exceed the District's calculated liability. Furthermore, the District used surplus funds to fund its reserves, as OSC points out, but doing so is appropriate and permissible under the law. Notwithstanding, at OSC's suggestion, the District will review its existing policies and create new policies, as appropriate, with respect to monitoring and replenishing reserve funds.

2) Vehicle Reimbursements

OSC's position on the reimbursement of commuting expenses does not accurately reflect our situation. Here, the issue is one of compensation, not reimbursement of expenses. The employees were not "reimbursed" for their commutation costs; rather, their commuting expenses were negotiated and agreed to as part of their compensation packages, and paid as a taxable fringe benefit. OSC acknowledges that compensation for commutation costs is legally permissible, if included in a written employment agreement. As our attorney explained to OSC at the exit conference, however, an oral agreement does not have to be reduced to writing to be enforceable. And while the negotiated agreement was oral here, it was memorialized and authorized by Board resolution. In addition, as our attorney also explained at the exit conference, the sections of law cited by OSC at footnote "1" of the draft audit report are inapplicable here. Those statutory sections and the cases interpreting them relate to the reimbursement of travel expenses and in no way inhibit, let alone prohibit, a school district from including travel costs as part of an employee's negotiated taxable compensation.

See
Note 1
Page 16

See
Note 2
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See
Note 3
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For the reasons outlined above, the District was well within its discretion and the law to negotiate and agree to include these employees' commuting expenses as part of a compensation package, without entering into a written employment agreement. However, the District agrees with OSC that going forward, a better practice would be to memorialize, by written agreement, any compensation package that includes commuting expenses.

3) Dependent Daycare Assistance Plan

The District's Daycare Assistance Plan ("DAP") has been a valuable fringe benefit to eligible employees, as it provides compensation for a portion of an eligible employee's daycare expenses. Of the 139 employees who participated in the DAP in the 2014-15 fiscal year, OSC determined that only one employee (0.7% of the participants) was ineligible for enrollment in the DAP because the employee earned \$2,092 above the \$50,000 salary threshold. We concur with this finding and will work to create policies and procedures to strengthen our internal controls consistent with OSC's recommendations.

The Kiryas Joel School District will be drafting a Corrective Action Plan in order to fully respond to the specific recommendations made in your audit. We look forward to working with you in order to make improvements in the identified fiscal areas.

Thank you for your consideration.

Respectfully,

Joel Petlin
Superintendent

Cc: President and Board of Education
Shaye Werberger, Treasurer
Matthew Delforte, Esq., Counsel
Ray Preusser, CPA, Accountant
Alan Yu, CPA, Auditor

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

The minutes of the July 9, 2015 Organizational Meeting, Paragraph 53, used the term “vehicle reimbursements” to describe payments to the three employees. The term “compensation” was not used.

Note 2

Absent proper delegation to another District official, it is the Board that may bind the District to individual agreements regarding compensation. The Board acts by resolution, not by “oral agreement.” An “oral agreement” by one or more individual Board members or other District officials could be “memorialized and authorized” (ratified) by the Board. However, in Paragraph 53 of the minutes of the July 9, 2015 Organizational Meeting, the Board resolved to approve employees named in an attached list for “vehicle reimbursements.” The attachment to the resolution was a document entitled “Vehicle Reimbursements,” which included the names of the three employees, type of reimbursement and rate.

Unlike the agreements with the Superintendent and Treasurer, there is no indication in these minutes that the Board “memorialized and authorized” payments to the three employees as consideration for services to be rendered under a negotiated employment agreement. Moreover, the minutes state that the assigned vehicles are provided for “official School District purposes,” which would not include the personal expense of commuting to and from home to the usual place of work. No other evidence that the Board “memorialized and authorized” any oral employment agreement was provided.

Note 3

Footnote 1 of the audit report accurately and appropriately sets forth citations to provisions in Education Law relating to the payment of actual and necessary expenses incurred in the performance of official duties or for the payment of a mileage allowance in lieu of auditing claims for such expenses.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objectives and obtain valid evidence, we performed the following procedures:

- We interviewed District officials and reviewed the Board meeting minutes, resolutions and budget brochures to gain an understanding of the District's budget development and fund balance processes.
- We analyzed the general fund's trend in total and restricted fund balances for the fiscal years 2010-11 through 2015-16. We also compared the unrestricted fund balance to the ensuing's year's budgeted expenditures to determine the fund balance availability for future years.
- We compared the general fund's budgeted revenues and expenditures to the actual revenues and expenditures from 2012-13 through 2014-15 and preliminary results of operations for 2015-16 to determine if District officials were budgeting reasonably.
- We reviewed the supporting documentation for the amounts restricted for retirement contribution and compensated absences to determine if the amounts reserved were reasonable and used as intended.
- We interviewed District officials and reviewed the Board meeting minutes and attachments, employment agreements and W-2s to gain an understanding of employee vehicle allowances and reimbursements.
- We calculated annual vehicle allowances and reimbursements for commuting to the District from Board minutes.
- We reviewed Daycare Assistance Program plan documents for terms of eligibility and required documentation.
- We tested a sample of 10 reimbursement request forms for eligibility, sufficient documentation and authorization.
- We calculated and compared dependent child end of eligibility dates based on birthdates and compared them to District end dates.

We conducted this performance audit in accordance with 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D

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