



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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July 20, 2015

Matt Blomstedt, Commissioner
Nebraska Department of Education
301 Centennial Mall South
P.O. Box 94987
Lincoln, NE 68509-4987

Dear Commissioner Blomstedt:

This letter is provided pursuant to AICPA Auditing Standards AU-C Section 265.A17, which permits the early communication of certain audit findings due to their significance and the urgent need for corrective action. The audit work addressed herein was performed as part of the fiscal year 2015 Comprehensive Annual Financial Report (CAFR) audit. This communication is based on our audit procedures through June 30, 2015. Because we have not completed our audit of the fiscal year 2015 CAFR, additional matters may be identified and communicated in our final report.

In planning and performing our audits of the financial statements, we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures for the purpose of expressing our opinions on the financial statements of the State, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Therefore, material weaknesses or significant deficiencies may exist that were not identified. As discussed below, however, we identified a certain deficiency in internal control that we consider to be a significant deficiency.

We noted certain internal control or compliance matters related to the activities of the Nebraska Department of Education (NDE) or other operational matters that are presented below for your consideration. The following comment and recommendation, which has been discussed with the appropriate members of the NDE and its management, are intended to improve internal control or result in other operating efficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses.

A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. This comment, which addresses a significant deficiency in internal control, will be reported also in the State of Nebraska’s Statewide Single Audit Report Schedule of Findings and Questioned Costs.

Draft copies of this letter were furnished to the NDE to provide management with an opportunity to review and to respond to the comment and recommendation contained herein. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

Background

As you know, the School Age Special Education Reimbursement Program (Program) is funded through State General Fund appropriations. The Program is intended to reimburse school districts or ESUs for the excess costs of providing special education services from the prior school year. The reimbursements are limited by the amount of General Fund appropriations authorized by the Legislature each year.

Recently, the Auditor of Public Accounts (APA) received a concern regarding Weeping Water School District’s (District) reporting of the annual full-time equivalent (FTE) of special education paraprofessionals to the NDE on its Final Financial Report (FFR) for School Age Students. That District has received the following amounts from the NDE over the years:

Special Education School Age Payments To Weeping Water Public Schools		
FY 2015	\$ 181,827	For 2013-2014 Reimbursement (2)
FY 2014	\$ 200,199	For 2012-2013 Reimbursement
FY 2013	\$ 218,600	For 2011-2012 Reimbursement
FY 2012	\$ 183,185	For 2010-2011 Reimbursement
FY 2011	\$ 175,084	For 2009-2010 Reimbursement
FY 2010	\$ 190,692	For 2008-2009 Reimbursement

Note: Some smaller payments may have been made after the fiscal year end, after final adjustments were made.

Note 2: This includes only 6 of the 7 monthly reimbursement amounts. After performing a desk review, the NDE determined the District’s final payment amount will be \$32,626.

The APA has determined that the District over-reported special education FTE and salaries by at least \$16,805 for the 2013-2014 school fiscal year. The District also did not maintain adequate documentation to support the FTE of its special education paraprofessionals, as daily schedules or work calendars were not available for that particular school year. Finally, questions arose regarding the District’s use of intervention groups involving both regular and special education students. The District has been allocating 100% of the paraprofessionals’ time spent in those groups to special education.

As a result, the APA provided a recommendation to the District, in a separate letter, to work closely with the NDE to resolve questions regarding the District’s determination of services that are reimbursable as special education services.

During the course of our work, the APA also met with representatives from the NDE to obtain a better understanding of the Program. These discussions revealed an internal control issue at the NDE that warrants your consideration.

Comment and Recommendation

The boards of education for school districts are required to provide special education programs in accordance with Neb. Rev. Stat. § 79-1127 (Reissue 2014), as follows:

The board of education of every school district shall provide or contract for special education programs and transportation for all resident children with disabilities who would benefit from such programs in accordance with the Special Education Act and all applicable requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq., as such sections existed on January 1, 2009, and the regulations adopted thereunder.

Neb. Rev. Stat. § 79-1160 (Reissue 2014) directs the NDE to adopt rules and regulations for the implementation of special education programs:

The State Department of Education shall adopt, promulgate, and publish rules and regulations necessary to carry out the Special Education Act

Neb. Rev. Stat. § 79-1158 (Reissue 2014) states the following:

No reimbursement for special education and support services programs shall be allowed unless the program meets the standards established by the State Department of Education.

The NDE’s rules and regulations governing special education programs are found in Title 92 NAC Chapter 51 (Effective May 15, 2010).

Title 92 NAC 51-011.01B restricts “allowable and reimbursable costs for special education services” to specific items, which “shall be documented and are subject to audit.”

Title 92 NAC 51-011.01B1 designates the following as one of the special education service items for which costs are allowable and reimbursable:

Salaries of special education personnel . . . and clerical personnel directly associated with special education services.

During the course of our work with the District, the APA determined that the NDE does not have adequate procedures to ensure the FTE, salary, or other amounts are accurately reported on the Special Education and Support Services FFRs for School Age Students for reimbursement under the agency’s own rules and regulations.

The NDE has reimbursed schools a total of \$191,649,056 as of June 16, 2015, for the 2013-2014 school year. The following amounts have been reimbursed in the previous fiscal years.

Fiscal Year	Reimbursement Period	Amount
2014	For 2012-2013 Reimbursement	\$ 180,478,668
2013	For 2011-2012 Reimbursement	\$ 173,253,134
2012	For 2010-2011 Reimbursement	\$ 165,965,486
2011	For 2009-2010 Reimbursement	\$ 163,763,483
2010	For 2008-2009 Reimbursement	\$ 166,530,548

Note: Some small amounts may have been reimbursed in a subsequent fiscal year after final adjustments were made.

The APA also found a document from September 2013 entitled “Fiscal Review Information,” which indicates that all school district Special Education and Support Services FFRs for School Age Students are subject to a fiscal review, which includes “examining, on a test basis, evidence supporting the dollar amounts and student FTE reported”

That same document also states, “All working papers used in completing the final reports should be retained for subsequent reference and review documentation.”

The NDE representatives who met with the APA described the following plan for auditing the information provided by schools:

- Audit the top 10 recipients every year.
- Audit the next 40 recipients every two years while doing a two-year audit.

However, the NDE representatives acknowledged that this plan has not been met due to employee turnover and lack of training. Consequently, the NDE has been reimbursing hundreds of millions of dollars to school districts without auditing or reviewing any information to determine if the amounts reimbursed are allowable under the agency’s own rules and regulations.

Furthermore, under the current plan, more than \$40,000,000, distributed annually to approximately 200 school districts, including the District, is never audited by the NDE or, for that matter, by any other party.

According to the NDE representatives who met with the APA, the CPA firms responsible for auditing school districts should verify the sufficiency of the controls needed to ensure all expenditures are accounted for properly. Additionally, the individual CPAs who compile the schools’ Annual Financial Reports (AFR) should confirm the accuracy of special education program coding. Without specific compliance testing procedures from the NDE, however, the APA considers it unlikely that the CPA firms or their individual counterparts will perform such compliance testing and oversight satisfactorily.

Additionally, the NDE incorrectly adjusted the District’s School Age FFR. The District has a contract with a third-party service provider to provide special education services and transportation for two Omaha Public School (OPS) students, which is then reimbursed by OPS. The District did not report the expenditures or the reimbursement received from OPS on its FFR.

The NDE reviewed the District FFR in May and June 2015. During that review, the NDE adjusted the tuition amount on the District’s FFR, since the OPS reimbursement was not included. This resulted in a reduction of reimbursable expenditures, and the NDE indicated the District was not getting a June reimbursement. However, upon further review by the NDE, since the related expenditures were not recorded on the District’s FFR, the adjustment should not have been made by the NDE. The NDE calculated the impact of the error and determined the District final payment will be \$32,626.

We have determined this issue to be a significant deficiency.

Good internal control requires procedures to ensure amounts reimbursed to school districts are accurate and supported by adequate documentation. Without such procedures, there is a significantly greater risk that amounts reimbursed will be neither accurate nor supported by adequate documentation.

In addition to working with the District, we recommend the NDE ensure the auditing and review of School Age Special Education Reimbursement Program expenditures is a priority, given the significant amount of General Fund monies reimbursed to the school districts. We also recommend the NDE review its procedures for auditing and monitoring the Program to ensure all school districts are subject to appropriate audit procedures, in accordance with its rules and regulations and State statutes.

Department's Response: The NDE disagrees with certain aspects of the management letter and its finding.

The comment and recommendation was not discussed with the appropriate members of NDE and its management prior to the receipt of the draft copy of the management letter. The only communication of the finding was through the draft copy of the management letter. Members of the NDE staff communicated with the APA over a period of months regarding the School Age Special Education Reimbursement Program, but a potential finding by the APA with a disposition as a significant deficiency and their corresponding recommendation was never discussed with NDE staff prior to the receipt of the management letter.

The NDE also disagrees with the disposition of the finding as a significant deficiency. The NDE performs a desk audit on every Special Education School Age Final Financial Report. This desk audit process takes approximately four staff members four months of their time to perform or approximately 2,750 staff hours or more. Staff turnover and training issues as noted in the management letter have been addressed and the onsite audit procedures have been resumed by NDE. The onsite audit plan that is currently in place is designed to maximize the resources of the NDE and provide the best cost/benefit ratio for the program. This plan incorporates an onsite audit for approximately 59% of the dollars reimbursed in FY 2015 by visiting approximately 9% of the school districts; this is in addition to the desk audit that 100% of school districts receive. Visiting the remaining 91% of the school districts to audit the remaining 41% of reimbursements would require significant additional resources without the commensurate benefit to taxpayers of the State. Auditing all school districts every year would require adding staff equivalent to 1.50 FTE and the associated travel expenses would be significant. The NDE feels that the desk reviews performed and the resumption of the onsite audit procedures should not result in a finding disposition of Significant Deficiency by the Auditor of Public Accounts.

The auditing and review of School Age Special Education Reimbursement Program expenditures is an important priority of the NDE. The General Fund monies reimbursed to school districts is significant as noted by the Auditor of Public Accounts, and the amount of resources the NDE commits to the desk and on-site audits are not insignificant. The NDE will continue to review and adjust its procedures for auditing and monitoring the School Age Special Education Reimbursement Program to ensure compliance with NDE Rule 51 and State statutes and provide for the effective and efficient administration of the Program.

APA Response: The NDE is concerned that the comment and recommendation was not discussed with the appropriate level of management prior to the receipt of the draft management letter. The APA is under no obligation to discuss the comment and recommendation with management prior to the issuance of the draft letter. In fact, the draft letter provides management, at the highest level, the opportunity to review the draft version of the comment and recommendation, make any

necessary corrections, and provide a response to the comment and recommendation PRIOR to the release of the letter in its final, public version.

As noted by the NDE, the APA worked closely with the NDE's Administrative Specialist III and a Program Specialist IV during the course of the APA's work. Both were well aware of the APA's concerns, as documented in various correspondences between our offices. The following email message was actually sent with the draft management letter:

From: Janssen, Cindy
Sent: Tuesday, June 30, 2015 10:37 AM
To: Blomstedt, Matt
Cc: Avery, Mary; Rhian, Shane; Prochazka, Greg
Subject: Draft Early Management Letter - NDE

Matt Blomstedt, Commissioner
Nebraska Department of Education

Dear Mr. Blomstedt:

Attached is a draft Early Management Letter for fiscal year 2015 regarding the Nebraska Department of Education School Age Special Education Reimbursement Program. This document is not a public document until it is issued in a final form by our office.

We wanted to give you the opportunity to review this draft letter and to provide a response, if you so choose. If you choose to respond, we would appreciate it if you would provide the response to us by Wednesday, July 15, 2015. We ask that all responses be kept to a minimum, preferably one paragraph. The brief responses and planned corrective actions will be included in the final report. We may respond to any response from the Agency included in the final report. If your responses are not received by Wednesday, July 15, 2015, the report will be issued in final without your responses. Please send your responses to the draft in Microsoft Word format (via email or on CD), to facilitate our typing process. You have the option of not responding.

Also attached is a draft copy of our letter to the Weeping Water Public School District. This letter is for your information purposes only, and a response is not required. A copy of this letter has been sent to the District for their response.

I have read the draft report and there are no errors I am aware of, nor do I wish to respond to the comments.

Signature Title

I have read the draft report and my/our comments and/or responses are attached.

Signature Title

Please return this form by Wednesday, July 15, 2015.

If you would like to discuss any of this information, please feel free to contact me.

Cindy Janssen
Audit Manager
NE Auditor of Public Accounts
(402) 326-3047

Additionally, upon receipt of our draft management letter, the NDE Commissioner responded as follows:

I have discussed this with our team and we will have a management letter prepared before July 15th. Please continue to contact Shane and Greg directly as you need on this matter. Additionally, Bryce Wilson and Shane Rhian are both available as NDE leads on all finance and audit work. You may always communicate directly with them and copy me as appropriate.

The Commissioner's response at the time gave no indication of any problem with the handling of the draft letter. Therefore, the APA is unaware of how these issues could have been better communicated.

The NDE also disagrees with the disposition of the finding as a significant deficiency. However, the desk audits referred to by the Department are not designed to and did not uncover the errors made by the Weeping Water School District. The onsite audit procedures also would not have uncovered the errors noted in the letter, as not all Districts, including Weeping Water, are subject to the onsite review procedures of the NDE.

The NDE's onsite review procedures resumed after the APA brought the issue to the attention of the NDE. For fiscal year ending June 30, 2015, only three onsite reviews had been initiated, and none of those three had been completed. Given the more than \$190 million in State general fund monies paid by the NDE to school districts throughout the State, and the lack of onsite review procedures for fiscal year 2015, the APA remains steadfast in its classification of this finding as a significant deficiency.

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the NDE and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the NDE.

This interim communication is intended solely for the information and use of the NDE, its management, the Governor and the State Legislature, and others within these State agencies. It is not intended to be, and should not be, used by anyone other than the specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "C. J. Janssen", with a long, sweeping horizontal line extending to the right.

Charlie Janssen
Auditor of Public Accounts

cc: Greg Prochaska
Shane Rhian

Enclosure