



City of Yonkers

Separation Payments and Health Insurance Buyouts of Yonkers City School District Employees

2024M-36 | July 2024

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Report Highlights

City of Yonkers

Audit Objective

Determine whether City of Yonkers (City) officials ensured Yonkers City School District (District) employees' separation payments and health insurance buyouts were accurate.

Key Findings

City officials did not always ensure District employees' separation payments and health insurance buyouts were accurate. Officials also did not establish procedures to help ensure that calculations were accurate, reviewed or authorized. As a result, certain employees did not receive separation payments and health insurance buyouts in accordance with contractual agreements.

- Of the 46 separation payments we reviewed totaling \$451,298, nine (20 percent) had calculation errors totaling \$1,629.
- One former employee, as well as the estates of three former employees may have been entitled to separation payments totaling \$23,937 that they did not receive.
- Of the 30 health insurance buyout payments we reviewed totaling \$200,440, 12 payments (40 percent) totaling approximately \$87,300 did not have the required proof of insurance on file. We also found buyout payments made to 10 employees (33 percent) had calculation errors totaling approximately \$33,203.

Key Recommendations

- Establish written separation payment procedures and an independent review and approval process.
- Review all health insurance buyouts to ensure they have adequate supporting documentation and are disbursed in accordance with applicable Collective Bargaining Agreements (CBAs).

City officials agreed with our findings and recommendations, and indicated they have initiated corrective action. Appendix B includes our comment on an issue raised in the City's response letter.

Audit Period

July 1, 2021 – September 30, 2022

Background

The Board of Education (Board) is the official policy making body of the District and is composed of nine trustees (Trustees) appointed by the Mayor of the City.

Chapter 55 of the Laws of 2014, Part V, Subpart B required the District and the City to enter into an intermunicipal agreement (IMA). Under the IMA, dated June 12, 2014, the City assumed full operational and financial control of the Board's financial and budgetary functions, and full operational control of the District's personnel and human resources functions.

The City's Commissioner of Finance along with the Deputy Commissioner of Finance oversee and manage all financial operations of the District, including separation payments. The City's Commissioner of Human Resources oversees the Department of Human Resources along with a Deputy Commissioner of Human Resources who supervises the District's health insurance buyout program.

Quick Facts

Separation Payments Reviewed

46 Payments Totaling \$451,298

Health Insurance Buyouts Reviewed

30 Payments Totaling \$200,440

Separation Payments and Health Insurance Buyouts

Separation Payments – Local governments and school districts generally have the authority to make payments of the monetary value for all, or a portion, of an officer’s or employee’s earned, but unused, leave accruals when the officer or employee separates from service. Authority to make such payments may be pursuant to a CBA or, in the case of an officer or employee not covered by an employment agreement, by a preexisting local enactment or agreement. However, in the absence of a preexisting local enactment or agreement, courts have found that a local government (or school district) should not make such payments.

Health Insurance Buyouts – Local governments and school districts have a responsibility to provide contractual employee benefits, such as health insurance, in a cost-effective manner. CBAs or other contracts that address such benefits may generally determine the amounts that a local government or school district and employees contribute to the cost of health insurance. As part of the contract negotiation process, employees may be offered an annual payment in lieu of health insurance coverage. Often referred to as a “buyout incentive,” this annual payment can be made to its employees who have appropriate coverage available from another source and who choose to receive the payment in return for not being covered by the local government or district’s health insurance. Buyout incentives may reduce a local government or school district’s costs if the payments provided in lieu of coverage are less than the cost of health insurance for these employees.

How Should City Officials Ensure District Employees’ Separation Payments and Health Insurance Buyouts Are Accurate?

City officials should establish procedures to ensure District employees receiving separation payments and/or health insurance buyouts are paid the amounts to which they are entitled, and that each payment is accurate, adequately supported and authorized pursuant to a preexisting Board-approved CBA, local enactment or agreement.

Calculations of all proposed separation payment requests and/or health insurance buyout payments should be independently reviewed and approved before payments are made to ensure the calculation data used is correct, eligibility requirements are met, and the payment is accurately calculated. Adequate documentation, such as accrued leave balance reports and Board-approved CBA, local enactment or agreement, should be retained to support the payment calculations.

During the audit period, the District was a party to four CBAs, including Civil Service Employees Association (CSEA), Yonkers Federation of Teachers (YFT), Yonkers Council of Administrators (YCA) and Teamsters, as well as an agreement for the unrepresented central office administrators (together, the Employee Agreements).

Separation Payments – In addition to established wages and salaries, the Employee Agreements described the terms of employment and benefits, including:

- Separation payments, for all the District’s employees, and
- Provisions to make payments of the monetary value for all, or portion, of an employee’s earned but unused leave accruals when the employee separated from service.

In addition to separation payments for unused leave accruals, language set forth in one District CBA authorized a “terminal” separation payment for individuals who separate from the District after a minimum of 20 years of service. According to the CBA, the terminal payment is equivalent to 30 workdays, plus an additional one and one-half days’ pay for each year over 20 years of service.

Health Insurance Buyouts – Each of the District’s four CBAs in effect during the audit period included a health insurance buyout incentive program. According to language in the CBAs, to be eligible for the program, employees must:

- Elect not to receive health insurance through the District,
- Provide proof of alternative health insurance coverage¹, and
- Sign a waiver absolving the District from liability for uninsured medical costs.

In exchange, depending on the particular CBA, the employee either receives reimbursement for payments made for alternative health insurance coverage, or is provided with a health insurance buyout incentive payment. The purpose of the buyout incentive program is to share in the savings with the employee on that portion of the insurance premium, which the District would otherwise have been obligated to pay. The agreement for the unrepresented central office administrators did not include a health insurance buyout incentive program.

City Officials Did Not Always Ensure District Separation Payments Were Accurate

In accordance with the IMA, the City’s Payroll Department processes and pays separation payments on behalf of the District. However, City officials did not:

- Have procedures in place to ensure the calculations for separation payments were accurate, adequately supported, and authorized pursuant to the Employee Agreements,

¹ Three of the four CBAs require that proof of insurance (and any other documentation as dictated by the CBA) be provided to the District’s Office of Employee Benefits, however the District’s Office of Employee Benefits no longer exists and the work is now being performed by the City’s Human Resource’s Department per the IMA. The fourth CBA only requires submission of proof without designating to whom proof shall be made.

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- Review or authorize calculations prior to entering the amount into an employee's gross pay or before separation payments were paid, or
 - Ensure that terminal payments for years of service pursuant to the applicable CBA were paid consistent with the language of that CBA.

Employee Separation Payments Made – For separation payments made to District employees, the City's Department of Human Resources emails the City's Payroll Department that an employee intends to, or has separated from service. The Payroll Department clerks review the terms of the CBA or agreement applicable to the individual separating from service, along with the time and attendance software application used to maintain leave balances, to determine the unused leave balances and the rates to calculate payments due to the employee upon separation.

There were 444 employees that separated from District service during our audit period, including 124 retirements. We reviewed the City payroll clerks' calculations for a sample of 35 employees who received a total of 46 payments for earned, but unused vacation leave, sick leave or terminal leave pay totaling \$451,298 during our audit period. We found nine separation payments (20 percent) that were inaccurate, including:

- Three terminal payment calculations were inconsistent with the rounding procedures set forth in a 2006 terminal leave memorandum.²
- Three separation payments for unused sick leave for two employees covered under the CSEA CBA and one employee covered under the YFT CBA.
- Three separation payments for unused vacation leave for three CSEA employees who separated from service.

All three terminal payments included rounding calculations that were inconsistent with the language set forth in the 2006 memorandum; one employee had 20.8 years of service, rounded down to 20 years of service, another employee had 30.7 years of service rounded down to 30 years of service and the third employee had 27.3 years of service but rounded up to 27.5 years. These inconsistent rounding calculations resulted in underpayments of \$490 and \$223, and an overpayment of approximately \$112, respectively. The three payments for unused sick time were also calculated incorrectly, resulting in underpayments totaling \$170. The Deputy Commissioner of Finance told us this was because the clerk did not follow the schedule set forth in the contracts.

² The 2006 memorandum provides that the District "is to pay an additional 1.5 days' pay if the individual has completed at least an additional ½ year of service. If they have completed less than an additional six months no additional benefit is paid. The years of service are rounded to the nearest year." City officials stated that the 2006 memorandum is used to determine years of service for terminal pay.

Two of the three separation payments for unused vacation time were also incorrectly calculated by the payroll clerks; one an underpayment of \$293 due to a mathematical error, the other an overpayment of \$75 because the wrong calculation method was used. The third payment for unused vacation time was paid to a 10-month employee not entitled to vacation days, resulting in an overpayment totaling \$262. The Deputy Commissioner of Finance told us they based the payment on a provision of a CSEA contract that granted vacation days to 10-month employees; however, that contract ended on June 30, 2011. The CSEA contract in effect at the time of the payment did not include that provision.

Terminal Payment Discrepancies – According to language in one CBA, employees that “leave the Board of Education after 20 years of service” are entitled to terminal leave pay, equivalent to 30 workdays plus an additional one and one half days’ pay for each year over 20 years of service. However, the CBA does not fully explain what to “leave the Board of Education” means. As a result, there were terminal payment discrepancies for employees that died or left service but did not retire.

We were unable to determine if four employees with 20 or more years of service were entitled to, but did not receive, terminal pay totaling \$23,937, based on ambiguous language in their CBA. Specifically:

- Three employees who died while in District service, each of whom worked for the District for at least 20 years, did not receive a terminal payment through their respective estates.
- One employee who left District employment after approximately 27 years without retiring, but did not return to work.

The Deputy Commissioner of Finance stated it has been their past practice to not make terminal payments when an employee dies or leaves the District without retiring, despite having worked for at least 20 years. However, we found the City made a terminal leave payment to a fourth deceased employee’s estate during our audit period. Further, the CBA contract does not expressly state that the employee must retire or resign when leaving District service to receive a terminal leave payment.

City Officials Did Not Always Ensure District Health Insurance Buyouts Were Accurate

In accordance with the IMA, the City’s Department of Human Resources is responsible for the Districts’ health insurance buyout program. However, Department of Human Resources officials did not:

- Establish complete procedures to help ensure that the amounts paid by the City on the District’s behalf for health insurance buyouts were correctly

calculated, adequately supported and independently reviewed before payments were made, or

- Ensure that a City official or employee, independent of the health insurance buyout process, reviewed the information supporting buyout calculations before payments were made.

The Deputy Commissioner of Human Resources is responsible for supervising the District's health insurance buyout program. However, it is predominately the responsibility of one clerk in the Department of Human Resources to determine whether a District employee is eligible for a health insurance buyout. Based on their determination, the clerk collects documentation and prepares a monthly list of those employees to receive the buyout and forwards the list to payroll. The Deputy Commissioner of Human Resources is responsible for signing and approving the buyouts, but does not independently review the information to support the buyout calculations before the payments are made.

There were 431 payments totaling approximately \$2.4 million made for health insurance buyouts during the audit period. We sampled 30 payments totaling \$200,440. We found 12 payments (40 percent) totaling approximately \$87,300 that did not have the required proof of insurance maintained in their personnel files as required by their CBA. In addition, we found 10 buyout payments (33 percent) totaling \$33,203 made to 10 District employees, including three of the same employees who did not have proof of insurance maintained in their personnel files, that were not accurate, including:

- Six YFT CBA employees who received overpayments totaling approximately \$16,273 due to inaccurate classification of the employees' health coverage or an incorrect provision of the CBA.
- Three unrepresented central office administrators, who are not entitled to health insurance buyouts, received payments totaling approximately \$8,800.
- One Administrator under the YCA CBA who was underpaid by approximately \$8,130 due to a change in job titles.

Four of the six YFT CBA employees who received overpayments received health insurance buyouts for a family plan instead of the "single plan" (i.e. individual health insurance plan) they were enrolled under at the time of their withdrawal. According to the YFT CBA, the insurance buyout for a single plan was \$2,500, and a family plan was \$5,000; as a result, each employee received an overpayment of \$2,500, and the City made a total overpayment of \$10,000. The other two YFT CBA employees were paid using the incorrect provision of the CBA. According to the CBA, after completing ten years of employment, employees who were previously deemed ineligible for health insurance become eligible for the health insurance "waived" buyout option. In this case, both employees had completed ten years of employment with the District and should

have received the health insurance buyout of \$5,000 under the family plan. Instead, the employees were paid \$8,304 and \$7,969, respectively, under a different provision within the CBA.

After we notified City and District officials of the buyouts paid to the three unrepresented central office administrators they were able to recoup the amounts paid. The Administrator was promoted in October of 2020 to an Assistant Principal position, covered by the YCA CBA. However, for the 2021-2022 school year, the Administrator received the family plan buyout of \$5,000 stipulated by the YFT CBA. Instead, according to the YCA CBA, the Administrator should have received 50 percent of the net premium savings for waiving health insurance, an underpayment of approximately \$8,130.

Because City officials did not establish and implement procedures to ensure the calculations for separation payments and health insurance buyouts were accurate, adequately supported, and consistent with Employee Agreements, the responsibility to interpret separation payment and health insurance buyout terms was left to the individual City clerks. Furthermore, in the absence of management oversight to review calculations for separation payments and health insurance buyouts prior to payment, and when there are discrepancies in how and which employees are entitled to separation payments and health insurance buyouts, there is an increased risk that employees are not paid in accordance with contractual agreements.

What Do We Recommend?

The Commissioner of Finance should:

1. Ensure City officials compare the calculated separation payments for District employees to the appropriate CBA or employment contract when finalizing the amount paid to each individual who separates from District service.

The Commissioner of Human Resources should:

2. Ensure City officials review the employees to receive health insurance buyout to the appropriate CBA to the amount of the buyout.

City officials should:

3. Review the potential underpayments and overpayments addressed in this report. If appropriate, consult with legal counsel, to resolve such discrepancies.
4. Establish written procedures for the calculation separation payments. These procedures should require an independent review and approval

process for all separation payments to ensure they are accurately calculated, have adequate supporting documentation, and are disbursed in accordance with applicable CBAs and employment contracts.

5. Establish written procedures for processing health insurance buyouts. These procedures should require an independent review and approval process for all buyouts to ensure they are accurately calculated, have adequate supporting documentation, and are disbursed in accordance with applicable CBAs.

Appendix A: Response From City Officials



Mayor Mike Spano

John A. Liszewski
Commissioner of Finance

CITY OF YONKERS

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July 15, 2024

Officer of the State Comptroller, State of New York
Newburgh Regional Office
33 Airport Center Drive
Suite 103
New Windsor, NY 12553

Dear Ms. Disko-McCagg,

This letter is offered as the response to the preliminary findings presented to the City of Yonkers in a draft report entitled "Separation Payments and Health Insurance Buyouts of Yonkers City School District Employees" for the period covering July 1, 2021 – September 30, 2022.

I would like to thank the Comptrollers' staff for conducting the audit in a courteous and professional manner.

The City agrees with the two key findings and two recommendations on page 3 of the Draft Report, some of which have already been implemented as part of the City's continued efforts to improve operations.

The Departments of Human Resources and Finance have collaborated on this response letter. We offer these comments in reply to provide context to nature of the items described in the report.

Key Recommendations – page 3

City Officials Did Not Always Ensure District Separation Payments Were Accurate

- We agree there were inaccuracies found in the sample population of separation payments however we point out that the error rate for these payments was less than a half a percent at 0.35% of the tested sample.
- Referring to a draft report comment on page 6 that reads "the CBA does not fully explain what to "leave the Board of Education" means. We agree this language is vague. We would like to see 'leaving' specifically documented in

See
Note 1
Page 11

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YonkersNY.gov

future agreements as well as other vague provision that leave it to Finance and HR to interpret and set policy. The vague language is a problem that is not quickly fixed as it is due to collective bargaining. We agree that term pays will be consistently implemented going forward based on our interpretation of the language.

City Officials Did Not Always Ensure District Health Insurance Buyouts Were Accurate

- We agree with the finding. Review and additional training has been completed in order to properly follow CBA language related to buyout payments. A continuous process of checking for accuracy has been implemented

Key Recommendations – page 3

Establish written separation payment procedures and an independent review and approval process.

- We agree with this recommendation. At the time of the OSC audit we had hired 1 FTE to document procedures and review payroll processes around Term pays and other. The hiring coincided with the audit and we have since documented procedures and processes for approving 100% of separation payments currently in line with the OSC recommendations on page 5. This includes a review of the calculation by Payroll and HR management independent of the staff calculating the amounts for a maker/checker function.

Review all health insurance buyouts to ensure they have adequate supporting documentation and are disbursed in accordance with applicable Collective Bargaining Agreements (CBAs).

- This review has been completed. Once notified of missing documentation, communication was made with the individuals to obtain proper documents. A check list has been established to ensure documents are obtained prior to processing payments. Please note that actual inaccurate payments amounted to less than 1% of the grand total.

We appreciate the opportunity to present these comments in response to the OSC report.

Sincerely,

John Liszewski
Commissioner

Appendix B: OSC Comment on the City's Response

Note 1

Forty-six separation payments were tested. Nine of the payments were determined to be inaccurate. Therefore, the error rate for separation payments is 20 percent (9/46).

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. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

For Separation Payments:

- We reviewed CBAs, the Terms and Conditions of Employment contracts, memorandums of understanding and interviewed City and District officials and employees to gain an understanding of the payroll and leave accrual processes as well as what benefits employees were entitled to.
- We reviewed the final year payroll payments for 35 employees sampled who left District employment during our audit period. We reviewed the screen shot of each employee's designated salary within the payroll application and other supporting records to determine whether employees were paid at the proper rates and hours.
- We recalculated all payments made to the sample of 35 employees upon leaving the District for vacation and sick leave buyouts and for CSEA members service year terminal pay to ensure they were accurate and proper.
- From the 444 employees that left District service, we selected those employees that voluntarily retired, resignation of employees with over ten years with the District and deceased employees not previously retired for our sample population. From this sample population of 163, we selected based on bargaining unit or contract 35 employees or 21 percent to test.

For Health Insurance Buyouts:

- We gained an understanding of the District's health insurance buyout program by interviewing City and District officials and employees to determine what roles they had in processing and the approval of the buyout. We also reviewed the District's policies and CBAs as they relate to the buyout program.
- We evaluated buyout payments during the audit period for our sample of 30 employees and determined whether the payments were appropriate, supported by CBAs and correctly calculated in accordance with contractual provisions including eligibility for insurance coverage, proof of alternate insurance and the employees' salary at the time of the buyout.
- We received from the Department of Human Resources a listing for those employees receiving a buyout, then sorted each category of buyout by CBA

unit and the number of buyouts within each. We took a percentage of each category to the whole and based our sample on that percentage.

- We received a listing from the Payroll Department for all employees receiving a health insurance buyout by account code, from this listing we reviewed for anomalies that were inconsistent to CBA terms.

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.

Pursuant to the Fiscal Agent Act, the Office of the State Comptroller (OSC) maintains City assets in a special debt service fund bank account, invests those funds on behalf of and at the City's direction and makes payments on the City's behalf for any debt service payments due. We believe that independence concerns are mitigated as City officials oversee the required services performed by OSC under the Fiscal Agent Act and evaluate the results of the services performed. However, GAGAS explicitly states that these services impair an external auditor's independence with respect to an audited entity.

The City Council has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. 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 City's website for public review.

Appendix D: Resources and Services

Regional Office Directory

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

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

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/fiscal-monitoring

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

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/resources/planning-resources

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

www.osc.ny.gov/files/local-government/publications/pdf/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.ny.gov/local-government/required-reporting

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

www.osc.ny.gov/local-government/publications

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

www.osc.ny.gov/local-government/academy

Contact

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