

Union-Endicott Central School District

Noninstructional Overtime

MARCH 2019



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

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Report Highlights

Union-Endicott Central School District

Audit Objective

Determine whether District officials appropriately monitored and controlled overtime for noninstructional employees.

Key Findings

- Our review of records for 15 noninstructional employees paid overtime totaling \$54,041 during our audit period disclosed that District officials often did not document that prior approval was granted for overtime worked and that start and end times were documented on the time sheets in accordance with the overtime policy.
- The Superintendent told us that she permitted two noninstructional employees to earn overtime while they worked from home. However, this is neither specifically authorized nor prohibited by Board policy or in the employees' memorandum of understanding (MOU) with District officials. Although there was no documentation that these employees received prior approval for overtime worked, they were paid for 392 hours of overtime totaling \$8,513 while working at home.

Key Recommendations

- Document prior approval and justification for overtime worked.
- In consultation with legal counsel, review the overtime policy, MOU and procedures and, if appropriate, clarify whether employees may earn overtime when working from home.

District officials disagreed with certain aspects of our findings and recommendations, but indicated they have initiated corrective action. Appendix B includes our comments on issues raised in the District's response letter.

Background

The Union-Endicott Central School District (District) serves the Towns of Union in Broome County and Owego in Tioga County.

An elected seven-member Board of Education (Board) is responsible for the general management and control of financial and educational affairs. The Superintendent of Schools (Superintendent) is the chief executive officer responsible, along with other administrative staff, for the day-to-day management under the Board's direction.

Quick Facts

2018-19 General Fund Appropriations	\$83 million
2017-18 Employees	700
2017-18 Enrollment	3,900
Overtime Paid to Noninstructional Employees During the Audit Period	\$260,000

Audit Period

July 1, 2016 – June 22, 2018

Noninstructional Overtime

How Should Officials Monitor and Control Overtime?

While overtime pay may be an expected cost of doing business, it should be carefully monitored and controlled to help minimize expenditures. Adequate internal controls over overtime include written policies and procedures that address how and when overtime may be incurred and the documentation necessary to support the time worked, including whether employees may earn overtime while working from home. In addition, controls should require documentation of prior approval and written justification of overtime worked.

Officials Did Not Enforce the Board-Adopted Overtime Policy or Overtime Procedures

The Board-adopted overtime and compensatory time policy (overtime policy) requires supervisory approval before employees work overtime and documentation of start and end times on the time sheets. However, the overtime policy does not require written justification for overtime work. The employees' direct supervisor generally approved overtime either verbally or in writing, but there was no documentation of the type of work performed in some instances.

We reviewed all time sheets for 15 noninstructional employees¹ who were paid \$54,041 for 2,537 hours of overtime during our audit period. We reviewed written documentation for overtime hours worked and the duties performed by three maintenance department employees. However, we were unable to determine whether these approvals were granted before the overtime was worked because approval dates were not documented.

Time records for the remaining 12 employees, representing five departments, did not include documentation of prior approval for overtime worked. Instead, the department heads told us that they verbally approved the overtime for these employees. However, because the approval was undocumented, we were unable to determine whether the approvals occurred before the work was performed.

All overtime hours paid to the 15 employees agreed with the number of hours reported on their time sheets. However, none of the time sheets included start or end times as required by the policy. Therefore, District officials are unable to verify the actual hours these employees worked (Figure 1).

¹ Refer to Appendix B for information on our sampling methodology.

Figure 1: Overtime by Department

Department	Number of Employees Tested	Documentation of Prior Approvals	Overtime Hours	Overtime Pay
District Office	4	No	535	\$11,436
Food Service	3	No	668	\$8,031
Transportation	3	No	336	\$8,236
Maintenance	3	N/A ^a	925	\$25,273
Clerical	1	No	63	\$839
Nurse	1	No	10	\$226
Totals	15		2,537	\$54,041

^a Although maintenance department employees had documentation of approval, we were unable to determine whether the approval was obtained before the overtime was worked.

District officials told us that they do not require employees to provide start times and end times on their time sheets. Additionally, we found that overtime monitoring and controls varied by department. For example, the maintenance department had an overtime sheet which detailed the date, employee name, number of overtime hours worked, type of work performed and supervisor’s authorization. However, other departments did not have any document to monitor overtime or the type of work performed. During our audit, officials created and implemented an overtime sheet for all employees to use to track all necessary monitoring components and adhere to the overtime policy.

Certain Aspects of the Overtime Policy and Memorandum of Understanding Were Unclear

In addition to the overtime policy, District officials entered into a MOU with certain noninstructional employees that addresses the terms and conditions of employment. The MOU provides, among other things, a provision addressing overtime. However, neither the overtime policy nor the MOU specify whether such employees are allowed to earn overtime when working from home.

The Superintendent told us that she permitted two District office employees to earn overtime while working from home. There was no documentation that these employees received prior approval for overtime pay totaling \$8,513 while working from home. According to these employees, they compiled claims packets and determined account code classifications for purchases for capital projects.

What Do We Recommend?

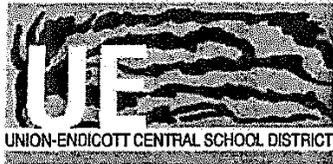
District officials should:

1. Document prior approval and justification for overtime work performed and ensure that employees record start and end times on their time sheets.

The Board should:

2. In consultation with legal counsel, review the overtime policy, MOU and procedures and, if appropriate, clarify whether employees can work from home and earn overtime.
3. Discuss with legal counsel the possibility of recovering any overtime payments deemed improper, if appropriate.

Appendix A: Response From District Officials



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January 23, 2019

Ann C. Singer, Chief Examiner
Division of Local Government and School Accountability
State Office Building, Suite 1702
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Binghamton, New York 13901-4417

District Name: Union-Endicott Central School District
Audit Report Title: Financial Management
Audit Report Number: 2018M-201

Dear Ms. Singer:

On behalf of the Union-Endicott Central School District, attached is our Audit Response and Corrective Action Plan, for the audit referenced above. We have had the opportunity to review the draft OSC Audit Report, received January 8, 2019, on Non-Instructional Overtime. As recommended in two places in the draft, the report was reviewed in consultation with legal counsel.

- The audit is incorrect in stating that documentation of prior approval of overtime was not in evidence. Documentation demonstrating the approval process was shared with the auditor during this audit. Following a recent internal audit, the Board Policy has been amended to require both prior written approval and documentation of both start and end times of the overtime work.
- Board policy is silent on working from home and, on the advice of legal counsel during a recent Board review of the policy on Overtime; they were advised to continue the policy in order to provide the District with the greatest flexibility as working from home is entirely legal under NYS Department of Labor regulations and allows maximum flexibility. Further, all Union Endicott employee contracts are silent on working from home. The two employees who did work at home did so with District knowledge and prior approval. Both are long time trusted employees, and there were controls in place ensuring it was not unsupervised work.
- The audit is also silent on the conversations the auditor and the Superintendent had on why this work was being done. As discussed, during the depths of the recession, due to large state aid cuts to the District, the Superintendent and the Board of Education decided to begin capturing as many positions as possible. With the retirements/resignations of 4 clerical positions, the District offered stipended extra work to members of the Confidential Unit to cover the responsibilities of these unfilled positions. This extra work was coded in the overtime line in payroll in order to ensure that, if the positions were ever re-filled, the stipends would not continue to be paid. Following a recent internal audit, we have moved this work to an annual stipended appointment instead.

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Note 1
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Note 2
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- During the course of the audit, the auditor's interviews with the Superintendent reflected the auditor's personal feelings about NYS Public Schools which suggest a personal bias that they are extravagantly wasteful. Examples include:
 - Quizzing the Superintendent on the auditor's recent completion of an audit in another local School District he recently audited, and complaining that the school district's budget was too large. He used as a reference his home town in Ohio's school district that had a smaller budget for a District with the same number of students and professed to not understand the greater regulatory requirements in place in New York State, versus those in Ohio. During the exit conference, the auditor did not deny or state that this description was inaccurate.
 - Repeatedly telling the Superintendent that he was disappointed his superiors wouldn't allow him to re-audit fund balance because that audit had only been completed a little over one year earlier. However, the auditor repeated to the Superintendent several times that we were "stealing money from the community", just like the other local District he had recently audited were stealing from their community, because the lawful fund balance was greater than the auditor's subjective opinion that it was too much. During the exit conference, the auditor did not deny or state that this description was inaccurate.
- Despite much information shared with the auditor about processes and oversight, none is included in the draft audit report. In fact, the District aggressively deals with overtime abuse and, just prior to this audit, had completed a lengthy legal matter resulting in the termination of a maintenance employee. Further, in the most recent prior audit – with the objective of evaluating the District's financial management practices – there was no comment at all on the District's overtime practices, the same practices in place during the course of this audit.
- On page 4 of the Audit, there is inserted a headline: Officials Did Not Enforce the Board-Adopted Overtime Policy or Overtime Procedures. This is not accurate.
- Also on page 4 of the Audit, the second paragraph is inaccurate in stating that there was no documentation of the type of work performed in some instances. This should be clarified to read some, but not all. Further there was no evidence found of wrong-doing or fraudulent conduct by any employee.
- On page 5 of the Audit, Figure 1 should be clarified with the fact there was no evidence found of wrong-doing or fraudulent conduct by any employee.
- Related to page 5, paragraph 2 of the Audit, the purpose of the MOU was to avoid costs. The employees performed added work, and the District avoided the need to hire additional staff. The work was completed in a timely manner, and there was no evidence of fraud or fraudulent activity.
- After a review of the draft audit by the District's legal counsel, Mr. Frank Miller, we are advised that we have no basis to pursue litigation with any employees based upon the fact that there is no evidence of wrong doing. At the present time, no evidence exists of improper overtime payments.

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Notes 4 and 5
Pages 8 and 9

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Notes 8 and 9
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We believe this auditor has a conflict of interest, which resulted in a report that attacks the reputations of the Board of Education and the Superintendent. We will be contacting Comptroller DiNapoli with our concerns and request a new audit with a different auditor from the NYS Comptroller's Office. We also request that Comptroller DiNapoli investigate our concerns regarding bias of one of the Comptroller's Office Auditors.

See
Note 10
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Letter to Ann C. Singer, Chief Examiner
January 23, 2019
Page 3

Audit Recommendation #1: District Officials should document prior approval and justification for overtime work performed and ensure that employees record start and end times on their time sheets.

Implementation Plan of Action: The Personnel Office developed a form to accompany payroll with notation of prior written approval of all overtime work, the Board of Education reviewed and approved, administrators were trained in the use, and implementation began September 1, 2018.

Audit Recommendation #2: The Board should, in consultation with legal counsel, review the overtime policy, MOU and procedures and, if appropriate, clarify whether employees can work from home and earn overtime.

Implementation Plan of Action: Upon the advice of their legal counsel, the Board reviewed and re-adopted the overtime policy, including the Form documenting prior administrative approval, on October 9, 2018. The Board then oversaw the establishment of stipends for the areas of overtime focused upon in this audit, with implementation in August, 2018.

Audit Recommendation #3: The Board should discuss with legal counsel the possibility of recovering any overtime payments deemed improper, if appropriate.

Implementation Plan of Action: The Board's legal counsel determined in December, 2018 that no evidence exists of improper overtime payments.

Sincerely,

Suzanne E. McLeod, Ed. D.
Superintendent of Schools

Dick Testa, Board President

Appendix B: OSC Comments on the District's Response

Note 1

As indicated in our report, District officials did not provide us with any documentation showing that prior approval of overtime worked was obtained. After our exit discussion, officials provided documentation of overtime monitoring but not prior approval. We reviewed the documents provided, which consisted of month-end printouts of payroll reports that included initials and notations of why the overtime occurred. However, this monitoring was done after overtime was worked and paid. We were unable to determine how timely the monitoring process was because the initials and notations made did not include a date or time.

Note 2

Officials did not provide documentation showing prior approval for the overtime worked by these two employees. However, the Superintendent told us that she permitted these two employees to earn overtime while working from home, as indicated in our report.

Note 3

Our report focuses on whether District officials monitored and controlled the overtime worked instead of the appropriateness of overtime. With regard to the offered stipend for extra work, one district office employee was approved to receive a \$5,000 stipend during our audit period for the 2017-18 school year and received this stipend in addition to the overtime payments identified in our report. All overtime payments identified in our report were paid at an hourly rate and reviewed as such. Officials provided no documentation to us to show that these payments were stipends instead of overtime.

Note 4

Despite this Office's extensive quality review processes, which scrutinize both the independence of our examiners and the accuracy of their audit conclusions, managers in the Binghamton office specifically inquired about the content and tone of the examiner's conversations with the Superintendent on the matters raised in the response letter. The examiner disagrees with the characterization that he quizzed the Superintendent on any matter. Respectfully, even when the Superintendent brought forth these accusations for the first time at the exit conference, the examiner sat quietly without responding instead of engaging in an argument. He also did not state that the District's budget was too large.

The examiner discussed with several District officials the audit's objective (monitoring and controlling overtime) while contrasting it with the work performed recently during our last examination on fund balance so that District officials understood the changed nature of the work to be performed. As required by this

Office's audit manual, he also documented summaries of these meetings in the work papers. The examiner's reference to another local school district or a school district from another state was used for perspective during conversations with District officials about excess fund balance in general.

Note 5

At the beginning of our audit, the examiner spoke to District officials generally about several different potential audit topics, answering questions on what might be reasons this Office would conduct an audit of one or more topic and not others. He discussed fund balance and observed that we might audit this topic if a school district had excessive fund balance or reserves because it creates an unnecessary burden for that district's taxpayers. The examiner denies using the phrase, "stealing money from the community" when discussing fund balance. He also says he did not express disappointment with not auditing the fund balance topic.

As background, the head of the Binghamton office directed this examiner to look into the topic of overtime when assigning him to the audit. The reason was to determine its potential as an audit objective. However, this directive did not prevent him from suggesting other audit objectives to his supervisor and manager, who review and approve his recommended audit plan during the course of fieldwork.

After assessing various operations and preparing documentation of his review work on these areas, the examiner did not recommend that we audit excess fund balance. To the contrary, he noted that the District's corrective action plan from our prior audit report, *Union-Endicott Central School District – Financial Management (2016M-100)* released in July 2016, was scheduled to take effect during our current audit period. This resulted in fund balance not being an area in need of audit work because District officials already were taking action to correct the concerns raised by that audit.

Note 6

The Board and District officials were informed throughout the audit process that the objective of our audit would be focused on monitoring and controlling noninstructional overtime. Our prior audit report focused on unrestricted and restricted fund balances, and overtime was not within the scope of that audit.

Note 7

The Board-adopted overtime policy requires documentation of start and end times on time sheets. As stated in our report, District officials did not require employees to provide this documentation.

Note 8

Officials did not always provide documentation for the type of work performed.

Note 9

The records maintained and provided by officials were insufficient for us to determine whether wrong-doing or fraudulent conduct by any employee occurred in relation to overtime worked.

Note 10

As previously mentioned, this Office has an extensive quality assurance process designed to ensure that examiners remain independent of auditees, and that their conclusions are accurate and supported by sufficient and appropriate documentation. We use a team-based approach to perform our audits, and the audit plan proposed by the examiner in question must be approved by his supervisor and manager. In addition, our Professional Standards unit will conduct an internal review of this examination to ensure that it met generally accepted government auditing standards (GAGAS) for independence and evidential support. These various quality assurance processes are independently peer reviewed by the National State Auditors Association to ensure that we comply with them and GAGAS.

As an additional measure, and as requested by the response letter, we have referred the Superintendent's concerns to the Comptroller's Inspector General for further investigation. The Inspector General reports directly to the Comptroller, and is outside of the audit division's management and quality assurance processes.

We do not agree that the audit report attacks the reputations of the Board or the Superintendent. We also do not see support in the audit work papers, our interviews or the examiner's actions for the Superintendent's conclusions that the examiner had a bias, a belief that New York schools are wasteful, or that he lacks an understanding of New York's regulatory requirements.

We welcome any additional information that District officials may wish to provide us to support their concerns.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We spoke with District officials and reviewed Board-adopted policies and employment contracts to gain an understanding of the requirements to work overtime.
- We reviewed all timesheets, overtime sheets and payroll journals during our audit period for 15 noninstructional employees to determine whether overtime was paid appropriately, documented in accordance with Board-adopted policies and earned while working from home. For our sample, we randomly selected three employees who earned overtime from each of the food service, transportation and maintenance departments. We randomly selected an additional four employees who earned overtime from any department. We judgmentally selected two additional employees because they earned overtime during pay periods when accrued leave was used.
- We obtained evidence to support Board-adopted policies requiring prior approval for employees to work overtime.

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 relevant population size and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law, Section 2116-1(3) (c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contact

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