

SPECIAL CIRCUMSTANCE

ON-SITE REVIEW REPORT

Upshur County

June 2023



Office of Accountability & Assessment



**West Virginia Board of Education
2022-2023**

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Introduction

The West Virginia Department of Education (WVDE) Office of Federal Programs conducted a routine monitoring of Upshur County in December of 2022. This resulted in a report of findings which was completed February 10, 2023. Per Federal Program protocols, counties are provided 60 days to respond to findings; establishing Upshur County's deadline for response as May 8, 2023. The State Superintendent of Schools notified the Office of Accountability the week of May 8, 2023, of his intent to commence a Special Circumstance Review of Upshur County Schools. This put into motion planning phases inclusive of team members from the Offices of Accountability, Federal Programs, and Finance. The team began its Special Circumstance Review of Upshur County Schools on May 22, 2023. The review process, consisting of interviews and document review, is being conducted as outlined in West Virginia Board of Education (WVBE) Policy 2322: West Virginia System of Support and Accountability.

The review team compiled the information gathered thus far during the onsite review. This report will be presented to the West Virginia Board of Education (WVBE) at the June 2023 meeting. The Review is on-going.

Onsite Review Team Members

Uriah Cummings, Director, School Finance, WVDE
Matthew Hicks, Director, Office of Accountability, WVDE
Mami Itamochi, Coordinator, ESEA Programs, WVDE
Jeff Kelley, Accountability Officer, WVDE
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Background

Upshur County Schools consists of seven elementary schools, one middle school, one high school, and one technical center serving a student population of approximately 3,759 students. Figures 1 and 2 illustrate county proficiency data for English language arts and mathematics for school years 2015-2022. Proficiency data is not available for SY 2019-2020 due to the COVID-19 National Emergency.

Figure 1

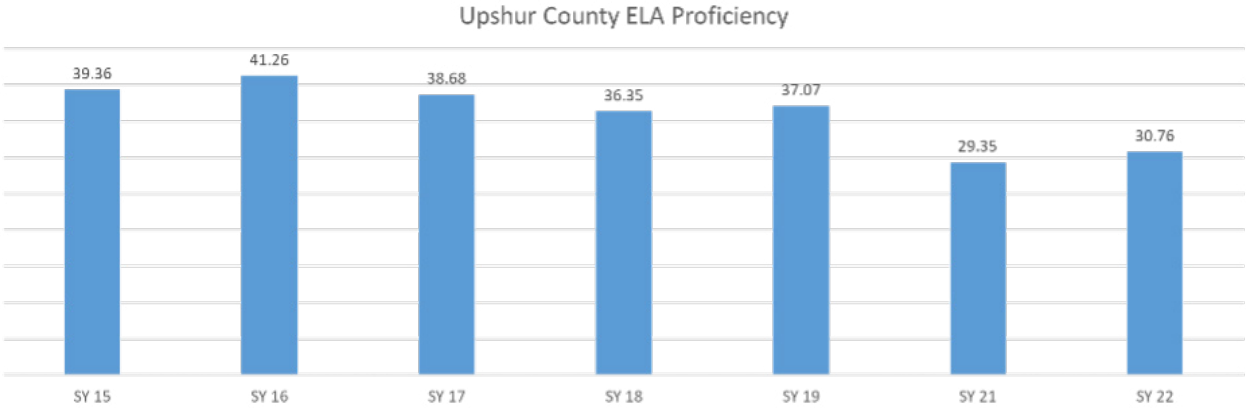
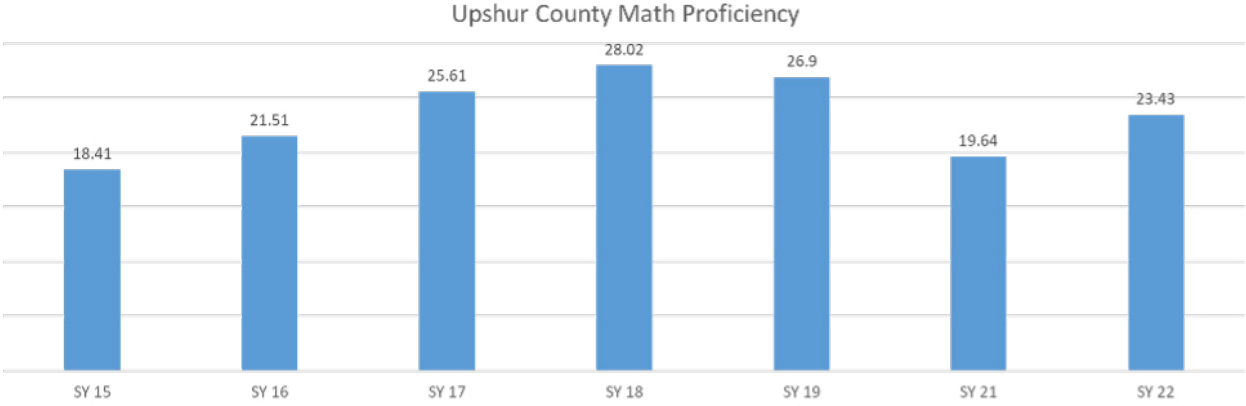


Figure 2



On February 10, 2023, a report outlining the routine monitoring of Federal Programs yielded concerns regarding Upshur County School’s use of ESSER (Elementary and Secondary School Emergency Relief) funding. This significant funding was allocated in three funding packages. The CARES (Coronavirus Aid, Relief, and Economic Security) Act was passed in March 2020 and was distributed in two portions: ESSER I and the Governor’s Emergency Education Relief (GEER) Fund. The CRRSA (Coronavirus Response and Relief Supplemental Appropriations Act) passed in December 2020. The portion of this funding specifically for education is referred to as ESSER II. The American Rescue Plan (ARP) passed in March 2021 and included a portion reserved for education known as ARP ESSER, or ESSER III. Figure 3 below summarizes the three funding phases and their approved uses.

Figure 3

	CARES/ESSER I March 2020	CRRSA/ESSER II December 2020	ARP/ESSER III March 2021
Funding for Nationwide K-12 Education	\$13.2 billion	\$54.3 billion	\$123 billion
Obligation Deadline	September 2022	September 2023	September 2024
Funding Allocated to West Virginia	\$102,616,779	\$353,260,088	\$793,503,190
Funding Allocated to Upshur County Schools	\$1,184,896	\$4,615,749	\$10,411,578
Uses	<ul style="list-style-type: none"> • Summer learning • Providing mental health services • Educational technology including hardware and software • Activities to address the unique needs of various subgroups, including students with disabilities, English learners, as well as students experiencing homelessness, low income, or in foster care; • Preparedness and continuity of services 	Same as CARES, plus: <ul style="list-style-type: none"> • Activities to address learning loss. • Preparing schools for reopening • Projects to improve air quality in school buildings 	

In addition to the federal programs monitoring report, the WVDE received a letter written on behalf of a concerned citizens group dated March 28, 2023. The letter requested a “complete and forensic audit” of the finances of Upshur County Schools, specifically with regard to federal funding. In response to these concerns regarding the use of federal funding, WVDE personnel monitored additional information regarding financial indicators and purchasing procedures at the Upshur County Schools’ central office.

NOTE: The extensive amount of information the Team collected during the on-site review process necessitates a thorough and detailed analysis to generate a comprehensive report of all findings, recommendations, and corrective actions. The contents of this preliminary report represent the substantiated findings available as of the June 2023 WVBE meeting. Additional updates will be provided to the WVBE as information becomes available.

Focus Area 1: Operation of Federal Programs

1. The LEA only spends funds for allowable activities (2 C.F.R 200.302, 200.430)

Procedures Conducted:

A sampling of financial records (representing less than 1% of total transactions covering four fiscal years) was reviewed to check for allowable costs.

Noncompliance(s):

- The Team identified 12 instances of contracts that included food and beverage charges for staff retreats for Stonewall Resort totaling \$49,260. Food and beverage expenses for conferences are not an allowable expenditure with Federal funding. Overnight accommodation was provided for staff at Stonewall Resort, which is 25 miles from the board office. This would not be considered a reasonable and necessary cost to the federal award. No sign-in sheets or meeting agendas were provided to support the need to have retreats at Stonewall Resort.
- The Team noted 14 contracts that appeared to include food and beverage charges for staff retreats at CJ Maggie's, a local restaurant, totaling \$21,834.29. The food and beverage charges were confirmed through staff interviews. Food and beverage expenses for conferences are not an allowable expenditure with Federal Funding. One sign-in sheet was provided, and no meeting agendas or room rental agreements were provided to support the need to have retreats at this location.
- The Team discovered an instance of a contract for a staff retreat at a bed and breakfast in Buckhannon totaling \$1,415.94. Overnight accommodation was provided at the bed and breakfast, which is located six miles from the board office. This would not be considered a reasonable and necessary cost to the federal award. No supporting documentation was provided to support the usage of the bed & breakfast.
- Two instances of food being provided for school events that included staff were noted totaling \$810. Food and beverage expenses for staff or meetings of the general public are not an allowable expenditure. No sign-in sheets or agendas were provided to support these events.
- The Team found one instance of the P-Card being used to purchase Sheetz gas cards totaling \$100 which were charged to Title I. No documentation was provided to support the purchase of the gas cards.
- Several areas of noncompliance occurred related to the 2021 Model Schools Conference charged to Title II. A purchase order (PO) was created in the amount of \$34,000, but the district continued to modify the purchase and add individuals to the registration after the PO was approved. The actual cost totaled \$38,000. The registration list included an individual that does not appear to be an Upshur County employee. Additionally, the registration list included individuals who, based upon their job titles, should not have attended a Model Schools conference being paid for with Title II funds. A charter bus appears to have been reserved for travel to the Model Schools Conference but was later cancelled. As a result, the district paid a \$250 cancellation fee, which is a violation of WVBE Policy 8200.

- The Team noted several areas of noncompliance related to travel expenditures. Upshur County Schools does not have a sufficient travel policy. In the absence of a travel policy, GSA (General Services Administration) travel procedures and policies are to be followed when expending federal funds. There were several instances where individuals received reimbursement for meals on single-day travel, potentially creating taxable compensation to the employees being reimbursed. In one instance, an individual submitted mileage reimbursement for 8 different days, but was paid for nine days. There were many instances where there was not out of county travel and/or professional leave forms provided (even though the county has a policy requiring them). Further, individuals were reimbursed for daily meals exceeding the amount allowable by the GSA.
- The Team noted instances of a significant amount of federal funding being used to pay for Out of Calendar Days for employees with contracts of 240 days up to executive level employees with 261 day contracts. These payments were paid at rates substantially higher than the individual's normal daily rates. These payments were not board approved and were not supported by records showing actual time worked. In the case of the three 261 day employees, they were already being paid under their normal contract to work those days and received additional federal compensation totaling \$75,100. Charges to federal awards for salaries must be based upon records that accurately reflect the work performed and must be supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable and properly allocated. These expenditures would not be an allowable use of funds under the federal award.

2. The LEA has a system of internal controls (2 C.F.R. 200.303)

Noncompliance(s):

- During testing, the team noted several instances of overrides in internal controls. There were seven instances where purchases with federal funds were not approved by the Federal Program Director. We noted nine instances where an "approved" stamp was used in the place of an authorizing signature. In addition, there were two instances where purchase orders were completed after the invoice date.

3. The LEA maintains written standards of conduct covering conflicts of interest (2 C.F.R. 200.303)

Noncompliance(s):

- The district does not have a policy covering conflicts of interest. They do have a Policy of Fiscal Administration, but the policy does not address conflicts of interest.

Focus Area 2: Financial Indicators and Purchasing Procedures

1. Insufficient local policies and procedures – On the first day of on-site review, the finance review team requested copies of the following local policies and/or procedures: Purchasing/procurement, travel, P-Cards/credit cards, and overtime/extracurricular/supplemental compensation. Additional policies requested after the beginning of the on-site review included: leave and attendance/personal leave incentive policies. During review of the policies provided by district staff, the following areas of noncompliance were identified:

- **No P-Card/credit card policy** – The district did not provide, and the finance review team could not locate online a local policy that governs the use of the county’s P-Card and other credit cards. Section 1.3 of the West Virginia State Auditor’s Office (WVSAO) Purchasing Card Policies and Procedures manual requires local spending units to develop and document appropriate internal control procedures to ensure proper program oversight, compliance with P-Card Policies and Procedures and that P-Card usage is consistent with the WVSAO manual. Furthermore, Section 27 of West Virginia Board of Education (WVBE) Policy 8200, Purchasing Policies and Procedures Manual for Local Educational Agencies, states, “an LEA may establish by board policy a credit card program as an alternative payment method when making purchases of commodities and services, or for the payment of authorized travel expenses.” In the absence of a local policy, an LEA does not have authority to operate a credit card program.
- **Insufficient travel policy** – The district’s travel policy is included as a single paragraph within Upshur County Schools (UCS) Policy 8006, Salary Schedules and Other Compensation. No separate travel policy was provided by the district or could be located online by the review team. During review of the travel section of UCS Policy 8006, the policy was deemed to be insufficient as it does not provide for an appropriate level of consistent internal controls and procedures. Specifically, the policy does not address areas such as out-of-state travel, General Services Administration (GSA) per diem reimbursement limits, transportation other than by personal vehicle, Internal Revenue Service (IRS) reimbursement limits, reimbursement of registration fees, required supporting documentation when filing a claim for reimbursement, timing of authorization before travel, analysis of reasonable rate of employee attendance when more than one employee seeks to attend a training opportunity, etc. Furthermore, the review team reviewed evidence of the use of district P-Cards/credit cards for payment of travel expenses. However, the travel policy does not address such methods of payment for travel expenses.
- **Insufficient purchasing/procurement policy** – During review of UCS Policy 8001, Policy of Fiscal Administration, the policy was deemed to be insufficient as it does not provide for an appropriate level of consistent internal controls. UCS Policy 8001 states that the Board shall adhere to the purchasing procedures contained in WVBE Policy 8200. UCS Policy 8001 provides for stricter approval authority levels than those contained within WVBE Policy 8200. However, UCS Policy 8001 addresses no other purchasing procedures. While it is deemed appropriate for the Board to follow WVBE Policy 8200, WVBE Policy 8200 only establishes the minimum system of purchasing rules and regulations that are to be followed by a county board of education. WVBE Policy 8200 encourages districts to develop local policies, practices and procedures that supplement the provisions of WVBE Policy 8200 (§126-202-3.3). Furthermore, the policy does not include elements required by WVBE Policy 8200, Purchasing Policies and Procedures Manual

for Local Education Agencies.” Specifically, section 28.2.1 of WVBE Policy 8200 requires LEAs to establish by local board policy the procedures to be followed in the case of an emergency at the local level that has not been declared an emergency by the Governor.” UCS Policy 8001 does not include procedures for local emergencies and no separate policy addressing local emergencies was provided by district staff or could be located online by the review team.

- **Insufficient leave policy** – During review of UCS Policy 5006, Employee Absence/Leave, the policy was deemed to be insufficient as it does not address all types of leave currently provided to various groups of employees throughout the district. Specifically, the policy does not address the following areas:
 - » **Annual/vacation leave** – the policy does not address which employees or groups of employees are eligible to receive annual/vacation leave, the rate at which such leave is accrued, whether such days accumulate with or without limit, and whether such days are payable to the employee upon separation of service and at what rate.
 - » **Outside the school environment (OSE) days** – the policy does not address OSE days, six of which are required to be included in the minimum 200-day employment calendar under WVBE Policy 3234, School Calendar.
 - » **Out-of-calendar (OC) days** – the policy does not address OC days, which are defined in WVBE Policy 3234 as “a nonpaid day that is not included as part of the minimum employment term.”
- **Personal leave incentive program inconsistent with authorizing statute** – UCS Policy 5026, Personal Leave Incentive Program, is not consistent with W. Va. Code §18A-4-10a, which states, “County boards of education are authorized to pay to their employees or to defined groups thereof, for the purpose of reducing absenteeism, a bonus at the end of an employment term for each unused day of personal leave accumulated by the employee during that employment term.” Under UCS Policy 5026, employees are eligible for a \$400 bonus if they use three or less personal leave days (sick leave) each year, or if they accumulate a balance of personal leave days (sick leave) in relation to their years of service in accordance with a table provided in the policy. Given that UCS Policy provides a lump sum payment of \$400, rather than a bonus for each unused day of personal leave accumulated, USC Policy 5026 is deemed to be inconsistent with W. Va. Code §18A-4-10a.
- **Insufficient salary/compensation policy** – UCS Policy 8006, Salary Schedules and Other Compensation, does not address the positions of superintendent, assistant superintendent, and treasurer. Policy 8006 should, at a minimum, address contract lengths, how salaries are to be determined, and types of leave available to these employees. Policy 8006 addresses those topics for other employees and groups of employees within the district.

2. Employment of unlicensed/uncertified staff – During the initial review, the review team became aware of two instances in which the district employed individuals who did not hold and did not apply for licenses/certificates from the West Virginia Department of Education. Furthermore, one of those instances appears to involve nepotism.

- **Treasurer** – The UCS Treasurer does not hold and has not applied for the appropriate certification from the WVDE. WVBE Policy 5202, *Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications*, provides for a mechanism by which school districts can ensure they are hiring qualified professionals for their finance office. Although not required by statute or WVBE Policy 5202, the West Virginia Department of Education encourages districts to employ treasurers who satisfy the Professional Business Official Certificate requirements contained within WVBE Policy 5202.
- **Summer Learning Academy Teacher** – During interviews with central office staff, the review team became aware of the hiring of the then superintendent’s immediate family member as a summer learning academy teacher at Washington District Elementary. The board minutes from the April 19, 2022, board meeting reflect that employment of summer professionals was subject to appropriate certifications and background checks. WVDE certification records indicate that the superintendent’s immediate family member has not held any certificate or license issued by WVDE. Furthermore, central office interviews reported that this person had not completed an undergraduate degree at the time of the hire and was not seeking a degree in education.

3. Compensation provided to employees without board approval – During the review of payroll records, the review team discovered numerous instances of compensation being provided to district employees without board approval.

- Payment of additional summer wages beyond what was approved by the board.
- On July 26, 2021, the district provided additional wages related to the 2021 Summer Learning Academy that were not approved by the board. Communications provided to the review team show that some summer school staff were upset because they believed their summer pay was not sufficient, as they claimed they were promised a specific amount of “take home” or net pay rather than the gross daily rate that was previously approved by the board. At least one board member was aware of the complaints, but at no point did the board vote to retroactively provide additional compensation to summer school employees. This payment was funded with federal stimulus funds.
- **Payout of out-of-calendar (OC) days** – On June 28, 2022, the district provided additional compensation to various employees as a payout of OC days. There was no board approval provided by the district for these payments. Furthermore, WVBE Policy 3234, *School Calendar*, defines an out-of-calendar day as “a nonpaid day that is not included as a part of the minimum employment term.” Therefore, no county employee has a right to payment for such days. Such payments effectively increase employee contract lengths without the approval of the board. During interviews, district staff communicated that this compensation was for days worked during the summer because of the COVID-19 pandemic. However, no payroll logs, supervisor approvals, or timesheets were provided by the district to support that claim.

- **Payment of additional compensation to the superintendent** – At various points throughout the superintendent’s tenure, the district paid the superintendent amounts which were not authorized by the board within the superintendent’s contract or by amendment to the contract. Each superintendent contract includes language stating that the “written contract embodies the whole agreement between the Board and the Superintendent. There are no inducements, promises, terms, conditions, or obligations made or entered into by either the Board or the Superintendent other than contained herein.” The contracts further state that “no modification or waiver of this contract or of any covenant, condition, or provision of this contract shall be valid unless in writing and duly executed both by the Superintendent and on behalf of the Board.” The district provided no documentation showing that the board and the superintendent had agreed to any contract modification that would have authorized additional compensation above what was already included in the original contracts. Below is a summary of additional gross compensation provided to the superintendent outside of the approved contract:
 - » **Payment of attendance incentive bonuses** – during each year of the superintendent’s contract, the district provided the superintendent with attendance incentive bonuses. For each year beginning in FY2019 and ending in FY2022, the district provided the superintendent with a \$400 bonus, which is tied to the attendance incentive bonus addressed in USC Policy 5026. Furthermore, for each year beginning in FY2020 and ending in FY2022, the district provided the superintendent with a \$500 bonus, which is tied to the teacher’s attendance incentive bonus authorized under W. Va. Code §18A-4-10(c). The superintendent does not qualify as a classroom teacher and is not entitled to such a bonus. There is no local policy authorizing such payment to non-teaching positions. Furthermore, the superintendent’s contract does not include a provision for any type of bonus. Therefore, both bonuses are deemed to be unauthorized. Unauthorized bonuses paid to the superintendent totaled \$3,100 between FY2019 and the end of FY2022.
 - » **Payment of a stipend to attend a book study** – On December 30, 2020, the district provided the superintendent with a \$70 stipend for attending a book study. The superintendent’s contracts are annual in nature and are developed to compensate the superintendent for all duties necessary to serve as county superintendent. As previously discussed, the contracts also explicitly state that the written contract embodies the full agreement between the superintendent and the board. Therefore, no additional compensation, other than what is contemplated within the written contract or amendments thereto, are deemed to be authorized by the board.
 - » **Payout of unused leave days** – While the superintendent’s contracts for FY2022 and FY2023 include a provision to be paid out for unused vacation days at the superintendent’s current daily rate, there were numerous instances of leave payouts which did not comply with the contract.
 1. *On June 28, 2021, the district provided additional compensation to the superintendent totaling \$11,365. This compensation was described on the check stub as 20 days of vacation at a daily rate of \$568.25. However, the superintendent’s contract for FY2021 did not authorize any payout of unused vacation days and the daily rate used for this payment was significantly higher than the superintendent’s true daily rate of \$413.79. Furthermore, this payment was funded with federal stimulus funds.*

2. *On July 15, 2021, the district provided additional compensation to the superintendent totaling \$17,379.18. This compensation was described on the check stub as a payout of 42 vacation days at a daily rate of \$413.79. This payment is deemed to be unauthorized as her FY2022 contract only allowed for payout of unused vacation “not to exceed 10 days at her current rate of pay.” Note that an additional 10 days of vacation were paid out to the superintendent on June 30, 2022, but at an incorrect daily rate, which resulted in an overpayment of \$153.20.*
3. *On July 26, 2021, the district provided additional compensation to the superintendent totaling \$2,045.80. This payment represented the additional summer school wages paid by the district to Summer Learning Academy staff that were not approved by the board. This payment was also funded with federal stimulus funds.*
4. *On June 28, 2022, the district provided additional compensation to the superintendent totaling \$13,410.80. This compensation was described on the pay stub as 20 “OC Days” at a daily rate of \$670.54. The “OC Days” description on the pay stub refers to out-of-calendar days to which the superintendent is not entitled. As defined in WVBE Policy 3234, out-of-calendar days are nonpaid days which are not included as part of an employee’s minimum contract. OC days are tracked by districts to ensure employees with less than a 261-day contract are not taking off more days than they are entitled to. The superintendent is contracted for the full fiscal year covered by the board-approved contract. Therefore, there are no available days in the superintendent’s employment calendar which can be designated as unpaid. Furthermore, the rate used to payout these unauthorized “OC days” is significantly higher than the superintendent FY2022 daily rate of \$429.12.*
5. *In June 2022, the superintendent’s FY2022 contracted salary was arbitrarily increased by \$4,000. The superintendent’s contracted salary for FY2022 was \$112,000. However, the district increased it to \$116,000, resulting in an overpayment of \$4,000 during the month of June 2022.*

- **Misrepresentation of superintendent compensation** – The review team requested copies of the district’s financial statement publication, which is required under W. Va. Code §18-9-3a. For FY2020, FY2021, and FY2022, the district underreported the superintendent’s compensation in those publications by \$899.99; \$12,335; and \$37,763.45, respectively.
- **Progression of employee leave balances** – During the review of payroll records, the review team discovered multiple instances of the district paying out unused leave days without making appropriate reductions to employee leave balances. As a result, some employees may have overstated leave balances. Specifically, it was noted that at least 52 days of vacation leave payout to the superintendent were not removed from the superintendent’s available balance. Additional procedures are needed to determine the full scope of this issue.

4. Areas of Further/Incomplete Testing – General Finance

- **Travel** – The review team has selected a sample of general travel-related expenditures. However, testing was not yet completed at the time of this report.
- **Purchasing and procurement** – The review team has selected a sample of general purchasing/procurement transactions. However, testing was not complete at the time of this report.
- **P-Card/credit cards** – The review team has selected a sample of P-Card/credit card transactions. However, testing was not complete at the time of this report.
- **Excess levy** – The review team has selected a sample of expenditures charged to the excess levy. However, testing was not complete at the time of this report. Furthermore, the review team is in the process of analyzing the levy calls for appropriateness.
- **Payroll** – The review team has selected a sample of payroll transactions. However, testing of those transactions was not complete at the time of this report. Furthermore, while the review team completed an analysis of the district superintendent’s compensation, similar procedures are pending for other district-level administrators. The review team has also selected a sample of extra-duty compensation. However, testing was not complete at the time of this report.
- **Additional review of district-level administration contracts** – While the review team conducted reviews of the superintendent’s contract provisions, the district has not yet provided copies of contracts for other district-level administrators such as the assistant superintendent and treasurer. Once those documents are received, the team will review them for appropriateness.
- **Local policies** – During review of UCS Policy 5026, Personal Leave Incentive Program, it was discovered that the policy requires annual renewal by the board after a review of available budget balances and the effectiveness of the policy. The review team has requested from the district board minutes signifying renewal of the policy. However, the district has not yet provided such support.



David L. Roach
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