

STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
INVESTIGATIONS UNIT

STATE OPERATED SCHOOL DISTRICT OF PATERSON
INAPPROPRIATE FISCAL OPERATIONS AND PROCEDURES
OFAC CASE #1372

REPORT OF EXAMINATION
JUNE 2008

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OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
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STATE OPERATED SCHOOL DISTRICT OF PATERSON
INAPPROPRIATE FISCAL OPERATIONS AND PROCEDURES

EXECUTIVE SUMMARY

The Department of Education (DOE), Office of Fiscal Accountability and Compliance (OFAC) conducted a follow-up limited review at the State-Operated School District of Paterson (district) relative to its fiscal operations and procedures. The period under review was the 2005-2006, 2006-2007 and 2007-2008 school years. To conduct the review, the OFAC investigators interviewed the district's superintendent, the business administrator and school personnel thought to possess knowledge pertinent to the investigation. The OFAC investigators also reviewed board minutes, purchase orders, board bylaws, employee contracts, expenditure reports, communications, and various other documents pertaining to the matter under review.

The review disclosed the following findings that require a refund of State and Federal Aid totaling \$73,901.44.

1. The district reimbursed the State District Superintendent (Superintendent) for finance and late payment fees to his personal credit card;
2. The district reimbursed the Superintendent a full day's pay through accounts payable instead of payroll;
3. The district failed to adhere to statutory requirements when reimbursing the Superintendent for various expenditures;
4. The Superintendent improperly approved consultant fees; and
5. The district failed to adhere to Internal Revenue Service (IRS) regulations pertinent to independent contractors.

The remainder of the report includes a detailed examination of each identified finding, along with resulting conclusions and recommendations.

FINDINGS

1. The Superintendent was reimbursed for finance and late payment charges to his personal credit card.

Investigators reviewed payments made to the Superintendent for various commodities for the 2005-2006 through the 2007-2008 school years. Upon reviewing these payments, the OFAC investigators noticed that the district inappropriately reimbursed the Superintendent \$61.31 for disallowable expenditures. The Superintendent was reimbursed \$22.31 for finance charges and \$39.00 for late payment fees that were charged to his personal credit card. Although the amount identified is minute, the OFAC can not conclusively state that this is an isolated instance.

CONCLUSION

The evidence supports the allegation that the Superintendent was reimbursed for finance charges and late payment fees charged to his personal credit card totaling \$61.31. These are disallowable expenditures and the district should discontinue this practice immediately.

RECOMMENDATION

The district, as part of the submitted CAP, must indicate what actions it will take to ensure that finance charges and late payment fees incurred on personal credit cards are not paid by the district.

2. The Superintendent was reimbursed a full day's pay through accounts payable instead of payroll.

According to the documentation provided to the OFAC investigators, the Superintendent was reimbursed \$833.33 for one day's pay prior to his official start date by way of an accounts payable check dated July 21, 2005. When questioned about the circumstances surrounding the payment, the Business Administrator could not give a justifiable explanation as to why the Superintendent who was hired as an employee was issued an accounts payable check instead of a payroll check. There was no documentation to confirm that he was approved to be paid as an independent contractor prior to his official start date. As such, the district failed to provide him with a form 1099-MISC, violating IRS guidelines for individuals treated as independent contractors.

CONCLUSION

The evidence supports the allegation that the Superintendent, as an employee of the district, was inappropriately reimbursed a full day's pay through accounts payable instead of payroll. In addition, the district violated IRS guidelines by failing to adhere to form 1099-MISC requirements.

RECOMMENDATION

The district, as part of the submitted CAP, must indicate what actions it will take to ensure employees are paid through payroll and not through accounts payable.

3. The district failed to adhere to statutory requirements when reimbursing the Superintendent for various expenditures.

N.J.S.A.18A:19-2 states that “No claim or demand against a school district shall be paid by the treasurer unless it is authorized by law and the rules of the board of education of the district, is fully itemized and verified, has been duly audited as required by law, has been presented to, and approved by, the board at a meeting thereof, or presented to, and approved by, a person designated by the board for that purpose, and the amount required to pay the same is available for said purpose.”

Upon reviewing expenditures for the 2005-2006 and 2006-2007 school years, it was determined that the Superintendent was reimbursed for various conference and meeting expenses without proper supporting documentation. The reimbursed expenses included hotel accommodations, conference fees, restaurant bills, business lunches, parking, taxi cabs, and car rental. The supporting documentation provided did not include the purpose for travel, conference literature (flyers, event announcements), travel request, travel approval, registration documents, itemized receipts, and brief reports for these expenditures. In addition, with the exception of car rental receipts, and occasional non-itemized restaurant receipts, the only supporting documentation attached to the paperwork was the Superintendent’s Visa Card statement. As such, the district has failed to demonstrate that they are operating according to the provisions of N.J.S.A.18A:19-2.

Additionally, the Superintendent appears to have been reimbursed \$32.00 for an unallowable golf charge. According to the Superintendent, this charge was for the purchase of gasoline. However, a receipt was not provided from the district to support his statement, nor could the Superintendent provide documentation to support that this charge was for gasoline instead of golf. As such, the charge should not have been paid by the district.

CONCLUSION

The review revealed that the district routinely failed to itemize, verify, audit and properly approve conference and meeting expenditures for the Superintendent, as required by statute. Additionally, the district appears to have improperly reimbursed the Superintendent for a disallowable golf charge.

RECOMMENDATION

The district, as part of the submitted CAP, must indicate what actions it will take to comply with statutory requirements and ensure that only allowable expenditures are paid.

4. The Superintendent approved consultant fees in violation of N.J.S.A. 18A:7A-42(3), 18A:18A-5a(1) and board bylaws.

N.J.S.A. 18A:7A-42 states, “In a school district under full State intervention, all officers, employees and consultants, professional and nonprofessional, certified and noncertified, shall be employed or retained, transferred and removed in accordance with the improvement plan which has been approved by the commissioner. In accordance with that plan:

(3) The State district superintendent of schools shall, **subject to the approval of the commissioner or his designee**, make all personnel determinations relative to employment, transfer and removal of all officers and employees, professional and nonprofessional ...”

N.J.S.A. 18A:18A-5 Exceptions to requirement for advertising, states, “Any contract, the amount of which exceeds the bid threshold, shall be negotiated and awarded by the board of education by resolution at a public meeting without public advertising for bids and bidding therefore if:

a. The subject matter thereof consists of:

(1) Professional services. The board of education shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in an official newspaper, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the board of education.”

The district hired a consultant for academic consulting services during the 2006-2007 school year at a rate of \$1,400.00 per day for 39 days totaling \$55,000.00. The dates of performance for the contract were from September 1, 2006 to June 30, 2007 and the actual amount expended was \$51,800.00. Another contract was awarded to the same consultant for expenses incurred in the 2007-2008 school year at the rate of \$1,400.00 per day for 14 days totaling \$19,600.00 for her services to support the Curriculum and Instruction Department in achieving academic excellence. The dates of performance were from July 1, 2007 to August 31, 2007. The actual amount expended was \$15,400.00.

On November 16, 2006, according to personnel at the district and documentation provided to the OFAC investigators, the district inappropriately completed a Personnel Transaction Request/Personnel Action Form for the consultant. This form was completed again in error on another occasion for a different consultant. When used correctly, this form is used for various

personnel actions for employees of the district, but not for independent contractors. The form specifically stated that she was working for the district as a consultant. As a result of this form being submitted in error, personnel at the district indicated that she was paid out of the General Expense Account instead of the appropriate Special Revenue Account. As such, she received an additional \$7,400.00 for her services to create a new Curriculum Guide. Additionally, the district failed to provide her with a contract or executed proper paperwork for her to perform the desired services.

According to the board adopted consultant bylaws (Policy 0175.1 - Compensation for Consultants), the established pay rate for consultants compensated for five or more days is \$500.00 per day. However, the established board guidelines were not adhered to and the Superintendent failed to comply with N.J.S.A. 18A:7A-42(3) which states that personnel determinations are subject to the approval of the commissioner or her designee. Although requested, no documentation was provided to the OFAC investigators demonstrating that the commissioner or designee approved the hiring of the consultant.

The district failed to memorialize supporting reasons for issuing the contracts in the form of a resolution, as required by N.J.S.A. 18A:18A-5a(1). The district also failed to advertise professional service contract award notices in the district's official newspaper, as required by statute for the consultant during the review period. However, a brief notice was placed in the Herald News on January 1, 2008, advertising contract awards for professional and non-competitive services (including another contract for the consultant). This notice occurred several months after the contracts became effective for all but one of the awarded contracts.

Moreover, there were no supporting documents on file to confirm that the consultant was qualified to perform the services for which she was contracted. The Business Administrator and the Superintendent did not confirm that her credentials were verified at the time of hire. By the close of the review, the consultant's resume was forwarded to the OFAC investigators and district officials disclosed that the consultant stopped working for the district in August 2007.

CONCLUSION

The Superintendent failed to comply with provisions of N.J.S.A. 18A:7A-42(3), N.J.S.A. 18A:18A-5a(1), and board bylaws relevant to the approval and payment of consultant fees. The consultant was paid from an incorrect funding source, her credentials were not verified and documentation supporting her qualifications was not on file. The disallowances and resulting violations noted above require a refund of State and Federal Aid.

RECOMMENDATION

The district is directed to prepare a CAP indicating the procedures it will implement to ensure future compliance with the above referenced statutes. The district should also ensure that correct funding sources are charged. Board bylaws should be revised to reflect sound consultant rates relevant to

academic consultant services. Also, the district should verify the credentials of consultants prior to their date of hire and maintain supporting documents on file.

Disallowed Consulting Fees (Federal) (9/1/06 – 6/30/07)	\$51,800.00
Disallowed Consulting Fees (Federal) (7/1/07 – 8/31/07)	15,400.00
Disallowed Consulting Fees (State) (\$7,400 x 90.56%)	<u>6,701.44</u>
Total Disallowed Consulting Fees	\$73,901.44

The General Expense Fund State Aid that must be refunded is \$6,701.44 and the identified Special Revenue Fund Aid that must be refunded is \$67,200.00. The total amount to be recovered is \$73,901.44 (See Exhibit 1). The Department of Education, Division of Finance will notify the district as to the timing and method of recovery.

5. The district failed to adhere to Internal Revenue Service (IRS) regulations pertinent to independent contractors.

Upon review of vendor and expenditure records, it was discovered that the district made payments in excess of \$600.00 to a consultant (academic consulting services) and to the Superintendent for professional services provided during the review period without issuing 1099-MISC forms. According to IRS regulations, if an organization pays more than \$600.00 to an independent contractor in one year, they are required to report this to the IRS as well as to the independent contractor, using form 1099-MISC. As such, the district representatives acknowledged that 1099-MISC forms were not given to applicable independent contractors or reported to IRS, as required during the review period. No justifiable explanation was given as to why IRS regulations were not followed. However, the Business Administrator indicated that the district is currently working with a tax accountant to ensure that IRS regulations are adhered to relevant to independent contractors.

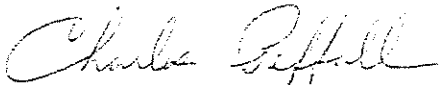
CONCLUSION

The District failed to adhere to IRS independent contractor requirements.

RECOMMENDATION

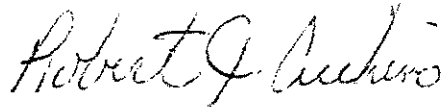
The district, as part of the submitted CAP, must indicate what actions it will take to comply with IRS independent contractor requirements.

Submitted by:



Charles Peffall, Manager
Internal Audit Unit

Approved by:



Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

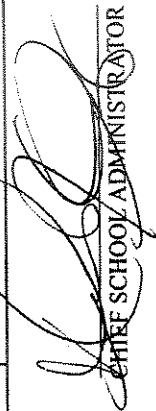
Investigators

Sonya Donalson
Karl Feltes

NEW JERSEY DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
CORRECTIVE ACTION PLAN - OFAC CASE 1372

Name of School: **Paterson Public School** County: Passaic
 Date of Board Meeting:
 Contact Person: **Frances Finkelstein, School Business Administrator**
 Telephone Number: **973-321-0896**

RECOMMENDATION NUMBER	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	INDIVIDUAL RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
<p>1 The district must indicate what actions it will take to ensure that finance charges and late payment fees incurred on personal credit cards are not paid by the district (reference 2005 payment).</p>	<p>1- Accounts payable operating procedures will be updated to include a review to determine if finance charges or late payment charges are being requested by an employee, and if so, will deny that portion of the reimbursement.</p> <p>The board policy will be updated to state that reimbursement to employees for finance charges and late fee charges are not permissible.</p>	<p>I.A. All employees will be advised via updated expense reimbursement procedures published on the district's website that finance and late payment charges to a personal credit card (there are no district credit cards) are of a personal nature and not reimbursable.</p> <p>I.B. All administrators will receive specific instructions that they are to review with their secretaries on preparing expense reimbursements with clear instructions not to include anything of a personal nature such as finance and late payments charges. They will confirm completion.</p> <p>I.C. Accounts Payable will receive documented added training on reviewing expense reimbursements prior to preparing to pay reimbursements, emphasizing the need to comply with procedures and to exercise critical thinking during the review process.</p>	<p>Accounting Manager</p> <p>Accounting Manager</p> <p>Accounts Payable Manager</p>	<p>August 30, 2008</p> <p>September 30, 2008</p> <p>August 15, 2008</p>


 CHIEF SCHOOL ADMINISTRATOR

7/28/08
 DATE


 SCHOOL BUSINESS ADMINISTRATOR

NEW JERSEY DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
CORRECTIVE ACTION PLAN - OFAC CASE 1372

County: Passaic

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RECOMMENDATION NUMBER	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	INDIVIDUAL RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
<p>2. The district must indicate what actions it will take to ensure employees are paid through payroll and not through accounts payable. (reference July 2005 payment.)</p>	<p>2. All individuals hired to work in Paterson in response to a posted vacancy will be considered employees whose hiring will be supported by personnel actions indicating the position codes being filled, the dates of hire and all related information.</p> <p>Individuals to be hired outside of the posted vacancy process will have their employment terms and conditions reviewed by Legal and Personnel. All found to be employees by IRS standards will be paid through payroll. All determined to be legitimate consultants will be paid via a purchase order supported by proof of credentials, an employment contract and board resolution and will receive 1099s reflecting their compensation on a calendar year basis.</p> <p>Accounts payable operating procedures will be updated to include a review to determine if employees are being paid for services through account payable and if so, will deny that portion of the reimbursement.</p>	<p>2. A. Existing hiring procedures will be reviewed and changes made to include these corrective actions as necessary.</p> <p>2. B. Employees involved in the hiring process will receive training on the distinction between the two types of workers and the process they should follow for those presented for employment outside of the regular posted vacancy process. This training must include all administrators who may be hiring consultants through grants to ensure their awareness and compliance.</p> <p>2. C. Legal will be requested to review all candidates for consultant employment to ensure that the district remains in compliance with IRS standards.</p> <p>2. D. Purchasing and the Board Secretary's office will be trained to ensure compliance with 1099, Board resolution, purchase order and DOE approval requirements as established.</p>	<p>Director of Human Resources</p> <p>Director of Human Resources</p> <p>General Counsel</p> <p>Purchasing Supervisor</p>	<p>September 1, 2008</p> <p>September 1, 2008</p> <p>July 15, 2008</p> <p>September 1, 2008</p>

[Signature]
DATE: 7/25/08
SCHOOL BUSINESS ADMINISTRATOR

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SCHOOL ADMINISTRATOR

NEW JERSEY DEPARTMENT OF EDUCATION
 OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
 CORRECTIVE ACTION PLAN - OFAC CASE 1372

County: Passaic

Paterson Public School

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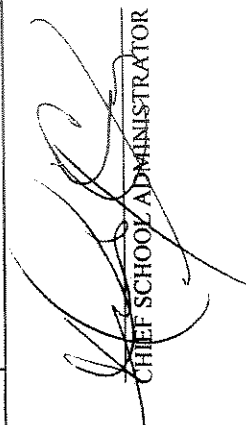
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Telephone Number:

Frances Finkelstein, School Business Administrator
 973-321-0896

RECOMMENDATION	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	PERSON RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
<p>3. The district must comply with statutory requirements and ensure that only allowable expenditures are paid. (Reference incidents in 2005 through 2007.)</p>	<p>3. The district will update existing Purchasing procedures to mandate that sufficient information is included on travel requisitions to substantiate the purpose and necessity of the detailed costs.</p> <p>Accounts Payable procedures will be reviewed and revised to ensure that when reviewing supporting documentation for a reimbursement that all expenses are supported by specific documentation and information including the nature, date and reason for any purchase. All requests for reimbursement lacking this level of supporting backup will be rejected. In addition, Accounts Payable processors will be encouraged directed to challenge all requests for payment that do not meet the standards in the operating manual..</p>	<p>3.A. Purchasing will review, revise as necessary and communicate procedures via district web site and broadcast emails to all employees, alerting them to the requirements for enhanced supporting documentation is necessary for requisition approval and expense reimbursement.</p> <p>3.B. The Accounting Manager will review and revise AP procedures as necessary to specify the type of documentation that must be submitted to substantiate employee reimbursements. A/P processors will be instructed to require that these documents are available in order to justify reimbursement</p>	<p>Purchasing Supervisor</p> <p>Accounting Manager</p>	<p>September 1, 2008</p> <p>August 1, 2008</p>



CHIEF SCHOOL ADMINISTRATOR

7/28/08
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Ann F. DTE
 SCHOOL BUSINESS ADMINISTRATOR

NEW JERSEY DEPARTMENT OF EDUCATION
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RECOMMENDATION	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	PERSON RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
<p>4. The district is directed to prepare a CAP indicating the procedures it will implement to ensure future compliance with statutes NJSA 18A:7A-42(3) and NJSA 18A:18A-5a(1).</p>	<p>4. Consultants are not specified under 18A-7A-42(3); however, the State Superintendent will approve all consultants by resolution with complete justification and supporting documentation in advance of services being rendered, and will ensure that their services are consistent with the account code used for funding and the policies of the board.:</p> <p>NJSA 18A:18A-5a(1) requires and the district will ensure compliance-, for all contracts awarded by resolution at a public meeting without public advertising for bids and bidding, that the board resolution state supporting reasons for its action and to post a brief notice in its official newspaper stating the nature, duration, service and amount of the contract awarded and advise that the resolution and contract are on file and available for public inspection in the board of education office</p>	<p>4. District and state offices will be requested to forward a copy of the improvement plan approved by the Commissioner, which is not available in the district. In order to understand what compliance requires. Copies of the plan will then be provided to district central office administration, legal and related supervisory personnel for their information and compliance in terms of engaging consultants</p> <p>State Superintendent will be apprised by business administrator of audit findings and will direct staff to comply with corrective action plan requirements. Noncompliance will be brought to Superintendent's attention.</p> <p>Within two weeks of State Superintendent and/or board approval of a consulting contract, Purchasing will post notice of this award in one district legal newspaper advising the public of the contract awarded without bids or bidding, providing a brief notice stating the nature, duration, service and amount of the contract, and that</p>	<p>School Business Administrator</p> <p>School Business Administrator</p> <p>Purchasing Supervisor</p>	<p>July 31, 2008</p> <p>July 31, 2008</p> <p>July 31, 2008</p>

7/25/08 DATE
 Frances Finkelstein SCHOOL BUSINESS ADMINISTRATOR
 [Signature] CHIEF SCHOOL ADMINISTRATOR

County: Passaic

Paterson Public School

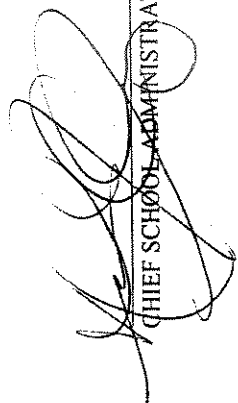
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<p>The district should ensure that correct funding sources are charged.</p>	<p>Fiscal monitors, budget analyst and grants specialist involved in account coding will receive copies of Audit Program Appendix F for coding information.</p> <p>Fund 20 Grant fiscal monitors will receive copies of grant instructions to ensure activities comply with grant funding.</p>	<p>the resolution and contract are on file and available for public inspection in the office of the board of education.</p> <p>Copies of Audit Program Appendix F will be provided to all involved with coding or reviewing personnel actions, requisitions, etc., to update skills.</p> <p>Grant fiscal monitors will download grant-specific financial information from the internet prior to the start of the grant period and provide a copy of the information to the business administrator to demonstrate that they have the information required to code properly and will confirm in writing that they have read the rules.</p>	<p>School Business Administrator</p> <p>Fiscal Monitors – NCLB, Perkins</p>	<p>July 31, 2008</p> <p>August 15, 2008</p>
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 CHIEF SCHOOL ADMINISTRATOR

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NEW JERSEY DEPARTMENT OF EDUCATION
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CORRECTIVE ACTION PLAN - OFAC CASE 1372

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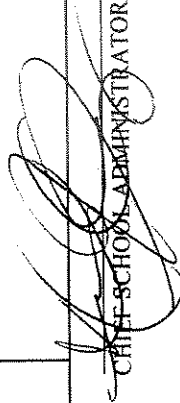
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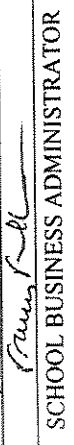
Frances Finkelstein, School Business Administrator

973-321-0896

RECOMMENDATION	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	PERSON RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
<p>4. Board by/laws should be revised to reflect sound consultant rates relevant to academic consultant services.</p>	<p>4. Policy Committee will be requested to review the policy on consultants and increase rates to reflect current market conditions, if so determined.</p>	<p>4. Survey will be conducted of Passaic County districts for information on rates for selected professionals. Policy will be drafted with "not to exceed" figures based on these findings for committee review and board approval.</p>	<p>Assistant School Business Administrator</p>	<p>September 1, 2008</p>
<p>The district should verify the credentials of consultants prior to their date of hire and maintain supporting documents on file.</p>	<p>Administrators will be required to provide copies of proposed consultants' credentials as part of the hiring process, with documentation to be maintained in the contract file.</p>	<p>Administrators, legal, personnel, support and purchasing staff members will be alerted to this requirement via email. Those processing consultant requests will inspect documentation for completeness and appropriateness.</p>	<p>School Business Administrator</p>	<p>July 31, 2008</p>
<p>The General Expense Fund State Aid that must be refunded is \$6,701.44 and the identified Special Revenue Fund Aid that must be refunded is \$67,200. [The Department of Education will notify the district as to the timing and method of recovery.]</p>	<p>Refunding will be appealed; if appeal fails, will take place consistent with DOE instructions</p>	<p>Curriculum and Instruction will pursue appeal process. Accounting and grants personnel will follow instructions received from DOE and refund Aid to State and Federal governments if appeal process does not succeed.</p>	<p>Asst. Superintendent C & I Accounting Manager</p>	<p>Within a week of receipt of instructions from DOE on recovery process</p>


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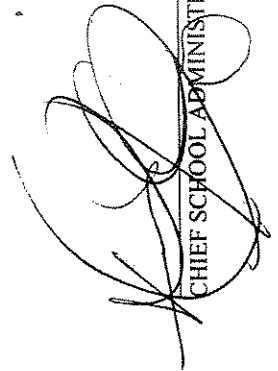
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RECOMMENDATION	CORRECTIVE ACTION	METHOD OF IMPLEMENTATION	PERSON RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
5. The district must indicate what actions it will take to comply with IRS independent contractor requirements.	5. The district will distribute IRS training material to all district administrators, general and labor attorneys, purchasing and those engaged in the personnel approval process for their information and compliance. All bona-fide consultants will not be set up in the purchasing software system without the district receiving a completed W-9 and will be coded to receive 1099s. Procedures will be developed to assist administrators in making the consultant determination and in following IRS independent contractor requirements.	5. IRS training materials will be scanned and emailed to all indicated with a "read receipt" to be kept on file. Purchasing supervisor will establish a consultants on the vendor file and code to receive a 1099 only following receipt of a completed W-9 and other required documents. Business office will develop procedures to assist administrators in making the employee vs independent contractor determination.	School Business Administrator Purchasing Supervisor School Business Administrator	July 31, 2008 July 31, 2008 August 15, 2008



CHIEF SCHOOL ADMINISTRATOR

7/28/08
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SCHOOL BUSINESS ADMINISTRATOR