



Preparing Every
Student for Success in
College, Career and Life

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Office of the Superintendent

September 17, 2009

Ms. Debra K. Davenport
Auditor General
2910 North 44th Street, Suite 410
Phoenix, Arizona 85018

Dear Ms. Davenport:

Enclosed is the Phoenix Union response to the Performance Audit. As you will see, there are many areas you identified which the District has already addressed; others where your recommendations will prove helpful in initiating more efficiency, and still other areas and conclusions with which we are not in accord.

This audit, in large part, focuses on classroom dollars and the amount of money it takes to educate our students. As Arizona law prescribes in its funding formulas, student funding differs, in some cases greatly, based on student need. With our student population, some with limited English proficiency, and the district striving to alleviate a past history of not providing equal educational access and opportunities for all, we incur additional expenses and often appropriately garner additional funding. Currently, the district supports its classroom instruction with counselors, librarians, speech pathologists, occupational and physical therapy services, deans of students, dropout intervention specialists, psychologists, nurses, security and other support staff, which, while not considered in the calculations for classroom spending, are an integral part of the student's educational success.

We are committed to providing safe and modern campuses, highly qualified and well-compensated teachers and unique programs and services, and we can point to many success indicators. Our schools are *Performing*, or better, our test scores continue to improve, and our graduation and dropout rates reflect our nation's averages, far better than inner-city school districts facing similar circumstances across the nation. Our fiscal responsibility and support from community have allowed us to weather the recent financial crisis without compromising classroom instruction or employee loss.

We are also puzzled by conclusions made regarding an Early Severance Plan which contradicts our calculation that this plan has already saved the District over \$16 million as a liability, and considered as an administrative expense. We believe the program was forward-thinking, and has been instrumental in Phoenix Union retaining its solvency in these troubling economic times. We do concur with your findings as well as those who rate our bond worthiness that current compensation for retiree health insurance is an expense that must be addressed.

Alhambra

Bioscience

Bostrom

Trevor G. Browne

Camelback

Central

Cesar Chavez

Cyber

Desiderata

Betty H. Fairfax

Franklin

Carl Hayden

Maryvale

Metro Tech

North

South Mountain

Suns-Diamondbacks

Debra K. Davenport
September 17, 2009
Page 2

Phoenix Union will continue to strive to be financially accountable to our community, as we improve the educational experience offered to our socio-economically diverse student population. Similarly, we hold ourselves accountable to ensure that we prepare every student for success in college, career, and life for the betterment of our community and state.

Thank you for the professionalism and courtesy you extended to our staff through this process. We appreciate this evaluation and have and will improve our operations as a result.

Sincerely,

Kent P. Scribner, Ph.D.
Superintendent

Chapter I Administration

High Benefit cost for employee severance plan with questionable savings

Based on the District's review of its budgets from fiscal year 2006/07 through 2009/10, the program provided at a minimum an additional \$16.6 million in budget capacity after paying for the retirement program, that otherwise would not have been available to balance the budgets during those years. This allowed the District to absorb the \$3.6 million in budget cuts required by the Legislature for the 2008/09 fiscal year and helped balance the 2009/10 budget.

Plan used mostly by staff already eligible for retirement

The District normally has 15 teachers retire each year, and with this program 300 elected the incentive, over two years, which garnered savings to date of \$16.6 million dollars. Qualifying for normal retirement and actually retiring are different. Only a percentage of employees exit when they become eligible for normal retirement, and some could retire 1 to 20 years later.

Loss of experienced employees; some difficult to replace

The District had very little difficulty replacing employees that elected the early retirement plan. In fact, the District started the 2007/08 school year with a full staff of highly qualified teachers. The District has always had trouble recruiting and retaining qualified bus drivers due to the salary package and past economic climate, which has required contracting with a private vendor. Losing 4 drivers due to the early retirement program had no effect on the vendor contract and the positions filled actually increased from 06/07 to 08/09 from 25 to 30. Due to the current economic climate, the District has been able to fill all open positions and reclaim some of the special education bus routes from a private vendor resulting in an estimated cost savings of \$900,000 for the 2009/10 fiscal year.

Retirees – including top-level administrators- returned in contract or part-time roles

Given the unexpected formal resignation of the superintendent in July 2006, an assistant superintendent returned in August 2006 on an interim basis while a search was conducted for a new superintendent. Another assistant superintendent returned to his position for 6 months and then his position remained open until July 1, 2009. The current assistant superintendent has returned on a part-time contract. Teachers who returned as contract employees earned \$40,000 per year and the District budgets \$45,000 for all open teaching positions. Hiring these retirees resulted in an additional savings of \$580,000 over and above cost savings calculations.

Use of credit cards resulted in lost discounts and higher supply costs

The District believes it has a very successful, well managed purchasing card program that has been in place since 1997. The purchasing card program provides cost savings of over \$200,000 a year in reduced staff, paperwork processes and other incidental costs. Further, this program provides teachers and

principals with immediate access to supplies without waiting for the paperwork process and delivery of materials, resulting in more effective job management. The District believes that the lost discounts and higher supply costs are more than offset by the increased efficiencies resulting from quick access to classroom supplies. By implementing this program, the District made a conscious decision to focus its Purchasing Department's efforts on tasks related to negotiating discounts on high cost purchases, such as construction projects, furniture and equipment, and purchased services that ultimately result in higher cost savings to the District. As stated in the report, the District did identify this issue prior to the auditor's initial visit in June 2008 and implemented a procedure that required employees to use vendors that provided discounts for office supply purchases.

Recommendations

1. The District should review its administrative positions and the related duties and salaries to determine how the administrative costs can be reduced.

Response:

The District agrees with this recommendation. As reported in the Auditor General's Report Classroom Dollars and Proposition 301 Results for fiscal year 2007/08, the District's administration expenditures have been well under the State and National Averages for the last 5 years. However, the District will continue to monitor its administrative positions and related duties each year and make any reasonable recommendations to the Board on restructuring where it makes sense to do so.

2. If the District considers a severance plan in the future, it should fully analyze factors such as the loss of experienced teachers, allowing employees to return after accepting the severance, and the likelihood of retirements without offering the severance.

Response:

The District agrees with this recommendation. At this point in time, the District is not considering a severance plan; however, as has been done in the past, any future plans will be reviewed fully to ensure they meet Board directives and the District's goal of effective use of fiscal and human resources.

3. The District should evaluate the necessity of providing health and life insurance benefits for retirees.

Response:

The District agrees with this recommendation. The District's Interest Based Negotiation's Team worked on this issue during fiscal year 2008/09 and, as a first step to changing the health and life insurance benefits for retirees, eliminated these benefits for any employees hired after 7/1/2009. In addition, a Post Employment Benefits Committee was formed to review the

current benefits and make recommended changes to the Governing Board for implementation in fiscal year 2010/11.

4. The District should evaluate that applicable discounts are obtained for p-card purchases and require employees to obtain available supplies from the district warehouse.

Response:

The District agrees with this recommendation. The District identified this issue prior to the Auditor General's review and implemented a policy in June 2008 requiring office supplies be purchased from a contracted vendor using a District account that would identify and charge negotiated pricing.

5. The District should monitor items frequently purchased with p-cards and determine whether they should be purchased in bulk and maintained in the District's warehouse.

Response:

The District agrees with this recommendation. The District's Purchasing Department obtains a quarterly report from the Bank indicating total expenditures by vendor. This report is reviewed to identify frequent items purchased to determine if these items need to be stocked in the warehouse.

6. The District should develop and implement uniform policies and procedures over its cash receipt processes, and the District's business office should take an active role in overseeing such school-level activities.

Response:

The District agrees with this recommendation. The District will evaluate the benefits of moving the oversight of the Bookstore operations from the responsibility of campus administration directly to the District Office. This will help ensure that the District's cash receipts policies and procedures are maintained consistently at all campuses. The District will also consider developing an internal audit position that can review cash receipts and other audit deficiencies to ensure ongoing compliance.

7. The District should improve procedures and provide oversight over the rental of facilities, ensuring renters sign rental agreements, are charged the correct amount, and obtain liability insurance; and that charges are collected and deposited in a timely manner in the appropriate account.

Response:

The District agrees with this recommendation. The District is considering hiring a District wide facility coordinator to help improve procedures and provide oversight for all facility rentals by

developing appropriate rental rates, policies and procedures. In addition, this staff member would be responsible for ensuring the accuracy and consistency of all rental agreements, fee collection and deposits, and liability insurance coverage.

8. The District should review its rental rate schedule to ensure rates adequately recover costs of facility usage and ensure that the approved rate schedule is being followed at all of its schools.

Response:

The District agrees with this recommendation. See response on #7 above.

9. The District should analyze proposed fund-raisers to ensure that expected proceeds at least cover expected costs and maintain adequate records for the fund-raiser to help ensure all monies are collected, safeguarded, and deposited into the proper account.

Response:

The District agrees with this recommendation. The District will work with campus administration to develop policies and procedures for all campus related fund-raisers to ensure that they are approved by District administration, the proceeds will cover costs, and adequate records are maintained to support the monies collected and deposited into the appropriate accounts.

10. The district should ensure extracurricular tax credit donations are used for appropriate purposes.

Response:

The District agrees with this recommendation. The District has a strict policy related to the use of tax credit donations and makes sure all requests for use of monies are reviewed and approved by the Finance Department. The required documentation includes an approved campus requisition, detailed explanation of the event, students served and items/services purchased.

District administration utilized extra curricular tax credit monies for Central's 50th anniversary celebration to pay for the meals of students who attended this event and participated in hosting, and performing which was determined by District Officials to be an educational experience for the students involved. District administration was given the names of 45 students identified as Central High School Band, Choir and Varsity Club Members as well as North High School students who hosted and performed at this event for Central star athlete alumni and other honored guests. The amount of \$900 charged to the extra curricular tax credit account was for the meals provided to the 45 students at \$20 each which was well below the actual cost of the meal.

11. The District should ensure that cash collections at school sites are deposited in a timely manner, in the appropriate account.

Response:

The District agrees with this recommendation. See response on #6 above.

12. The District should deposit its Business Partnership monies, and similar monies received in the future, with the County Treasurer and account for them in its Gifts and Donations Fund. The District should ensure that gift and donation monies are spent only for allowable purposes.

Response:

The District agrees with this recommendation. As of January 2009, the Partnership Office has been moved to another facility. District employees no longer have any responsibility related to Partnership expenditures, or custody of any records or accounts.

Chapter 2 Student Transportation

State funding formula provides District with \$5 million more in transportation funding than its reported mileage would generate

The District followed all reporting requirements for calculating route miles and bus pass costs for fiscal years prior to 1998. Beginning in 1998, the District reported lower route miles because the instructions for reporting mileage on the Transportation Route Report was revised to eliminate city bus miles. This change was accurately reflected in the lower miles reported by the District during that year. It is the District's position that this particular statement should not have been included in this report as it is not a performance item that needs to be resolved by the District but a funding formula issue. The District made no errors in reporting route miles.

Recommendations

1. Because of the high costs of its non-city, vendor-contracted student transportation services and its large number of under-used district buses, the District should perform a cost benefit analysis to determine whether to operate more of its own routes rather than contracting them.

Response:

The District agrees with this recommendation. For many years, the District was unable to fill all of its open bus driver positions due to the job requirements, salary and benefit package and economic climate which lowered the job desirability. At any given time, the District had 10 open positions during the school year making the use of contracted transportation a necessity. Due to the current economic situation the District for the 2009/10 fiscal year has

filled all open positions. As a result, the District has taken back special education routes from a private contractor and expects to see approximately \$900,000 in savings this fiscal year.

2. Because the District is charged on a per-route basis and low capacity usage was noted on contracted routes, the District should regularly review the routes to ensure they are operated as efficiently as possible if it continues to provide transportation through contracted vendors.

Response:

The District agrees with this recommendation and for fiscal year 2009/10 has reviewed its routes for regular education and through efficient re-routing of buses the District was able to eliminate an additional 8 routes at the beginning of the school year from a private contractor. This will be an ongoing yearly review to help ensure efficient operations.

3. The District should review vendor invoices to help ensure billings represent actual services performed and that charges are in accordance with the contract.

Response:

The District agrees with this recommendation. Prior to the 2008/09 school year, the District Transportation Department reviewed the vendor invoices by taking the RFP-quoted per route costs and determining the routes needed to transport students to extrapolate and check the monthly billings. To improve this process based on the review and recommendations made by the Auditor General's Office, in the 2008/09 school year, the District Transportation Department began requiring contracted vendors to provide student supporting-data/ancillary student count information to accompany every monthly billing which is carefully reviewed and approved prior to payment.

4. To aid in evaluating the efficiency of its transportation program, the District should establish and monitor performance measures such as cost per mile, cost per rider, and bus capacity usage.

Response:

The District agrees with this recommendation and will start comparing this year's expenditures and statistics with the previous year in order to develop a baseline performance measure that will be used to determine the efficiency and effectiveness of its Transportation Program.

5. The District should properly report route mileage for state transportation funding purposes.

Response:

The District agrees that it incorrectly overstated its fiscal year 2007 route mileage for the Vocational Education Program, although this did not affect the funding received. As a result, the Transportation Director will annually review the guidelines for preparing the Transportation Route Report and obtain any additional guidance and clarification needed from the Arizona Department of Education to ensure future reporting accuracy.

6. The Legislature should consider modifying the transportation funding formula to limit the impact from prior reporting errors.

Response:

This is a Legislative matter and not something the District can address.

Chapter 3 Plant Operation and Maintenance

Recommendations

1. The District should evaluate its salary levels for its non-security plant employees.

Response:

The District agrees with this recommendation. The District's wages for its highly specialized trade positions are competitive with the market allowing for the retention of skilled, knowledgeable employees.

2. The District should review whether employees currently provided cell phones actually require these phones as a necessary part of their job duties, and develop a cell phone policy identifying the positions that require a district-provided cell phone and the allowable use of the phones.

Response:

The District agrees with this recommendation and further notes that cell phone costs represent only 9% of the District's total telephone expenditures. The District believes the cell phones currently issued to staff are a necessary tool that helps ensure the safety and security of students and staff, and efficient District operations. However, the District will review the land lines and data/technology lines to see if more efficiency can be achieved while continuing to maintain high quality instructional programs for our students.

3. The District should evaluate alternatives and take appropriate actions to reduce plant operation and maintenance costs and potentially redirect these monies into the classroom. At a minimum, the District should review ways to offset the high costs of maintaining excess space in its many underutilized schools.

Response:

The District concurs.

Chapter 4 Proposition 301 Monies

Recommendations

1. The District should ensure that its Proposition 301 plan specifies which employees groups are eligible to receive Proposition 301 monies.

Response:

The District agrees with this recommendation. The District changed its Proposition 301 plan in fiscal year 2008/09 to specify the employee groups eligible to receive Proposition 301 money which was Governing Board approved on January 8, 2009.

Chapter 5 Classroom Dollars

Recommendation

1. The District should review its spending on administration, student transportation, and plant operations to determine if savings can be achieved and some of these monies can be redirected to the classroom.

Response:

The District agrees with this recommendation. The District annually reviews its spending and makes appropriate reductions and staff reorganizations where it is deemed appropriate. The District will continue to strive to increase its classroom spending by achieving efficiencies in non-instructional areas.

Chapter 6 English Language Learner Programs, Costs, and Funding

Large proportion of ELL students choose bilingual education

The District has complied with all laws regarding offering bilingual education and continues to do so. The fact that only 20 percent of ELL students opted for the bilingual program through a parent waiver shows that a majority of the ELL students identified did NOT choose bilingual programs. The fact that bilingual waivers varied from school to school reinforces the notion that this offering is based on parent choice, not District directive.

District did not follow its alternative ELL instruction model

The approved alternative model differs from the alternative model requested by the District and we have received conflicting information from ADE on the students eligible for the 4th hour of content

classes. The District will continue to work with ADE and the ELL Task Force to resolve these issues and to ensure the District is complying with the alternative model.

District failed to test English proficiency of some students

The District now fully complies with A.R.S. 15-756 in the identification of students whose Primary Home Language is Other Than English (PHLOTE) and currently tests using the AzELLA as adopted by the ADE. Based on a memo from ADE on October 18, 2005, the District did consider those PHLOTE students who tested at or above the 40th percentile on the English reading comprehension subtest of Terra Nova (a nationally standardized norm-reference achievement test) as non English Language Learners. The District no longer uses Terra Nova as an alternative for identifying ELL students.

District-reported costs not incremental and some did not appear ELL-related.

The District received the revised Uniform System of Financial Records requiring the change in reporting ELL incremental costs in June 2006, with an implementation date of July 1, 2006. However, the chart did not provide adequate detail on what constituted incremental costs or adequate detail on how to calculate them to help ensure consistency and accuracy. When District Officials asked for clarification related to incremental costs, we were informed that this information was being developed and would be made available in December 2006, which never materialized in 2007. The District will make this change in fiscal year 2009/10, based on its interpretation of incremental costs and other available guidance.

Recommendations

1. The District should comply with its requested ELL alternative program model, which was approved by the Arizona ELL Task Force.

Response:

The District agrees with this recommendation. The District has made adjustments to the ELL alternative program based on the ADE monitoring report of 2008. All corrective actions required have been taken and the full report submitted to ADE.

2. The District should ensure that all students reporting a primary home language other than English receive an English language proficiency test as required by statute.

Response:

The District agrees with this recommendation and already fully complies with state statute. All students who identify a primary home language other than English are tested with AzELLA as the English language proficiency test.

3. The District should begin separately accounting for the incremental portion of ELL costs, included those funded by desegregation monies, and retain documentation supporting how those amounts are determined.

Response:

The District agrees with this recommendation. The District will make this change in the current fiscal year, based on its interpretation of incremental costs and other guidance.

Chapter 7 Desegregation Monies

The performance audit conducted by the Auditor General's Office makes a fundamental but common error in its conclusion that the District's spending on desegregation "lost its clear link with the District's original desegregation court order".

It is incorrect to say that as early as 1992 all provisions of the consent decree had been complied with and that the District would have been deemed "Unitary" pursuant to law, based upon language in the original Consent Decree. By 1992, case law had made clear that the District Court could not, without an evidentiary hearing, terminate a desegregation case, even with the consent of the Plaintiffs' class representatives and the United States Justice Department. If the Justice Department and the Plaintiffs' class representatives had consented to unitary status, a fairness hearing would need to have been held at which members of the public would be allowed to participate, and the Court would have been required to make a factual determination that the District had in fact eliminated all vestiges of the segregated system, based upon an analysis of each of the Green factors (*Green v. School Board of New Kent County*, 391 U.S. 430, 88 S.Ct. 1689 (1968)). A review of the Court's record from 1992 through 2004 makes it clear that neither the Plaintiff classes nor the Department of Justice would have supported a petition for unitary status prior to the time at which it was actually filed, and prolonged costly litigation, that the District might have lost, would have followed.

The continuing link between the original court order and the District's implementation of desegregation programs and activities clearly existed through 2004, when the Court found the District to be unitary, subject to the condition that it build an additional comprehensive high school. A continuation of the desegregation programs and activities which were implemented from 1985 through 2004 is required to ensure equal educational access and opportunities within the school system, and A.R.S. 15-910(G) permits these expenditures to continue.

Millions spent for purposes with no clear link to desegregation goals

Magnet programs developed at other schools such as Central, Alhambra and Metro Tech were called "Mirror Magnets" and were specifically designed to draw minority students out of North, South and Hayden, thereby, speeding up desegregation of these schools. The District was very strict on who was

allowed into the Magnet programs to ensure proper racial balances were maintained at all times. Expansion of the District's Magnet programs were allowed by the court and reviewed closely by the court, plaintiffs, and the Department of Justice. The District was required to report to the court and Department of Justice on an annual basis.

Costs unrelated to desegregation goals –

The District believes that all expenditures it has made for Desegregation purposes directly relate to the desegregation goals of decreasing racial and ethnic segregation and providing equal educational access and opportunities within the school system, as stated in its consent decree. All staff positions are directly related to opening and operating comprehensive high schools as directed by the Court. Likewise, purchased and professional property services of \$1.8 million also wouldn't have been incurred by the District if these schools were not in operation.

Recommendations

1. The District should collect data on the racial composition of students living in each school boundary to determine whether desegregation magnet programs are necessary to achieve its court-ordered racial enrollment percentages.

Response:

The District disagrees with this recommendation. Although the District is no longer required to collect racial data, yearly detailed data on all magnet students and programs is maintained.

The continuing link between the original court order and the District's implementation of desegregation programs and activities clearly existed through 2004, when the Court found the District to be unitary, subject to the condition that it build an additional comprehensive high school. A continuation of the desegregation programs and activities which were implemented from 1985 through 2004 is required to ensure equal education access and opportunities within the school system, and A.R.S. 15-910(G) permits these expenditures to continue.

2. The District should spend its desegregation dollars on those costs that directly support the goals of its desegregation program and that do not replace costs that it would incur if it were not implementing those programs.

Response:

The District agrees with this recommendation. The District believes that it is spending desegregation dollars on costs that directly support the goals of its desegregation program as documented by the original Consent Decree, the Office of Civil Rights compliance plan and numerous subsequent orders of the Court requiring or approving the various programs, activities and schools which are now funded pursuant to A.R.S. 15-910(G).

The audit report states that the obligation to ensure equal educational opportunities to the students in the Phoenix Union High School District is very narrow; however, this disregards federal case law, which obligated the District to implement various programs and activities, in compliance with the Consent Decree and OCR compliance plan, before the District could be deemed "Unitary." These programs and activities were designed to decrease racial and ethnic segregation where it existed and to address all of the Green Factors examined or mentioned in the decree, either directly or indirectly, to the extent practicable.