



COYLE PUBLIC SCHOOL LOGAN COUNTY SPECIAL AUDIT REPORT JULY 1, 2002-JUNE 30, 2005

Audit Summary:

JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The Coyle Public School was audited pursuant to a request by the State Board of Education in accordance with
74 O.S. § 213(C).

- ✓ During 2002-03 current year funds were used to pay prior year payroll and non-payroll expenditures in the approximate amount of \$53,710.00. Only ten (10) months of payroll obligation were paid during this fiscal year in that paying the final two (2) months would have caused the school to exceed approved appropriations. To avoid exceeding appropriations, the final two (2) months of payroll were rolled forward to the next fiscal year. **Pgs 7 & 8**
- ✓ During 2003-04 current year funds were used to pay prior year payroll and non-payroll expenditures in the approximate amount of \$330,913.00. Two (2) months of prior year payroll and only ten (10) months of current year payroll were paid during this fiscal year. The final two (2) months of payroll were rolled forward to the next fiscal year. The school exceeded approved appropriations in May 2004 and continued to issue warrants through June 10, 2004, which created a -\$332,997.00 general fund appropriations balance. The school completed a supplemental form that did not include a worksheet of revenue collections that included revenue that had already been included in the original appropriation. The result was a -\$86,825.72 cash balance as of June 30, 2004. **Pg 9**
- ✓ During 2004-05 the school began the year with a -\$86,825.72 cash balance. Current year funds were used to pay prior year payroll and non-payroll expenditures in the approximate amount of \$355,705.00. Fourteen (14) months of payroll were paid during this fiscal year—two (2) months of prior year payroll and twelve (12) months of current year payroll. The school exceeded approved appropriations on April 29, 2005 and continued to issue warrants through June 18, 2005, which created a -\$1,190,600.00 general funds appropriations balance. Supplemental appropriations were prepared after the school had exceeded appropriations. **Pg 10**
- ✓ Approximately \$11,000.00 of school funds were used to pay for personal cell phone bills. In addition to the aforementioned payment, there is currently a balance of approximately \$7,200.00 in the school's name for the use of personal cell phones. **Pg 22**

**COYLE PUBLIC SCHOOL DISTRICT No 421014
LOGAN COUNTY
SPECIAL AUDIT REPORT
JULY 1, 2002 THROUGH JUNE 30, 2005**

This publication is printed and issued by the State Auditor and Inspector as authorized by 74 O.S. 2001, § 213(C). Pursuant to 74 O.S. 2001, § 3105(B), 35 copies have been prepared and distributed at a cost of \$84.00. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

November 29, 2005

Honorable Sandy Garrett, Chairperson
State Board of Education
2500 North Lincoln Blvd., Room 118
Oklahoma City, Oklahoma 73105-4599

Dear Ms. Garrett:

Transmitted herewith is the Special Audit Report for the Coyle Public School District No. 421014, Logan County, Oklahoma. We performed our special audit pursuant to a request from the State Board of Education under the requirements of **74 O.S. 2001, § 213(C)**.

A report of this type is critical in nature; however, we do not intend to imply that our report failed to disclose commendable features in the present accounting and operating procedures of the Coyle Public School District No. 421014, Logan County, Oklahoma.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

A handwritten signature in blue ink that reads "Jeff A. McMahan".

JEFF A. McMAHAN, CFE
State Auditor and Inspector

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index of specific concerns

The following concerns are presented in their entirety in italics as they were communicated to us:

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CURRENT BOARD OF EDUCATION

Kenneth Wilkinson President
Carl Williams Vice-President
Jana Brauer Clerk
Everett Mack Deputy Clerk
Tenny Maker Member

SUPERINTENDENT

Rick Kibbe

TREASURER

Vernon Florence Current
Jim Niles September 2004 – June 2005
Jeanie Johnson July 2002 – June 2004

**BOARD OF EDUCATION
FISCAL YEAR 2003-04**

Kenneth Wilkinson
Carl Williams
Everett Mack appointed August 2003
Danny Moorman resigned April 2004
Jana Brauer

**BOARD OF EDUCATION
FISCAL YEAR 2002-03**

Kenneth Wilkinson
Linda Nivens resigned December 2002
Carl Williams appointed January 2003
David Hinds resigned June 2003
Danny Moorman
Jana Brauer

**BOARD OF EDUCATION
FISCAL YEAR 2001-02**

Kenneth Wilkinson
Linda Nivens
David Hinds
Danny Moorman
Jana Brauer



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Mr. Rick Kibbe, Superintendent
Coyle Public School District No. 421014
P.O. Box 287
Coyle, Oklahoma 73027

Dear Mr. Kibbe:

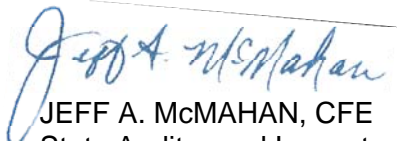
Pursuant to a request by the State Board of Education, and in accordance with the requirements of **74 O.S. 2001, § 213(C)**, we performed a special audit with respect to the Coyle Public School District No. 421014, Logan County, for the period July 1, 2002 through June 30, 2003.

The objectives of our special audit primarily included but were not limited to, the areas noted in the index of specific concerns and are presented in their entirety in italics as they were communicated to us. Our findings and recommendations related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Coyle Public School District No. 421014 for the period July 1, 2002 through June 30, 2005. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the District taken as a whole.

This report is intended solely for the information and use of the State Board of Education, Coyle Board of Education and Administration of the District and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (510.S. 2001, § 24A.1 et seq.)**, and shall be open to any person for inspection and copying.

Sincerely,


JEFF A. McMAHAN, CFE
State Auditor and Inspector

September 21, 2005

INTRODUCTION

The Independent District No. 421014, Logan County, Oklahoma, (Coyle Public School) is an integral part of the Oklahoma State System of Public Education as described in **70 O.S. 2001, § 1-101 et seq.**, the **Oklahoma School Code**. The Board of Education of the Coyle Public School District is responsible for the supervision, management and control of the District as provided by **70 O.S. 2001, § 5-117**. Both the Board of Education, composed of five (5) elected members, and the Coyle Public School District are subject to the provisions of the **Oklahoma School Code**.

The student body consists of Pre-K through grade 12. The District currently has an enrollment of 370 students. The appointed superintendent is the executive officer of the District. The current superintendent and treasurer began employment with the District at the beginning of the 2005-06 school year.

The Coyle Public School District No. 421014 is audited annually by private independent auditors, and such audit reports were available for our review. The District Board of Education prepares an annual financial statement, presenting the financial position of the District as of the close of the previous fiscal year in accordance with the requirements of **68 O.S. 2001, § 3002**. The financial information presented was prepared from the District's records provided to us by the District Administration.

The State Auditor and Inspector conducted a special audit of the records of the Coyle Public School District, primarily those records relating to the State Board of Education's concerns listed in the "index of specific concerns" noted in the table of contents. The results of the special audit are in the following report.

CONCERNS, FINDINGS AND RECOMMENDATIONS

I. **CONCERN:** *Possible current year appropriations were used to pay prior year expenditures.*

We reviewed warrant registers, employment contracts, board meeting minutes, purchase orders, invoices and supporting documents for payments made during July and August 2002, 2003, 2004 and 2005. We also interviewed school personnel regarding expenditures made during this time period.

FINDING (1): Current year appropriations were used to pay for prior year expenditures.

2002-03

It appears that current year funds were used to pay for prior year expenditures. The following is a summary of what occurred:

- In July and August 2002 (2002-03 school year), the school issued warrants totaling approximately **\$47,673.07** for the payment of *non-payroll* related (supplies, utilities, travel, conference fees, and contract for special needs service) expenditures that were incurred during the 2001-02 school year.
- In July 2002 (2002-03 school year), the school issued warrants totaling **\$6,037.34** for the payment of payroll and payroll related expenditures that were incurred during the 2001-02 school year.
- A total of **\$53,710.41** of payroll and non-payroll expenditures incurred during 2001-02 was paid from 2002-03 funds.
- The audit report ending June 30, 2003 does not indicate that current funds were used to pay for prior year expenditures.
- Only ten (10) months of payroll related expenditures were paid during this school year.
- With the last two (2) months of 2002-03 payroll obligations outstanding at the end of the school year, the school had a balance of \$42,484.00.
- The outstanding payroll obligations for the final two (2) months of payroll for this year were not paid due to lack of funds and the payroll obligations were “rolled” forward and paid from the next year appropriations as referenced below.
- Had the school paid the final two (2) payroll obligations of approximately **\$304,172.00**, from the current fiscal year budget, the school would have exceeded appropriations.
- In essence, the school exceeded appropriations but rolled the expenditures forward to hide the fact.

After interviewing former and current board members, former and current employees, and reviewing board meeting minutes and documentation presented to the board, it does not appear that the board had knowledge that prior year payroll and non-payroll expenditures were paid at the beginning of the 2002-2003 school year. It does not appear that the board had prior knowledge that the final two months of payroll for this school year were not paid but “rolled forward” to the next school year as referenced below.

It appears the encumbrance clerk and the former superintendent encumbered and approved prior year expenditures from current year appropriations. The former superintendent advised our office that the payroll obligations for this fiscal year were rolled forward at the advice of a school financial advisor. However, we interviewed the former advisor, who stated to us, that he

discussed the school's financial situation with the former superintendent but never recommended that any of the expenditures be rolled forward. He stated that he advised the board on cash flow and state revenue and prepared cash flow projections, midyear formulas and warned that they might exceed appropriations and that he projected that they would be in the negative. He stated that at a later date the former superintendent advised him that the school could not meet payroll obligations. At this time the financial advisor recommended to the former superintendent that he contact the school attorney and budget maker.

70 O.S. Supp. 2002, § 1-117(A) states in part:

"The general fund of any school district is hereby defined as a current expense fund and shall consist of all revenue or monies that can legally be expended within a certain specified fiscal year[.]"

RECOMMENDATION: We recommend the State Department of Education (hereinafter referred to as SDE) review this finding. We recommend no prior year expenditures be encumbered or paid from current year appropriations. We recommend the school adopt policies and procedures to implement controls regarding this finding. We recommend the District Attorney review this finding.

2003-04

As referenced above, it appears that two (2) months of the prior year payroll were paid from this year's appropriations. The teachers were paid twelve monthly payments during the 2003-04 school year; the last two payments of the 2002-03 and the first ten payments of 2003-04 were paid from 2003-04 general funds. For example, one teacher received the following payments from 2003-04 funds:

<u>DATE</u>	<u>AMOUNT</u>	<u>FISCAL YEAR</u>
07-09-03	\$2,521.67	11 th month payment for 2002-03 teaching obligation
08-14-03	\$2,521.67	12 th month payment for 2002-03 teaching obligation
09-11-03	\$2,501.75	1 st month payment for 2003-04 teaching obligation
10-09-03	\$2,585.05	2 nd month payment for 2003-04 teaching obligation
11-14-03	\$2,543.42	3 rd month payment for 2003-04 teaching obligation
12-11-03	\$2,543.42	4 th month payment for 2003-04 teaching obligation
01-08-04	\$2,543.42	5 th month payment for 2003-04 teaching obligation
02-12-04	\$1,935.43	6 th month payment for 2003-04 teaching obligation
03-11-04	\$2,128.91	7 th month payment for 2003-04 teaching obligation
04-08-04	\$2,111.65	8 th month payment for 2003-04 teaching obligation
05-13-04	\$2,583.14	9 th month payment for 2003-04 teaching obligation
06-10-04	\$1,999.52	10 th month payment for 2003-04 teaching obligation

In addition to the final two (2) months of 2002-03 payroll obligations paid from 2003-04 appropriations as referenced above, the following occurred:

- During July and August 2003 (2003-04 school year), the school issued warrants for a total of **\$26,741.48** for the payment of 2002-03 *non-payroll* (supplies, maintenance, utilities, travel, software, special services contract, conference registration fees, related expenditures).

- July and August 2003 payroll expenditures paid from this year's fiscal funds totaled approximately \$304,172.00, for a total of approximately **\$330,913.00** current year funds used to pay prior year expenditures.
- The school did not have the funds to pay the final two (2) months of payroll. It appears the board knew the final two (2) months of 2003-04 were going to be rolled forward and paid from 2004-05 appropriations. However, the board relied on the statements of the former superintendent and a legal opinion that this was lawful.
- At the end of June 30, 2004, the school had a **-\$86,825.72 (deficit)** cash balance. The audit report ending June 30, 2004 indicated that the general fund had a deficit cash balance of \$86,825.72. The audit report did not indicate that current year funds were used to pay for prior year expenditures.

After interviewing former and current school board members and staff, and reviewing documentation provided to the board during scheduled board meetings, it does not appear that the board had knowledge that prior year *non-payroll* expenditures were paid from the current year appropriations. After interviewing former and current board members, it appears that some time during this school year, the board members became aware that the final two months of payroll for 2002-03 had been paid from 2003-04 appropriations. Board members stated when they inquired as to the legality of this action, the former superintendent informed the Board that doing this was legal. They stated he later presented them with a legal opinion.

It appears the school received a legal opinion dated December 9, 2003 (2003-04 school year). The opinion was written to the school's auditor in response to a request for a legal opinion from the Center for Education Law, Inc. with respect to the fact that Coyle Public Schools paid employees for work performed in FY 2002 with FY 2003 funds. The Memorandum states in part:

"Since the law in Oklahoma specifically allows school districts to pay teachers over 12 months for work performed during the fiscal year; since teachers must be paid in arrears; and since failure to pay wages when due would result in a current obligation to both the teacher and possibly the Commissioner of Labor, we believe it is permissible to make the payment due to teachers in their twelfth check from funds for the fiscal year in which the check is due to be paid to the teacher, i.e. July of the fiscal year after the work was performed." (See Exhibit "A")

The school board stated they realized they did not have the funds to pay the final two (2) months of payroll for 2003-04. The Board relied on the statements of the former superintendent and the legal opinion that this was legal. They determined that they would pay the final two months of payroll for this school year with next year's funds.

2004-05

At the start of this school year, the school had a **-\$86,825.72 (deficit)**. In addition to this, it appears that teachers were paid fourteen (14) monthly payments during 2004-05. Two (2) payments were for 2003-04 payroll obligations and twelve (12) payments were for 2004-05 payroll obligations. The following is an example of one of the teachers who was paid during 2004-05:

<u>DATE</u>	<u>AMOUNT</u>	<u>FISCAL YEAR</u>
07-08-04	\$2,543.42	11 th month payment for 2003-04 teaching obligation
08-10-04	\$2,543.43	12 th month payment for 2003-04 teaching obligation
09-14-04	\$2,572.58	1 st month payment for 2004-05 teaching obligation
10-12-04	\$2,572.58	2 nd month payment for 2004-05 teaching obligation
11-10-04	\$2,572.58	3 rd month payment for 2004-05 teaching obligation
12-15-04	\$2,572.58	4 th month payment for 2004-05 teaching obligation
01-12-05	\$2,572.58	5 th month payment for 2004-05 teaching obligation
02-09-05	\$2,572.58	6 th month payment for 2004-05 teaching obligation
03-09-05	\$2,572.58	7 th month payment for 2004-05 teaching obligation
04-13-05	\$2,572.58	8 th month payment for 2004-05 teaching obligation
05-11-05	\$2,572.58	9 th month payment for 2004-05 teaching obligation
06-15-05	\$2,572.58	10 th month payment for 2004-05 teaching obligation
06-16-05	\$2,572.58	11 th month payment for 2004-05 teaching obligation
06-17-05	\$2,572.58	12 th month payment for 2004-05 teaching obligation

- Payroll warrants for July and August 2004 (the final two payrolls for 2003-04 school year) were paid from 2004-05 appropriations as referenced above.
- In addition to the two (2) payrolls for July and August 2004 being paid from the 2004-05 appropriations as referenced above, which total approximately **\$304,172.00**, between July 2004 and September 2004, the school paid a total of **\$51,705.69** of 2003-04 *non-payroll* expenditures from 2004-05 appropriations for a total of approximately **\$355,705.00** of prior year's expenditures paid from current year appropriations.
- According to board members, sometime during the late Fall of the 2004-05 school year, they were advised by SDE personnel that paying prior year expenditures from current year expenditures was not legal.
- On June 27, 2005, the board received a legal opinion from a law firm stating that it was unlawful for the school to expend current fiscal year funds to pay for services rendered during a previous year. (**See attached Exhibit "C"**)

It appears the school board relied on statements made by the former administration and the legal opinion from the Center for Education of Law, Inc. for authorization to pay prior year salary obligations from current year expenditures as referenced above. As to the payment of prior year expenditures for non-payroll related items, the school board was provided a monthly warrant register that reflected the vendor, amount of payment and warrant number. There was nothing on the warrant register that indicated the payments were for prior year expenditures. It does not appear the school board had knowledge of prior year *non-payroll* expenditures. It does appear, however, that the encumbrance clerk and the former superintendent had knowledge that prior year non-payroll expenditures were paid from current year appropriations.

According to the former superintendent, he reviewed every invoice and purchase order prior to approving them for payment. The invoices and supporting documentation indicated that these purchases/expenditures were not within the year they were paid.

70 O.S. Supp. 2002, § 1-117 states in part:

"The general fund of any school district is hereby defined as a current expense fund and shall consist of all revenue or monies that can legally be expended within a certain specified fiscal year[.]"

RECOMMENDATION: We recommend no prior year expenditures be encumbered or paid from current year appropriations. We recommend the school adopt policies and procedures to implement controls regarding this finding. We recommend that the State Department of Education review this finding. In addition, we recommend the District Attorney review this finding.

FINDING (2): Inadequate internal controls.

Blanket Purchase Orders

It appears the school did not have adequate internal controls for encumbering funds, issuing warrants or monitoring the school's financial status throughout the year. Examples of what occurred are as follows: On July 2, 2002, the school issued a warrant for an expenditure encumbered by a blanket purchase order no. 108 to the Postmaster for \$4,000.00. It appears monthly warrants were issued to this vendor. However, there were no invoices or documents to support the payments made on the blanket purchase order. On July 2, 2002, the school issued a purchase order and a warrant to a vendor for supplies in the amount of \$744.40. There was no invoice or supporting documentation attached to the purchase order. On July 2, 2002, the school issued the following blanket purchase orders: number 101 to Southwestern Bell for \$575.00; number 102 to CGI (long distance services) for \$2,100.00; number 104 to ONG for \$27,000.00; number 105 to Coyle Utilities for \$10,500.00; number 106 to ADPC for \$4,700.00; and number 107 to Advanta for \$1,284.00. The school issued warrants for monthly payments to these vendors. However, the only invoices attached to the blanket purchase orders were invoices for the first payments made in July 2002.

62 O.S. 2001, § 310.8 states in part:

"B. ...An itemized list of goods or services purchased pursuant to the blanket purchase order shall be attached to the vendor's invoice if said invoice does not contain an itemized list of goods or services purchased pursuant to the blanket purchase order."

Encumbrances and Purchase Orders

In addition to the above, it appears that from 2003-2005 school years, the school did not post an encumbrance until the date the warrant was issued. It appears that transactions had taken place prior to the submission of an encumbrance for funds. This created a problem in that funds were obligated to vendors but not encumbered at the school until the time the warrant was issued. The purchase orders and warrants were issued on the same date.

It should be noted that the financial auditor for the school included in the audit reports in the financial statement of findings for fiscal years ending 2002, 2003 and 2004 (three years) that there were numerous transactions where the invoice date was prior to the purchase order date.

70 O.S. Supp. 2004, § 5-135 states in part:

"A. The board of education of each school district shall use the following system of initiating, recording and paying for all purchases, salaries, wages or contractual obligations due from any of the funds under the control of such board of education.
* * *

D. Prior to the issuance of a purchase order, the encumbrance clerk must first determine that the encumbrance will not exceed the balance of the appropriation to be charged. The encumbrance clerk shall charge the appropriate appropriation accounts and credit the affected encumbrances outstanding

accounts with the encumbrances. A copy of the encumbrance or purchase order may be used as the authority for the designated school personnel to complete the purchasing process. Encumbrances must be submitted to the board of education in the order of their issuance on a monthly basis, subject to a monthly business cycle cut-off date determined by the board of education. Approved encumbrances shall be listed in the minutes by the minute clerk.

* * *

G. After ascertaining that proper accounting of the purchase has been made and that the files contain sufficient information to justify the expenditure of public funds, the encumbrance clerk shall pay the approved bill by issuing a warrant or check against the designated fund[.]

H. The treasurer shall register the warrant or check in the warrant or check register, charging the appropriation account and crediting the warrants or checks outstanding account of the designated fund. Provided, no warrant or check shall be registered in excess of the appropriation account's balance."

Facsimile Warrant Signatures

It appears that during 2004-05, the encumbrance clerk was also responsible for issuing warrants. During this time period, the school utilized accounting software that included facsimile signatures on warrants. The signatures of the treasurer, the president of the school board and the clerk of the school board were scanned into the computer program so that when warrants were printed, the signatures were automatically printed on the warrants. It does not appear that any of these individuals' signatures are on file with the Secretary of State. The treasurer and the school board received monthly warrant registers that reflected the vendor, encumbrance number, warrant number, amount of warrant and total warrants issued to date. The encumbrance clerk stated that the warrants were not presented to the board for review in that the signatures were printed on the warrants at the time they were printed.

62 O.S. 2001, § 602 states:

"Any authorized officer, after filing with the Secretary of State his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature any public security, or any certificate thereon or thereto.

Upon compliance with this act¹ by the authorized officer, his facsimile signature has the same legal effect as his manual signature."

As of July 2005, the school implemented new procedures that include the following: require the encumbrance clerk verify, by signature, that funds are available; require that encumbrances be posted at the time of occurrence; require that the board receive detailed financial data and be informed at every monthly meeting of the financial condition of the school district; and require that the school treasurer sign all warrants after the school board has reviewed and signed approving payment of the warrants. The current school treasurer's facsimile signature is on file with the Secretary of State.

RECOMMENDATION: We recommend the school board president and clerk submit their official signatures to the Secretary of State as required by law. We recommend that the school continue to follow the recently implemented controls regarding encumbrances, purchases and financial data presented to the board. We recommend that the school adopt these procedures as part of their policy manual. We recommend that the State Department of Education review this finding.

II. CONCERN: *Possibility that the school exceeded appropriations.*

We reviewed warrant registers, encumbrance reports, superintendent's reports, school board agendas and documentation provided to the board during the meetings and interviewed school personnel. We recommend the District Attorney review this finding.

Finding (1): The school exceeded approved appropriations.

2003-2004

The school exceeded approved appropriations. The following is a summary of what occurred:

- On May 13, 2004, warrants for payroll obligations were issued that totaled approximately \$172,168.00. After the issuance of these warrants, the general fund appropriations balance was -\$69,177.60 .
- The superintendent continued to direct the treasurer (who was also the school secretary) to issue warrants although she told him the school had exceeded appropriations.
- On May 13, 2004, warrants for non-payroll obligations were issued that totaled approximately \$24,952.00. After the issuance of these warrants, the general fund appropriations balance was -\$94,130.40.
- On June 10, 2004, the former superintendent advised the treasurer to issue June payroll that totaled approximately \$186,973.00, leaving a general fund appropriations balance of -\$332,997.00.
- In order to meet June payroll obligations, on June 14, 2004, the treasurer voided warrant number 1912 in the amount of \$25,200.00, which was later paid with FY 2005 appropriations.
- On June 15, 2004, the school board approved a supplemental budget increase of \$325,797.00 that was certified by the Logan County Clerk on June 22, 2004.
- After this supplemental was prepared, it appeared the school had a \$17,799 general fund appropriation balance.
- However, the supplemental increase was prepared on SA&I Form 307. The form does not include a worksheet showing revenue collections (over/under) in all funding categories to verify availability of those funds prior to approval of the supplemental appropriations. The form does not provide a section for the County Excise Board to review and approve.
- The supplemental appropriations form included anticipated funds that were not drawn down by the school by the end of the fiscal year. In addition, the supplemental appropriations form included revenue that had already been calculated in the original budget. This resulted in a June 30, 2004 cash balance of **-\$86,825.72 (deficit)**.
- At the end of June 30, 2004, with a negative cash balance as referenced above, the July and August 2004 payroll were outstanding without insufficient funds to pay these obligations.
- Estimated unpaid FY 2004 (July and August 2004) payroll obligations as of June 30, 2004 were approximately \$347,000.00.
- The July and August 2004 payroll obligations were rolled forward and paid from FY 2005 appropriations as referenced above.
- The financial audit report for fiscal year ending 6-30-04 indicated a general fund deficit balance of \$86,825.72. However, it did not indicate that the school had exceeded approved appropriations prior to the supplemental being prepared.

- The former superintendent's November 9, 2004 response to this audit finding was: "The deficit balance is a result of inadequate funding from the state legislature and federal mandates that are not funded fully. School board members have been apprized (sic) of this matter, the reduction of personnel staff will be considered strongly, as the principal revenue saving maneuver".

According to a school employee (who was also the school treasurer during this period), in May and June 2004, the school board was presented information showing general fund negative cash balances on hand. The school employee stated that when the board inquired as to the negative cash balances, the board was told by the former superintendent that the school had outstanding revenue that would cover the deficit. The former treasurer also stated that on numerous occasions, she discussed the financial status with the former superintendent who told her there would be funds from uncollected revenue that would cover the expenditures. It appears that during monthly board meetings, the board was provided with the respective month's general fund warrant registers. However, the warrant registers showed expenditures to date but did not reflect that the expenditures had exceeded the budgeted appropriations. And, the warrant registers did not reflect itemized payroll expenditures.

62 O.S. 2001, § 476 states:

"Warrants and certificates of indebtedness may be issued to the amount of the estimate made and approved by the excise board for the current fiscal year or to the amount authorized for such purpose by a bond issue."

62 O.S. Supp. 2004, § 477 states in part:

"It shall be unlawful for any officer to issue, approve, sign or attest any warrant or certificate of indebtedness in any form in excess of the estimate of expenses made and approved for the current fiscal year or authorized for such a purpose by a bond issue, and any such warrant or certificate of indebtedness issued, approved or attested in excess of the estimate made and approved or authorized by a bond issue, shall not be a charge against the city or town upon which it is issued, but may be collected by civil action from any officer issuing, drawing, approving, signing or attesting the same, or from either or all of them, or from their bondsmen."

62 O.S. 2001, § 479 and states:

"A. It shall be unlawful for the ... school district board of education ... to willfully or knowingly make any contract for, incur, acknowledge, approve, allow or authorize any indebtedness against their respective ... school district or authorize it to be done by others, in excess of the estimate of made and approved by the excise board for such purpose for the current fiscal year, or in excess of the specific amount authorized for such purpose by a bond issue.

B. Any such indebtedness, contracted, incurred, acknowledged, approved, allowed or authorized in excess authorized in excess of the estimate made and approved for such purposes for the current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, shall not be a charge against the ... school district whose officer or officers contracted, incurred, acknowledged, approved, allowed or authorized or attested the evidence of said indebtedness, but may be collected by civil action from any official willfully or knowingly contracting, incurring, acknowledging, approving or authorizing or attesting to the indebtedness, or from the bondsmen of the official."

The Constitution of Oklahoma, Article 10 § 26(a) states in part:

"Except as herein otherwise provided, no ... school district, or other political subdivision of the state, shall be allowed to become indebted, in any manner, or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year without the assent of three-fifths of the voters thereof[.]"

70 O.S. Supp. 2004, § 5-135 states in part:

"A. The board of education of each school district shall use the following system of initiating, recording and paying for all purchases, salaries, wages or contractual obligations due from any of the funds under the control of such board of education[.]

* * *

D. Prior to the issuance of a purchase order, the encumbrance clerk must first determine that the encumbrance will not exceed the balance of the appropriation to be charged. The encumbrance clerk shall charge the appropriate appropriation accounts and credit the affected encumbrances outstanding accounts with the encumbrances. A copy of the encumbrance or purchase order may be used as the authority for the designated school personnel to complete the purchasing process. Encumbrances must be submitted to the board of education in the order of their issuance on a monthly basis, subject to a monthly business cycle cut-off date determined by the board of education. Approved encumbrances shall be listed in the minutes by the minute clerk.

* * *

G. After ascertaining that proper accounting of the purchase has been made and that the files contain sufficient information to justify the expenditure of public funds, the encumbrance clerk shall pay the approved bill by issuing a warrant or check against the designated fund[.]

H. The treasurer shall register the warrant or check in the warrant or check register, charging the appropriation account and crediting the warrants or checks outstanding account of the designated fund. Provided, no warrant or check shall be registered in excess of the appropriation account's balance."

70 O.S. 2001, § 5-157 states in part:

"A. No expenditure may be authorized or made by any officer or employee of a school district which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year pursuant to law.

B. It shall be unlawful for any officer or employee of the school district in any budget year:

1. To create or authorize creation of a deficit in any fund; or
2. To authorize, make or incur expenditures or encumbrances in excess of one hundred percent (100%) of the appropriation for any fund of the budget as adopted or amended until revenues in an amount equal to at least one hundred percent (100%) of the appropriation for the fund have been collected. Any fund balance which is included in the appropriation for the fund is considered revenue in the budget year for which it is appropriated. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act¹ shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the school district. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void."

68 O.S. 2001, § 3021 states in part:

"Whenever the public welfare or the needs of any ... school district shall require, the excise board may, on call of the chairman, convene at any time for the purpose of making supplemental or additional appropriations for current expense purposes; provided, that all such appropriations authorizing the creation of an indebtedness shall come within the limitations of Section 26, Article X, Oklahoma Constitution. No supplemental or additional appropriation shall be made for any county, city, town or school district in excess of the income and revenue provided or accumulated for the year. As to all such proposed appropriations the following procedure shall be followed:

First: The proper officers of the ... school district shall make and file with the excise board a financial statement showing its true fiscal condition as at the close of the month next preceding or as of May 15 or June 20, or both said dates, preceding the date of filing, and shall submit therewith a statement of the

amount and purpose for which each proposed supplemental appropriation is to be used. The financial statement shall show, as to the current expense or general fund, the amount of cash in the treasury; the amount of taxes in process of collection as to which the date of ...the surplus or deficit in revenue, if any in each fund.

Second: If the financial statement herein required shall correctly reflect a surplus in revenue in any fund available for current expenses, and the excise board shall so affirmatively find, it may make supplemental appropriations to an amount not exceeding the aggregate of such surplus.

Third: If the surplus of revenue, as found and determined by the excise board, shall be insufficient for the additional needs and requirements of the ...municipal subdivision, the excise board shall have the power and authority to revoke and cancel in whole, or in part, any appropriation or appropriations, or parts thereof, previously made to any officer or department of government of any ... school district ... As to ... school districts, the financial statement and request for supplemental appropriations herein required to be filed with the excise board shall be published at least one time in some newspaper of general circulation in the county or city for which made. Said publication shall be made at least three (3) days prior to the date on which the excise board shall consider the proposed supplemental or additional appropriations. No appropriations shall be made and considered by the excise board in the absence of the financial statement herein required to be filed."

68 O.S. 2001, § 3003(B)(C) states in part:

* * *

"B. The unappropriated cash balance on hand may be appropriated as needed upon the request of the governing board of the recipient government and approval by the county excise board, provided, if the governing board of the recipient government determines the need to do so, it may estimate the amount remaining to be collected from its entitlement from federal funds during the remainder of its fiscal year and include such estimate in its request for appropriations. The estimate shall not exceed the amount of the entitlement which is to be received during the remainder of the recipient government's fiscal year or, if the amount of the entitlement has not been certified, ninety (90%) of such funds received during a corresponding period of the previous fiscal year; provided that if the entitlement is less than that estimated or if the entitlement to be collected during the recipient government's fiscal year, in addition to the unappropriated cash balance, is reduced below the amount appropriated for the fiscal year, the governing board of the recipient government shall request the county excise board for an adequate reduction of appropriations in the fund.

C. All monies distributed by the federal government and received by any state agency, board, or commission to administer and distribute to ... subdivisions of the government in the State of Oklahoma, hereinafter referred to as the recipient government, that do not follow procedures in subsection B of this section may utilize the letter of commitment appropriation process as specified in this subsection. The recipient government shall receive approval for the program as required by the agency, board, or commission administering the program and by the federal government, if required. Once approved, the state agency, board or commission may authorize a letter of commitment of federal monies available to the recipient government. The Excise Board may approve an appropriation in the amount of the letter of commitment. Each recipient government may establish a separate appropriation within a special revenue fund designated for federal monies. The recipient government may encumber funds in an amount not to exceed the sum of the total letter of commitment, which is a binding commitment of funding which the recipient government will receive for the project or projects eligible for such federal funding. The encumbrance of funds authorized by this section shall be made in accordance with procedures prescribed by the State Auditor and Inspector and shall be administered in accordance with rules and regulations concerning such distribution adopted by the federal government and the state agency, board, or commission. Any expenditure incurred by the recipient government using the letter of commitment appropriation process and disallowed by the federal government or state agency, board, or commission administering the funds shall be paid by the recipient government."

RECOMMENDATION: We recommend the school board adopt policies and procedures to ensure that school personnel follow the provisions of the law. We recommend the SDE review this finding. We recommend that the District Attorney review this finding.

2004-2005

It appears that during FY 2005, the school exceeded appropriations. The following is a summary of what occurred:

- Beginning the school year, the school had a cash balance of **-\$86,825.72 (deficit)**
- The board hired a new treasurer to assist with the financial situation.
- Encumbrances were not posted against appropriations at the time items/services were ordered as required by **70 O.S. § 5-135**.
- The amount of FY 2005 general fund appropriations was \$2,200,147.00
- At the beginning of FY 2005, the school had a total of fourteen (14) months of payroll obligations.
- Twelve (12) months of FY 2005 payroll obligations totaled approximately \$2,218,205.00 and two (2) months of FY 2004 (July and August 2004) payroll obligations totaled approximately \$346,678.00.
- FY 2005 payroll and the remaining two months of FY 2004 payroll encumbrances would have totaled \$2,564,883.00 at the beginning of FY 2005.
- With fourteen (14) months of payroll obligations (encumbrances), as referenced above, the school had exceeded appropriations before encumbering the very first purchase order on July 1, 2004.
- In December 2004, the encumbrance clerk advised the former superintendent that she projected the school would exceed their budget by one million dollars, the encumbrances continued to be made and warrants continued to be issued after the encumbrance clerk advised the former superintendent and the former treasurer that the school had exceeded appropriations.
- At some point after December 2004, the SDE discovered the school had exceeded prior year appropriations. The SDE required that the former superintendent attend monthly state board meetings (beginning January 2005) to determine how the situation occurred and to determine the school's intention to correct the deficit.
- The former superintendent reported to the State Board of Education January, April, May and July 2005.
- It should be noted that when the State Superintendent asked the former superintendent at a January 2005 board meeting, if that, in his opinion, ending in a negative fund balance, was the appropriation exceeded and the former superintendent stated "no".
- On April 14, 2005, at the State Board meeting, the former superintendent advised the board that the new superintendent for the next school year "has been apprised of the financial strains and attempts to bring these things back into an accountable arena...the school board, attorney and financial institutions have been informed and made aware of steps taken, as well as the possibility of a friendly judgment." The former superintendent also advised the state board that the school was "taking a hard line on spending in general..."
- The local board did not receive adequate financial documents to be able to determine the financial status of the school.
- Neither the former superintendent nor the former treasurer adequately tracked the financial spending and neither advised the local board that appropriations had been exceeded.
- Neither the former superintendent nor the former treasurer submitted a request to the local board to prepare supplemental appropriations.

- The school expenditures (actual warrants issued) exceeded the original appropriations on April 29, 2005 leaving a balance of appropriations of -\$420,795.00.
- On May 19, 2005, the former superintendent advised the State Board that “the treasurer and encumbrance clerk are working to calculate and obtain the best figure as far as the deficit is concerned. That figure will be approximately \$160,000-\$180,000 and a financial institution has been contacted to make steps toward a friendly judgment.”
- Filing a friendly lawsuit was not an option at this time.
- Although the school had exceeded appropriations, the encumbrance clerk was directed by the former superintendent to continue to issue warrants and by June 18, 2005 (which included payroll obligations through August 2005), warrants issued totaled \$3,390,749.00. At this point, the balance of appropriations was approximately -\$1,190,600.00.
- Neither the former superintendent nor the former treasurer advised the board that appropriations had been exceeded.
- During June 2005, the former superintendent did not appear before the state board and he did not attend the regularly scheduled local school board meeting.
- After the local board was advised by the incoming superintendent that they had exceeded appropriations, on June 27, 2005 the local board requested supplemental appropriations of \$966,818.48 that was certified by the Logan County Clerk on June 30, 2005.
- The June 30, 2005 ending balance after the first supplemental was approximately -\$223,781.00.
- On July 12, 2005, the local board requested a second supplemental appropriation of \$38,470.12 that was certified by the Logan County Clerk on July 29, 2005.
- After final supplemental appropriations through July 2005, the general fund lapsed appropriations was approximately -\$185,311.

It appears that due to the aforementioned events, the school exceeded appropriations

After interviewing former and current board members and employees, and reviewing financial documentation and board meeting minutes, it appears that the former superintendent advised the board that the school was in good financial condition until after he submitted his intent to resign, effective at the end of FY 2005. Approximately a month after he advised the board of his intent to resign, he informed the board (December 2004) that the school would have a shortfall. In addition, during March 2005, the former superintendent advised the incoming superintendent that the school would probably experience a revenue shortfall of approximately \$185,000-\$200,000 and he was advised that the school was going to file a friendly lawsuit and get a judgment in the amount of the shortfall. It also does not appear that the former superintendent completed any processes toward the school filing a friendly lawsuit. It does not appear that the board had knowledge that the school had exceeded appropriations until some time toward the end of the fiscal year. It also appears that the former superintendent was not available to the board during May and June 2005, and did not appear at the school board meeting or the state board meeting in June 2005 at a time when the school was in a dire financial situation. It does not appear that the former superintendent advised or prepared any information related to the school's financial condition for the incoming superintendent. It appears that only after the incoming superintendent determined the financial status (toward the end of June 2005) of the school that the board was advised that the school had exceeded appropriations.

As of July 1, 2005, the school purchased a new accounting system, hired a new school treasurer, auditor and superintendent. In response to the financial situation the school: voided warrants in the amount of \$189,715.40, that had been issued but not mailed; negotiated lease purchase contracts to repay funds from FY 2006; requested FY 2006 state aid be reduced to pay for a contract; filed a friendly lawsuit; sold school property and received a donation from the school foundation. The following is a summary of what occurred:

- \$62,079.00 was for FY 2006 insurance expenditures that should not have been paid with FY 2005 funds.
- \$16,997.53 was for payment to two other schools for providing special education services to Coyle students. The school requested that the SDE reduce the amount of FY 2006 state aid by this amount. The SDE reduced the amount of FY 2006 state aid by \$16,998.00.
- \$25,195.30 was for the purchase of computers and computer equipment. Some of this computer equipment totaling \$12,442.92 was to have been purchased with Federal funds. The former administration requested "reimbursement" for \$12,442.92 of the funds and received "reimbursement" via electronic transfer of funds that were deposited into the school bank account. However, when the funds were deposited into the account, those funds were used for current warrants, thereby leaving no funds to pay for the computers, although the warrants had already been issued. The school cancelled the total amount of warrants of \$25,195.30. Instead of returning the computers and equipment and then reordering them in FY 2006, the new administration and the vendor entered into a lease-purchase agreement for the computers.
- \$15,755.22 was for a new phone system ordered in May 2005 by the former superintendent, at a time when appropriations had been exceeded. Instead of having the system removed and then reinstalled in FY 2006, the new superintendent entered into a contract in FY 2006 with the vendor for the installation and new phone service.
- \$60,688.38 was for teachers' August 2005 net payroll obligations. The school filed a friendly lawsuit for this amount. The school foundation donated \$60,688.38 to the school. The donation was deposited into the school sinking fund and warrants were issued to the teachers to pay for August 2005 net payroll obligations.
- \$9,000.00 was for the last half of FY 2004 Head Start contract. Of this amount, the vendor agreed to forgive \$6,500.00 of this contract and to accept services in lieu of payment for the remaining \$2,500.00.
- Approximately \$3,000 of building fund money was erroneously deposited into the general fund.
- The foundation purchased land from the school for \$20,000.00. The proceeds were deposited into the district's FY 2005-06 general fund account in that general funds were used for the original purchase of the land.

To review a comparison of appropriations, warrants issued and surplus cash, see **Exhibit "B"** attached hereto.

70 O.S. 2001, § 5-157 states:

"A. No expenditure may be authorized or made by any officer or employee of a school district which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year pursuant to law.

B. It shall be unlawful for any officer or employee of the school district in any budget year:

1. To create or authorize creation of a deficit in any fund; or
2. To authorize, make or incur expenditures or encumbrances in excess of one hundred percent (100%) of the appropriation for any fund of the budget as adopted or amended until revenues in an amount equal to at least one hundred percent (100%) of the appropriation for the fund have been collected. Any fund balance which is included in the appropriation for the fund is considered revenue in the budget year for which it is appropriated. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act¹ shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the school district. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void.”

The **Constitution of Oklahoma, Article 10 § 26(a)** states in part:

“Except as herein otherwise provided, no ... school district, or other political subdivision of the state, shall be allowed to become indebted, in any manner, or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year without the assent of three-fifths of the voters thereof[.]”

70 O.S. Supp. 2004, § 5-135 states in part:

“A. The board of education of each school district shall use the following system of initiating, recording and paying for all purchases, salaries, wages or contractual obligations due from any of the funds under the control of such board of education[.]

* * *

D. Prior to the issuance of a purchase order, the encumbrance clerk must first determine that the encumbrance will not exceed the balance of the appropriation to be charged. The encumbrance clerk shall charge the appropriate appropriation accounts and credit the affected encumbrances outstanding accounts with the encumbrances. A copy of the encumbrance or purchase order may be used as the authority for the designated school personnel to complete the purchasing process. Encumbrances must be submitted to the board of education in the order of their issuance on a monthly basis, subject to a monthly business cycle cut-off date determined by the board of education. Approved encumbrances shall be listed in the minutes by the minute clerk.

* * *

G. After ascertaining that proper accounting of the purchase has been made and that the files contain sufficient information to justify the expenditure of public funds, the encumbrance clerk shall pay the approved bill by issuing a warrant or check against the designated fund[.]

H. The treasurer shall register the warrant or check in the warrant or check register, charging the appropriation account and crediting the warrants or checks outstanding account of the designated fund. Provided, no warrant or check shall be registered in excess of the appropriation account's balance.”

70 O.S. 2001, § 5-157 states in part:

“A. No expenditure may be authorized or made by any officer or employee of a school district which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year pursuant to law.

B. It shall be unlawful for any officer or employee of the school district in any budget year:

1. To create or authorize creation of a deficit in any fund; or

2. To authorize, make or incur expenditures or encumbrances in excess of one hundred percent (100%) of the appropriation for any fund of the budget as adopted or amended until revenues in an amount equal to at least one hundred percent (100%) of the appropriation for the fund have been collected. Any fund balance which is included in the appropriation for the fund is considered revenue in the budget year for which it is appropriated. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act¹ shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the school district. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void.”

70 O.S. Supp. 2004, § 5-182 states:

“It shall be unlawful for any school district officer to issue, approve, sign, or attest any check, warrant or certificate of indebtedness in any form in excess of the estimate of expenses made and approved for the current fiscal year or authorized for such a purpose by a bond issue and any such check, warrant or certificate of indebtedness issued, approved, or authorized by a bond issue shall not be a charge against

the school district upon which it is issued, but may be collected by civil action from any officer issuing, drawing, approving, signing, or attesting the same, or from either or all of them, or from their bondsmen.”

70 O.S. Supp. 2004, § 5-183 states in part:

“Any treasurer who shall willfully or knowingly register or pay a warrant, check or certificate of indebtedness, issued in excess of the estimate made and approved by the excise board for the current fiscal year or in excess of a bond issue for such purpose ... shall be punished by a fine[.]”

70 O.S. Supp. 2004, § 5-184 states in part:

“Any school district officer willfully or knowingly contracting, incurring, acknowledging, authorizing, allowing, or approving any indebtedness or any officer issuing, drawing, or attesting any check, warrant or certificate of indebtedness in excess of the estimate made and approved by the excise board for such purpose for the current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, shall be deemed guilty of a misdemeanor[.]”

70 O.S. Supp. 2004, § 5-186 states in part:

“It shall be unlawful for the governing board of education to issue any check, warrant or certificate of indebtedness, in any form, in payment of, or representing or acknowledging any account, claim, or indebtedness against the school district, or to make any contracts for, or incur any indebtedness against the school district in excess of the amount then unexpended and unencumbered of the sum appropriated for the specific item of estimated needs for such purpose theretofore made, submitted, and approved, or authorized for such purpose by a bond issue. The signature of the board president and clerk shall be notification to the public that the check or warrant is for the purpose and within the amount of the appropriation charged.”

RECOMMENDATION: We recommend the school adopt policies and procedures that the school and employees follow the provisions of the law. We recommend the Oklahoma State Department of Education review this finding. We recommend the District Attorney review this finding.

III. CONCERN: *Possible school e-rate funds used to pay for personal cell phones.*

We reviewed an e-rate grant application, e-rate payment information, interviewed school personnel, reviewed school board meeting minutes, proposed agreements, updates, outstanding invoices and original checks.

FINDING (1): E-rate funds received by the school were used to pay for personal cell phones.

Several school employees, including the former superintendent, received cell phones and service at a special rate provided to the school with the understanding that all employees were personally responsible for paying their respective bills. The school applied for and received \$11,187.46 e-rate funds. The e-rate funds were to be used for school purposes. Not all employees paid their respective personal phone bills. At the direction of the former superintendent, the e-rate funds were applied to the outstanding balance of these personal cell phone bills. Neither the employees' contracts nor the former superintendent's contracts provided for the payment of cell phones. It does not appear that the school board was aware that the e-rate funds were used to pay for the personal cell phone bills.

After the e-rate funds were exhausted, the three (3) cell phones assigned to the former superintendent continued to be used. The phone company invoice dated 3/28/05 listed an amount due of \$7,240.89, with a settlement offer (if the amount was paid in full) of \$5,430.67. The former superintendent submitted documentation to the board prior to the scheduled April 12, 2005 board meeting wherein he intended to request that the school federal funds be used to pay this outstanding phone bill. Prior to the board meeting, the board learned that the outstanding phone bill was incurred due to personal use and a board member notified the former superintendent that they did not intend to pay for personal phone bills with school funds.

After the board denied paying the outstanding bill, the former superintendent prepared a proposed agreement that stated in part, "...that a small portion of the balance (approximately \$1,000) is credited to a former employee...approximately \$6,000 will be paid for my part..."

The school did not accept this offer. At a later date, the former superintendent delivered twelve (12), two hundred and fifty dollar (\$250.00), signed and post-dated personal checks and directed a school employee to send monthly checks to the vendor for the payment on the outstanding bill. As of this date, no checks have been tendered and there is currently a \$7,240.89 outstanding balance on this account.

It should be noted that at a State Board meeting on April 14, 2005 (only two days after the former superintendent had a request to the board to discuss paying the above-referenced phone bill) a state board member asked the former superintendent: "in addition to the reduction-of-force what other measures are being taken to reduce the deficit?" The former superintendent said: "taking a hard line on spending in general. In the 2003 school year we reduced support staff and have cut everything that could be cut in attempts to stay away from the reduction in the certified area."

During this audit, the former superintendent stated that he was aware that e-rate funds had been used to pay for personal phone bills. He also stated that he had included the outstanding cell phone bill and paperwork, to support the payment of the outstanding bill, to board members and had intended to present it for payment to the board at the April 12, 2005 board meeting.

70 O.S. 2001, § 5-141(B) states in part:

“The school district shall not be authorized to pay any salary, benefits or other compensation to a superintendent which are not specified in the contract on file[.]”

21 O.S. Supp. 2002, § 341 states as follows:

“Every public officer of the state or any county, city, town, or member or officer of the Legislature, and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of this state or any department of the government of this state or any bureau or fund created by law and in which this state or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer’s or person’s hands or money to be raised through an agency for state, city, town, district, or county purposes;

* * *

Third: [S]hall, upon conviction, thereof, be deemed guilty of a felony[.]”

The **Constitution of Oklahoma, Article 10 § 26(a)** states in part:

“Except as provide by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision...”

RECOMMENDATION: We recommend the school board seek reimbursement of school (e-rate) funds used to pay for all personal cell phone bills. We recommend the school board seek payment for the outstanding balance. We recommend the District Attorney review this finding. We recommend the SDE review this finding.

* * *

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that the Coyle Public School District No. 421014 or any of the individuals named in this report or acting on behalf of the District have violated any statutory requirement or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the District policies, procedures or practices should be modified or discontinued, and to independently evaluate whether or not the recommendations made by this Office should be implemented.

Exhibit "A"

08/28/2005 10:23 FAX 4055285800 JUN-28-2005 (TUE) 11:22 CEL 4055285800 P.002 002

Memorandum

To: Charles Page, Auditor

From: The Center for Education Law, Inc.

Date: December 9, 2003

Re: Payment of Payroll at Coyle Public Schools

You have asked for a legal opinion with respect to the fact that Coyle Public Schools has paid employees for some work performed in FY02 with FY03 funds. Your concern is that such payment cannot be considered a "current expense" for FY03.

As you are aware, most school district employees (most particularly, school teachers) do not work a full year. However, with respect to teachers, Oklahoma law allows school districts to make the payments for the nine-months of work over a period of 12 months. 70 O.S. § 6-106. Likewise, School districts are specifically authorized to enter into contracts with teachers during one fiscal year for work to be performed in the ensuing fiscal year. 70 O.S. § 6-101(E). Further, teachers must be paid in arrears. Okl. A.G. Opin. No. 84-87. Therefore, teachers are paid in August for work performed in July. Pursuant to this statutory scheme, teachers would be paid for work performed in FY02 through July of FY03.

Therefore, in July of FY04, certified teachers would still be due a paycheck for work performed by them prior to the end of school in May of FY03.

We are of the opinion that unpaid wages or salary earned and due to an employee are a "current expense" of the school district that has not paid the wages. Oklahoma law provides in pertinent part at 40 O.S. § 165.2:

State, county and municipal employees, exempt employees, ... shall be paid a minimum of once each calendar month. The amount due such employees shall be paid in lawful money of the United States, and the employee shall not be deemed to have waived any right or rights mentioned in this section because of any contract to the contrary. With each payment of wages earned by such employee, the employer

Page 1 of 2

COYLE PUBLIC SCHOOL DISTRICT No. 421014
LOGAN COUNTY
SPECIAL AUDIT REPORT
JULY 1, 2002 THROUGH JUNE 30, 2005

rx Date/time JUN-28-2005(TUE) 11:22 4055285800
06/28/2005 10:24 FAX 4055285800 CEL

P. 003
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shall issue to such employee a brief itemized statement of any and all deductions therefrom. An interval of not more than eleven (11) days may elapse between the end of the pay period worked and the regular payday designated by the employer. The employer shall be allowed three (3) days after such payday in which to comply with this section.

Failure to pay the wages when due could result in an administrative fine assessed against the school district by the Commissioner of Labor. 40 O.S. § 165.2a.

Since the law in Oklahoma specifically allows school districts to pay teachers over 12 months for work performed during a fiscal year; since teachers must be paid in arrears; and since failure to pay wages when due would result in a current obligation to both the teacher and possibly the Commissioner of Labor, we believe it is permissible to make the payment due to teachers in their twelfth check from funds for the fiscal year in which the check is due to be paid to the teacher, *i.e.* July of the fiscal year after the work was performed.

If you have any further questions in regard to this, please don't hesitate to let me know.

Stephanie J. Mather

cc: Superintendent Wilmer Cooper

Exhibit "B"

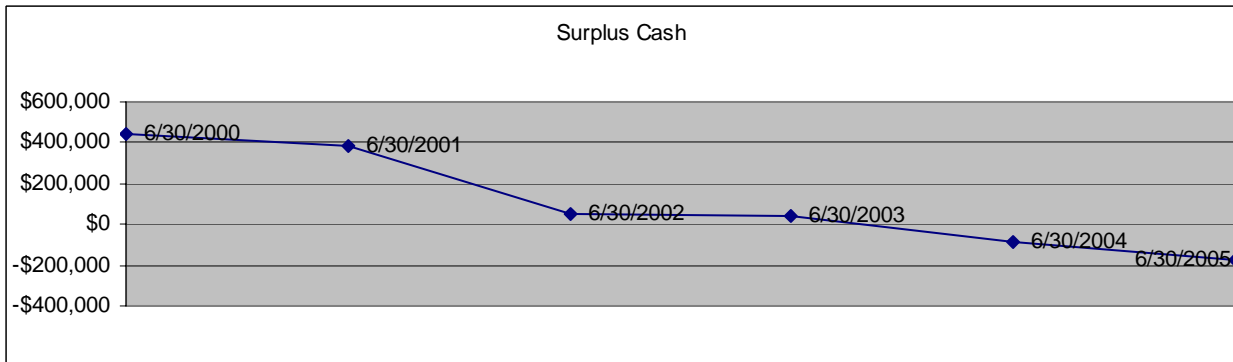
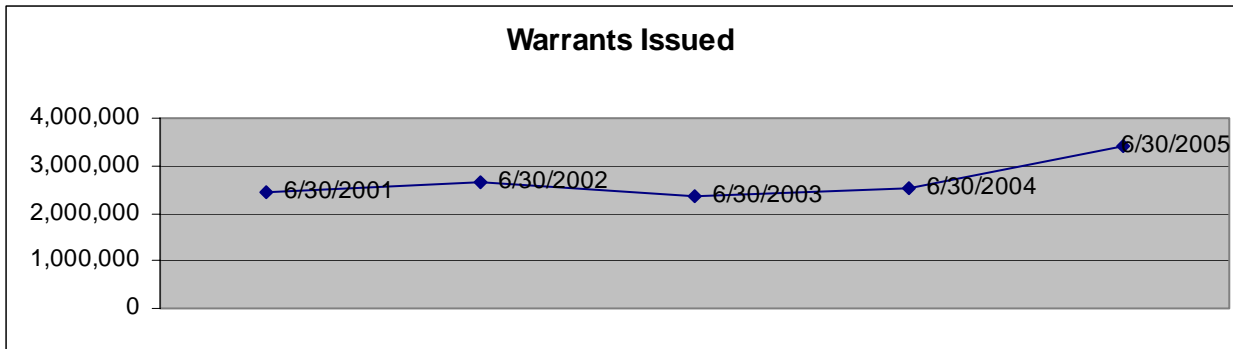
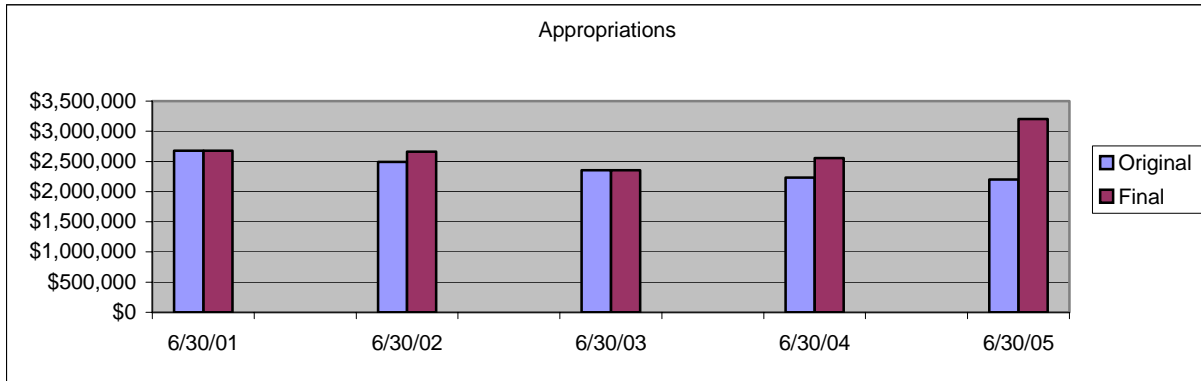


Exhibit "C"

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June 27, 2005

To: Coyle Board of Education
From: Larry Lewis

MEMORANDUM SUBJECT TO ATTORNEY-CLIENT PRIVILEGE

The following reviews Oklahoma statutes and constitutional provisions which apply to the District's situation.

I. FISCAL YEAR RESTRICTIONS:

A. The Legal Authority:

A school district's fiscal year runs from July 1 through June 30. Article 10, Section 1, Oklahoma Constitution. Section 26 of Article 10 bars a district from creating expenditures beyond the current fiscal year unless such debt is approved by a vote of the electors. The Supreme Court has interpreted this section as a "pay as you go" requirement which bars districts from entering into contracts in one fiscal year which seek to bind revenues of a succeeding fiscal year. *Ind. Sch. Dist. No. 1 v. Howard*, 336 P.2d 1097 (Okla. 1959). Thus, multi-year contracts which obligate future fiscal year funds are illegal and void: *Howard; Con. Sch. Dist. No. 6 v. Panther Oil & Gas*, 168 P.2d 613 (Okla. 1946); *City of Tulsa v. Langley*, 168 P.2d 116 (Okla. 1946); *Dungan v. Ind. Sch. Dist. No. 39*, 77 P.2d 1117 (Okla. 1938); *Eureka Fire Hose Mfg. Co. v. Town of Granite*, 159 P. 308 (Okla. 1916); *Garvin Co. v. Lindsay Bridge Co.*, 124 P. 324 (Okla. 1912).

Accordingly, a district cannot expend current fiscal year funds to pay for services rendered during a previous fiscal year, A. G. Opinion No. 81-51, and cannot agree during one fiscal year to pay claims in a subsequent fiscal year. A. G. Opinion No. 89-67. In *School District No. 1-20 v. Dept. of Ed.*, 65 P.3d 612 (Okla. 2003), the Supreme Court held

Article 10, Section 26 "forces school districts to operate on a cash basis, and it prevents indebtedness payable out of tax revenues from extending beyond one year."

Entities which do business with political subdivisions such as school districts are accountable for knowing of such debt limitations, *Howard; Panther*.

B. Application Of The Fiscal Year Restraints:

The fiscal year of a school district runs from July 1 through June 30. The Oklahoma Constitution bars use of District General Fund monies of one fiscal year to pay obligations incurred by a district in a previous or subsequent fiscal year. The District could not use 2005-2006 General Fund monies to pay a vendor who failed to submit an invoice to the District for services performed or materials delivered during the 2004-2005 fiscal year. The District could not issue payment from 2005-2006 fiscal year General Funds to pay a 2006-2007 fiscal year obligation which, for example, would be due for the lease-purchase of equipment. If the District agrees to a multi-year lease-purchase of equipment, the lease-purchase agreement must permit the District to decide on a fiscal year basis whether to renew the lease for the new fiscal year. 62 Okla.Statutes Section 430.1; 70 Okla.Statutes Sec. 5-117(B).

The Constitution permits a district to obligate funds to pay for services to be rendered and/or goods to be supplied in subsequent fiscal year only if these obligations have been approved by district voters. If voters approve bond issues, the Constitution permits the proceeds received from the sale of bonds to be committed to construction project contracts that cannot be completed within the fiscal year in which the contract is awarded.

2005-2006 fiscal year funds cannot be used to pay 2004-2005 fiscal year obligations. On July 1, 2005, District funds cannot be used to pay creditors not paid during this current fiscal year. A District cannot start the fiscal year "in the hole."

II. THE DISTRICT MUST SPEND WITHIN THE MONETARY LIMITS SET BY THE LOGAN COUNTY EXCISE BOARD:

Because of the Constitutional "pay as you go" requirement imposed on local government units, the Legislature has developed a system to ensure school districts do not authorize the expenditure of funds not approved as estimated revenue from which payments can be made.

Districts do not receive all funding needed for the year at the start of the fiscal year on July 1. Therefore, districts will submit to county excise boards prior to September 1 the annual "estimate" of anticipated income that will be received during the fiscal year and the estimated expenditures that will be incurred during the fiscal year. The main purpose of county excise board review/approval is to ensure submitted estimated expenditures do not exceed submitted estimated income to be received. When the county excise board approves