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HOUSE OF REPRESENTATIVES

COMMONWEALTH *of* PENNSYLVANIA

House Democratic Policy Committee Hearing

Pennsylvania School Audit Bureau

Wednesday, May 4th, 2022 | 1:00 p.m.

Chair Ryan Bizzarro and Representative Joe Ciresi

OPENING REMARKS

1:00p.m. Rep. Joe Ciresi, D-Lehigh
Chair Ryan Bizzarro, D-Erie

PANEL ONE

1:05p.m. Dr. Michele Sellitto, former State Director, Bureau of School Audits,
Department of the Auditor General

PANEL TWO

1:30p.m. Michael Lamb, Controller
City of Pittsburgh

Tracy Royston, Controller
Allegheny County

PANEL THREE

2:00p.m. Donna Cooper, Executive Director
Children First

Sherri Smith, Deputy Secretary of Elementary and Secondary Education
Pennsylvania Department of Education

Q & A with Legislators

Dr. Michele Sellitto
Testimony Presented to the PA House of Representatives
Policy Committee
May 4, 2022

Mr. Chairman, Representative Ciresi, and members of the House Policy Committee, thank you for providing me the opportunity to share my perspectives on the recent decision of the Pennsylvania Auditor General to dissolve the Bureau of School Audits and no longer perform school audits.

My perspectives come from my lifelong career in education---as a teacher, principal, assistant superintendent, and superintendent of schools, as well as having served as the State Director of School Audits in the Department of the Auditor General.

Additionally, I served three times, under three Governors, at the Pennsylvania Department of Education---twice as a Special Assistant to the Secretary of Education, Assistant Director of Teaching and Learning, Assistant Director of Special Education, and as the State Director of Special Education.

I was first invited to work at the Department of Education to assist the Secretary of Education institute Special Education finance reform when the Commonwealth was hundreds of millions of dollars in debt in Special Education funding. Generally, throughout my three different terms at the Department of Education, reform has been an area of my expertise. I was often assigned failure projects and asked to design and lead innovative solutions. I also was the lead developing the Pennsylvania School Performance Profile. the first statistical online system designed to evaluate public school performance in academic, safety and fiscal for Pennsylvania taxpayers.

I share that background as I hope that brings you a unique perspective as a former State Director of School Audits, as well as a public-school educator, and then as an official at the State Department of Education, who is well versed with the capacities of these two critically important departments regarding this important issue of both the responsibility for and the critical need for school audits.

I have serious concerns with the fact that the Department of the Auditor General---the state's fiscal watch dog— is not statutorily required to perform school audits and that the current Auditor General is simply choosing to shift this critically important role and responsibility to the Department of Education. And while the Auditor General may have a basis for this decision, due to extreme budget cuts over the years, School Audits is NOT the bureau to dismiss from the oversight of our independent Department of the Auditor General.

First and foremost, where this critical responsibility lies to audit our public-school finances, should not be at the decision of one individual, but this decision should be made by the General Assembly and should be specified in statute. Secondly and simply, the Department of the Auditor General should be adequately funded to perform this job.

School districts received over \$8 billion dollars in state revenue last year through basic education subsidy and special education funding.

Taxpayers have a right to know that tax dollars are being used efficiently and effectively. And while the focus of the school audits may change from administration to administration depending upon priorities, what may be uncovered, and have implications for future audits, this role must and should remain within the expertise of the Department of the Auditor General. Why wouldn't the state's fiscal watch dog audit the largest payment of state funds?

When I served as the State Director of School Audits, I had approximately 125 staff ---one of the largest bureaus in state government at the time. I was always impressed with the expertise and skill of school auditors and the certified public accountants with whom I worked. Each worked diligently with me to improve the transmission of data between departments and improve the cycle of release of school audits to enable school superintendents and school boards to ensure any errors were more efficiently corrected. We worked as a team to identify the most common audit findings in Pennsylvania schools. I created a newsletter and traveled the state speaking at conferences and intermediate units to share these common audit findings urging school leaders to be in the first line of review for their district and make sure, before the audit team arrived, that common errors were corrected. Our goal was never got ya! Our goal was to ensure the correct and effective use of state funds for our students and taxpayers.

However, I now understand the current staff of the Bureau of School Audits is in the 40s. And while technology has improved tremendously since my days at State Director of School Audits, and less staff may be needed, this number is simply NOT sufficient to perform timely and necessary audits.

And to address the planned shift to the Department of Education making the Department of Education responsible for auditing school districts---it will not work because the Department believes its role is to make payments to schools, not verify the school's entitlement or compliance to those funds. Additionally, the administration and performance of school audits is simply not within the Department of Education's capacity. While there are many highly competent and highly committed Department of Education employees, in my experience, finance is not generally an area of expertise for state department of education employees.

I was asked last year by a state representative and his chief of staff who were familiar with my background and expertise what I might recommend to get the Department of Education to be more responsive to legislators' request for school data, even though there had been budget cuts and staffing was an issue. I was troubled by hearing this, as in my days at the Department, legislative information requests were a top priority. As a Department of Education employee, I was taught when we received a legislative request, we were to drop what we were doing, obtain the data and have it ready for PDE review within 24 hours so PDE would provide requested information to the legislator within 48 hours of the request.

Apparently, that no longer is the procedure.

But my response to the legislator, with whom I was meeting, was that if I were still at the Department of Education, and I've said this for many years---I would suggest cutting the complement or total number of employees, in HALF--- but DOUBLING the salaries of the staff I had--- to be able to retain highly competent professionals and to continue to attract the best. Perhaps this should also be considered for the Bureau of School Audits.

Education in Pennsylvania is one of the most critical roles of state government to ensure taxpayer dollars are utilized effectively and efficiently so that our citizens are well educated, secure and successful---which will also improve our economy. Having the Pennsylvania Department of Education audit our school districts is like having the fox guard the hen house! And while I do not believe that school employees purposefully break the law, it can and does happen. Additionally, many audit findings are errors or mistakes either shorting the school district funds they should legally have received or may be overpayments by the state and should be rightly returned to the state---precisely the purpose and result of work of the Bureau of School Audits.

Since I continue to work as an educational consultant, in preparation for today's testimony, I conferred with two important Pennsylvania educational organizations---PASA---The Pennsylvania Association of School Administrators, of which I was a previously a member and a board member, and PASBO---The Pennsylvania Association of School Business Officials. Both Executive Directors of PASA and PASBO echoed their concern about this change and asked me, "Why wouldn't we want to be accountable for the efficient and effective use of taxpayer funds?" Additionally, the state teachers' association---Pennsylvania State Education Association---PSEA has publicly condemned this action of the Auditor General.

Now, I don't know about you, but I rarely recall when all the top educational organizations in Pennsylvania have so universally agreed on an issue! To take away the independent review function from the Bureau of School Audits of over \$8 billion taxpayer dollars annually is simply irresponsible.

And interestingly, this issue actually holds these educators accountable!!! And even they think it's crazy! It says a lot to me about the quality of our teachers, our administrators and our business officials in our schools.

Either way, an independent review is necessary to ensure all the funds disbursed by the state are actually due our school districts. The Auditor General's Bureau of School Audits is the team of independent fiscal review experts who should and must be in place. I urge you, Mr. Chairman, to codify this role in law, ensure that the important function of school audits is adequately funded to retain their highly qualified staff, and to ensure the Bureau of School Audits remains intact within the Department of the Auditor General.

Thank you for the opportunity to share my perspective based on my professional experiences.



CITY OF PITTSBURGH
OFFICE OF THE CITY CONTROLLER
Controller Michael E. Lamb

Testimony of Michael Lamb
Controller, City of Pittsburgh and Controller, Pittsburgh Public Schools
Before the House Democratic Policy Committee on
“PA Auditor General’s Education Audit Bureau”
Wednesday, May 4, 2022 at 1 pm

Good afternoon, Chair Bizzarro and Members of the Committee. My name is Michael Lamb, and since 2008, I have served as the Controller for the City of Pittsburgh and Controller for the Pittsburgh Public Schools. I am here to speak with you today about the March 23, 2022 announcement from Auditor General Tim DeFoor that his department would suspend school audits and that the Pennsylvania Department of Education would again do this work.

My responsibilities to the City of Pittsburgh are outlined in our Home Rule Charter. However, my authority with Pittsburgh Public Schools comes from authority granted via the Pittsburgh Board of Education and the Commonwealth’s Public School Code of 1949. To summarize this authority, unless we are invited by the Pittsburgh Board of Education, we are only able to audit invoices and bank accounts for the district. This confirms the only entity with auditing authority of the 500 public school districts or 179 charter schools and cyber charter schools in the state had been the Auditor General.

The action of the Auditor General means Pennsylvania’s public school districts, like Pittsburgh Public Schools, will avoid performance audits for the foreseeable future. The Commonwealth is going through



a transition, and we will have a new Governor in January 2023, further delaying the meaningful establishment of a new audit section at the Department of Education. While these inevitable delays proceed, critical oversight will be gone for an unknown duration.

To be sure, the Pennsylvania Department of Education does have an audit section: There are two individuals who currently coordinate with the Auditor General's office, but they are not auditors. There are three audit specialists in the Division of Food and Nutrition, and those individuals are geared toward the assessment of the fiscal activity of the entities that participate in the Child Nutrition Program. These employees are evaluating and holding participating entities accountable for the utilization of the food service fund through resource management reviews. Additionally, the audit section within PDE includes two positions, neither of whom are auditors. All of this confirms that the PDE is not equipped to handle performance audits of school districts.

The willingness of the Auditor General to abdicate the office's independent authority is disappointing. The Auditor General was initially appointed by the Governor, but in 1850, the legislature made the position an independent office. While I understand that these performance audits had previously been done by the PA DOE, the move to the Auditor General's office allowed school districts to be audited independently. If this change proceeds and the responsibility of the audits reverts back to the PA DOE, the Governor's office will effectively be auditing themselves. Priorities, programs, and mandates from the Governor and Department of Education should be audited by an independent entity, and that cannot happen if the DOE is facilitating the audits themselves.

In the last decade, the Auditor General released three separate audits of Pittsburgh Public



Schools. Without these audits, which were conducted by different Auditor Generals, we would not have known about existing problems within our school districts. Quite simply, the Auditor General is the only entity that Pittsburgh Public – or any other district – must comply with.

In 2019, the Auditor General released an audit of Pittsburgh Public Schools, which showed the district was spending obscene amounts of money on travel. The office determined the budgeted travel expenses had grown by 179% over a three-year period. The district was spending more than \$450,000 in annual travel costs before the Auditor General’s office stepped in. The audit observed the travel was taken “without clearly demonstrating any benefit for students.”

In 2015, the Auditor General released an audit of City Charter High School, a charter school in downtown Pittsburgh that received \$7.5 million in public funding during the scope of the audit. Over a four-year period, City Charter High School spent \$240,000 transporting five students. It was noted, “When leaders of the charter school enrolled a student with special educational needs and realized they could not provide adequate services, they had no plan for how to transport the student to another educational facility, so they were forced to use the most expensive option.”

In 2013, the Auditor General released an audit and determined that 10 principals and 117 teachers in the Pittsburgh Public Schools lacked proper certification over a five-year period starting 2006-07. As much as \$390,337 in state subsidies was at stake due to this error. Perhaps more concerning, this could have had a potential impact on student success. The report also raised concerns about the sale of Schenley High School, which ensured public transparency with the redevelopment of the site.



According to the National Council of State Legislatures, in most states, the statewide Comptroller, Auditor, or other independent, elected agent conducting such work, is responsible for performance audits. This makes sense; school funding requires considerable financial resources from state and local governments. In fact, this year, Governor Wolf has requested \$8.6 billion for the Basic Education Funding appropriation, which does not include the amounts that local taxpayers contribute directly to their school districts each year. This investment is worthy of review.

I must also take this opportunity to encourage the Auditor General's office to assume the work of auditing charter schools. These schools receive nearly 90% of their funding from local sources: recent figures indicate that 88% of overall charter school funding and 94% of the 14 virtual charter schools come from local dollars. The public has no idea where this money is going, but research by Education Voters estimated more than \$35 million was spent on marketing for the cyber charter schools over a recent two-year period, which is, quite frankly, unacceptable. Schools that receive public funds, including charter and cyber charter schools, must be held to the same level of scrutiny that we hold our traditional public schools.

I raise these issues because of the importance of performance audits. Without the Auditor General, these issues would not have been aired – or fixed. The public must have trust in their public schools and the public resources that are devoted to them. There is immense value in this work, and I would encourage the state legislature to codify the responsibility of school audits, including charter and cyber charter schools, to the Auditor General's office and fund the office accordingly.



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Testimony of Tracy Royston

Acting Controller, Allegheny County

Before the Democratic Policy Committee on

“PA Auditor General’s Education Audit Bureau”

Wednesday, May 4, 2022 at 1 pm

Good afternoon, Chair Bizarro and Members of the Committee. My name is Tracy Royston, and I am the Acting Allegheny County Controller. I am here to speak with you today about the March 23, 2022 announcement from Auditor General Tim DeFoor that his office would suspend school audits and that the Pennsylvania Department of Education would again do this work.

Although the Allegheny County Controller’s Office does not have a direct audit function with regard to school audits, many of the audits that our office conducts have direct ties to the services that school districts provide, as well as the funding they receive. The school audits conducted by the Auditor General provide vital oversight, and the decision to suspend them is both disappointing and alarming.



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The Controller's Office is responsible for auditing County offices, contracts, and uses of County funds. Allegheny County's budget is significant, and a large portion of funds are allocated to school districts for a variety of services, including but not limited to, lunch programs, transportation, and other student- support initiatives. Our audits ensure that these funds are accounted for, procedures and controls are in place, and used for the intended purposes. What we do not audit, however, is the actual school district and their financial and operational decisions. The lack of oversight in that area, leaves open the potential for mismanagement, waste, and fraud.

Consistent with our position as the fiscal watchdog of the County, the Controller's Office publishes a variety of reports. These reports, though not rising to the level of full audits, are on matters of interest and importance to taxpayers. The office is currently looking at property tax assessment appeals and examining ways to better educate taxpayers about this complex process. The other aspect of property taxes are the millage rates, which are set by the taxing bodies based on



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their respective budgets. An increase of the millage rate by a school district has a direct effect on property owners of that respective area. When audits aren't conducted in school districts, the result can be felt in the wallets of the taxpayers.

These school audits have been traditionally done by the Auditor General at the request of the Department of Education. The decision of the Auditor General to shift these back to that department would seem to be a logical idea-let the education department handle education related matters. The problem is that the Department of Education is not equipped, from an auditing standpoint, to conduct the necessary audits. Audits should be conducted by properly funded and staffed departments, and by properly trained and supervised professionals who understand the audit process-all of which already exists in the Auditor General's Office and not in the Department of Education. Without experienced staff and resources, the standard of rigorous oversight diminishes.

The decision by the Auditor General to shift these school audits back to the Department of Education is disappointing, alarming, and will have a wide-ranging



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impact throughout the state. The lack of oversight into spending and management in school districts, will not only affect the tax-payers, but ultimately the students in these districts. The public deserves transparency, especially when public resources and tax-payer dollars are involved, and I would urge the legislature to act on this issue.

Children First Testimony

May 4, 2022

Presented to the PA House Democratic Policy Committee

Regarding Attorney General DeFoor's Elimination of the Bureau of School Audits

Thank you for the opportunity to testify regarding the Auditor General's surprise elimination of the school audit bureau charged by state statute with conducting compliance audits of every type of public school.

As you know the Auditor General's proposed budget asked the legislature to appropriate nearly \$4 million more in resources beyond the cost of carry for the office, causing the office's budget request to grow to \$43 million. Meanwhile, after the budget was proposed, the Auditor General summarily dismissed the 40-bureau staff which most likely defrayed \$5 million or slightly more for the Auditor General's Office. My understanding is that Tim DeFoor has not provided the legislature with any indication of how he will be using this windfall.

It's important to keep in mind that in the preparation of the budget for his office, Tim DeFoor failed to disclose his plans to eliminate the education audit bureau in the budget preparation documents provided to the Commonwealth's Office of Budget. His failure to do so meant that the information could not be publicly disclosed and debated during the normal course of the budget debate including in the Auditor General's House or Senate Appropriation Hearing about his budget. The fact that the Auditor General, an office established for the purpose of transparency failed the basic test of transparency in the House and Senate appropriations processes is especially alarming.

Aside from the blatant disrespect for the budgetary review processes, the elimination of the bureau itself declaws the taxpayers. As you know the Auditor General's Office conducts compliance audits of public schools. Examples of the problems its uncovered include:

Just last October the compliance bureau found two school districts failed to appropriately record their transportation expenses and as such lost \$600,000 in state aid due to the districts. Had the Auditor General not found that error, local taxes would have had to fill the expense holes in those districts. In essence, the basic function of the bureau protected local taxpayers from an undue burden on their resources.

The office also found that another school district overcharged the state for transportation costs to the tune of \$101,255 in one year, a finding that enabled the state to withhold funds from that district for that amount, redirecting those precious school transportation reimbursement funds to pay other districts where the expenses were accurately booked.

Those numbers pale in comparison to the \$3.3 million in missing documentation for transportation expenses in another school district and \$4 million in another.

These compliance audits protect taxpayers and the integrity of public schools. Perhaps, however, that is the core reason that the Auditor General is proposing the elimination of the bureau. Of late, my organization and others have pointed out that while traditional public schools are audited every seven years, the Auditor General's office has not been as assiduous in maintaining the audit schedule for bricks and mortar and cyber charter schools.

In stark contrast, DeFoor's predecessor undertook audits of all types of charter schools. In one audit, the bureau found a curriculum contract, worth \$110 million over three years, with no terms or conditions in the one-page memorandum of understanding.

The bureau has also shed light on disturbing collusive practices that put the taxpayers at risk of fraud and put raise red flags about the quality of education being delivered by some charter schools. For instance, the bureau found in one case that where a cyber charter was found to be paid \$1.3 million for leases that did not comport with state law.

So far in this brief testimony, with a cursory review of five audits by the bureau, the documentation for nearly \$120 million in expenditures for education has been called into question. I could continue to walk through years of school audits and easily demonstrate that millions in expenses for education were found to be inappropriately tracked or calculated. In some cases, districts under-charged the state, which means they over charged local taxpayers and in some cases it the reverse. In every case, the taxpayers interests are served by the bureau.

Beyond financial compliance, the bureau is the taxpayers only failsafe when it comes to collusion and corruption. For instance, in just one case of a western PA network of public and charter schools, the bureau found:

- The cyber charter school CEO's spouse served as a compensated employee and as the board secretary for the arts center;
- A trustee's son was employed as director of operations for the management company, and as the executive director of the arts center;
- A former trustee of the cyber charter school became a senior administrator at the local school district, previously served as board president for the cyber school's management company, and served as a board member for the arts center; and
- A trustee was co-owner of a computer equipment company that received over \$1.1 million in business from the cyber charter school.

In the end, this scheme earned the CEO of the cyber charter school a conviction for tax fraud and a 20 month sentence in federal prison.

Improper spending by cyber charters is not just a PA problem. Cyber charters in Ohio padded their enrollment by 9,000 students costing taxpayers \$80 million. And last summer, Indiana filled suit against

two major online schools seeking restitutions of \$68 million in fraudulent tuition payments uncovered by state audits. Pennsylvania taxpayers are vulnerable to the same deceitful practices, yet the Auditor General has turned a blind eye.

Given the inherent risks of fraud and abuse, the Auditor General should be ramping up its oversight over cyber charters, not dismantling the audit bureau. It is an outrageous that six of the state's 14 cyber charter schools have never been reviewed by the Auditor General. Even more egregious is that fact that Commonwealth Charter Academy, the state's largest cyber with over \$270 million in revenues, hasn't been audited since 2012. To put this lapse into perspective, if CCA were a school district it would be the third largest district in the state, right behind the Pittsburgh. Does anyone truly believe that a cyber of this size should be allowed to operate without the outside financial oversight by the Auditor General?

The financial risks related to brick and mortar and cyber charter operations are only going to get bigger. Total charter tuition cost is expected to exceed \$3.0 billion next year and researchers from Temple University's Public Policy Lab project that charter fees will soar by \$1.7 billion by 2025. School business officials have once again identified charter costs as their top budget pressure, which by rights should make these audits a priority.

As public schools face a tsunami of retirements among long serving professional staff, taxpayers across the state face even greater risk that funds are properly accounted for and legal processes are maintained. If, for no other reason than we must make sure the next generation of school officials uphold the highest possible standards of financial, ethical and legal management and oversight, the school audit bureau should be reconstituted in the Attorney General's office.

I want to be clear that I believe shifting this audit function to the Pennsylvania Department of Education decreases the independence of the audits. Further, the fact that these compliance audits were conducted in an agency established to audit oversight practices provides the compliance audit staff with a ready access to other professionals versed in best practice and decades of experience and knowledge to bring to the task.

In short, Timothy DeFoor took a hatchet to his budget and he swung it outside of the normal budgetary process. His ill conceived elimination of the school audit bureaus put taxpayers in every jurisdiction of waste, fraud, and abuse.