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BOARD OF EDUCATION

RESOLUTION

**ACCEPTANCE OF OFAC REPORT ISSUED IN CASE #INV-103-14
REGARDING FOOD SERVICE EXPENDITURE REVIEW
AND ADOPTION OF DISTRICT CORRECTIVE ACTION PLAN**

WHEREAS, on or about May 27, 2016, the State of New Jersey Department of Education Office of Fiscal Accountability and Compliance (“OFAC”) issued a report in Case #INV-103-14 of its findings and recommendations related to its review of the District’s Food Service Department Expenditure Review; and,

WHEREAS, the District has prepared a Corrective Action Plan for adoption by the Board of Education to enact the recommended practices set forth in the OFAC report; and,

WHEREAS, the Board of Educations is required by regulation (N.J.A.C. 6A:23A-5.6) to publicly review and discuss (1) the findings and recommendations contained in the OFAC report at a public meeting of the Board of Education, and (2) the Corrective Action Plan to be adopted by the Board of Education;

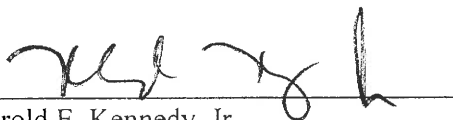
NOW, THEREFORE, BE IT RESOLVED, that the Elizabeth Board of Education acknowledges receipt of the OFAC report issued regarding the Food Service Department Expenditure Review (Case #INV-103-14).

BE IT FURTHER RESOLVED that the Elizabeth Board of Education adopts the Corrective Action Plan to address the recommendations and findings that were made in the OFAC report for implementation by District personnel, as set forth in the Corrective Action Plan.

BE IT FURTHER RESOLVED that a copy of the OFAC report and Corrective Action Plan shall be posted on the District’s website with the agenda and meeting minutes for the September 22, 2016 meeting.

BE IT FURTHER RESOLVED that a copy of the Corrective Action Plan and this resolution shall be forwarded to OFAC immediately in accordance with N.J.A.C. 6A:23A-5.6(c).

TRUE COPY APPROVED AND ADOPTED AT
THE ELIZABETH BOARD OF EDUCATION MEETING
HELD ON **September 22, 2016**



Harold E. Kennedy, Jr.
School Business Administrator/Board Secretary

**NEW JERSEY DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
CORRECTIVE ACTION PLAN**

CASE #INV-103-14

SCHOOL DISTRICT NAME Elizabeth Public Schools COUNTY Union

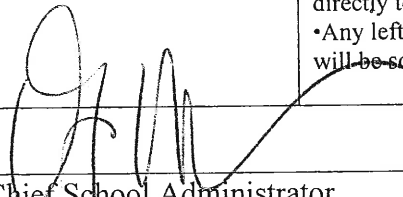
TYPE OF EXAMINATION Expenditure Review

DATE OF BOARD MEETING September 22, 2016

CONTACT PERSON Harold E. Kennedy, Jr., School Business Administrator/Board Secretary

TELEPHONE NUMBER (908) 436-5112 FAX NUMBER (908) 436-5158

| RECOMMENDATION NUMBER | CORRECTIVE ACTION | METHOD OF IMPLEMENTATION | INDIVIDUAL RESPONSIBLE FOR IMPLEMENTATION | COMPLETION DATE OF IMPLEMENTATION |
|--|--|--|---|-----------------------------------|
| The District must submit a Corrective Action Plan identifying the procedures that it will develop and implement to ensure compliance with the provisions of the Accountability Regulation, N.J.A.C. 6A:23A-7.12(f) | <ul style="list-style-type: none"> •The Division of Food & Nutrition (FSN) prepares and charges for 30 people to eat at Board of Education meetings. A file listing the individuals by position who ate at a particular Board meeting will be maintained. •The FSN no longer uses linen tablecloths and napkins. •Two other quotes for lite meals at each Board meeting will be solicited. Detail food cost of each event will be maintained. Cost will not exceed \$10.00 per person. •FSN employees who set up and clean up the Board dinners will still have to be paid regardless of what organization prepares the meal. Along with other support personnel, those employees will be charged directly to District appropriation overtime accounts. •Any leftover food that has been properly refrigerated will be sold the following day as adult meals offered. | <ul style="list-style-type: none"> •Director of FSN will maintain a file for each meeting. •Linen tablecloths and napkins are not used. •Director of FSN will solicit two quotes and maintain detail of food costs and maintain detail food cost for each event. •Support personnel will charge operating payroll directly to District account rather than FSN service charge. •Leftover food will be sold the following day as adult meal. | Director of Division of Food & Nutrition | November 2014 |
| | | | Director of Division of Food & Nutrition | November 2014 |
| | | | Director of Division of Food & Nutrition | January 2016 |
| | | | Director of Division of Food & Nutrition | November 2014 |
| | | | Director of Division of Food & Nutrition | November 2014 |



Chief School Administrator

9/22/2016

Date



Board Secretary/Business Administrator

9/22/2016

Date



State of New Jersey

DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DAVID C. HESPE
Commissioner

May 27, 2016

Ms. Olga Hugelmeyer, Superintendent
Elizabeth School District
500 North Broad Street
Elizabeth, New Jersey 07027

Dear Ms. Hugelmeyer:

SUBJECT: Food Service Expenditure Review – OFAC Case #INV-103-14

Modified Report – Replaces April 2015 Report of Examination

The Department of Education, Office of Fiscal Accountability and Compliance, (OFAC), has completed a limited scope review involving specific business practices conducted by the Department of Food Service and Nutrition in the Elizabeth School District. The review was conducted jointly with representatives of the United States Department of Agriculture, Office of Inspector General; the United States Department of Justice; and the New Jersey Department of Agriculture. The examination was structured to ensure the expenditures for non-student meals were compliant with applicable Statute and Administrative Code. The OFAC examination disclosed issues of noncompliance with the Administrative Code as detailed in the attached Report of Examination. Please provide a copy of the report to each board member.

Utilizing the process outlined in the attached "Procedures for LEA/Agency Response, Corrective Action Plan and Appeal Process," the Elizabeth Board of Education is required, pursuant to N.J.A.C. 6A:23A-5.6, to publicly review and discuss the findings in this report at a public board meeting no later than 30 days after receipt of the report. Within 30 days of the public meeting, the board must adopt a resolution certifying that the findings were discussed in a public meeting, and approving a corrective action plan which addresses the issues raised in the undisputed findings and/or an appeal of any findings in dispute. A copy of the resolution and the approved corrective action plan and/or appeal must be sent to this office within 10 days of adoption by the board. Please direct your response to my attention.

Also, pursuant to N.J.A.C. 6A:23A-5.6(c), you must post the findings of the report and the board's corrective action plan on your district's website. Should you have any questions, please contact Mr. Thomas C. Martin, Manager, Investigations Unit, at (609) 633-9615.

Sincerely,

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

RJC: l:kfeltes\Elizabeth\2014 Complaints\Food Service\REVISED Response to ROE Food Service 2014.May 2016.docx
Attachment

c: Robert Bumpus
Patricia Morgan
Kathryn Whalen
Michael Yapple
Thomas C. Martin
Monica Tone

www.nj.gov/education

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

ELIZABETH SCHOOL DISTRICT
FOOD SERVICE EXPENDITURE REVIEW
OFAC CASE #INV-103-14

REPORT OF EXAMINATION
MAY 2016
Replaces April 2015 Report

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

REPORT OF EXAMINATION – MAY 2016

Replaces April 2015 Report

ELIZABETH SCHOOL DISTRICT – FOOD SERVICES EXPENDITURE REVIEW

The Department of Education, Office of Fiscal Accountability and Compliance (OFAC) has conducted a limited scope review of expenditures made by the Department of Food Service and Nutrition (FSN) in the Elizabeth School District (District). The review was conducted jointly with representatives of the United States Department of Agriculture, Office of the Inspector General (IG); the United States Department of Justice (USDOJ); and, the New Jersey Department of Agriculture.

The review by the IG, in coordination with the USDOJ, was conducted to ensure the FSN expenditures for non-student meals complied with Federal requirements. Based upon District provided documents, the FSN invoiced, but did not collect, a total of \$272,810.00 during the school years 2007-2008 through 2013-2014. The District acknowledged the error and reimbursed the FSN for the total amount outstanding for that time period. The District also issued requests for payment of the invoiced amounts not yet collected for the 2014-2015 school year.

The OFAC review, unlike the IG review, was structured to ensure the aforementioned expenditures were compliant with the requirements of New Jersey Statute and Administrative Code, particularly the Accountability Regulation, N.J.A.C. 6A:23A-7.12(f). The OFAC review included an examination of District supplied FSN invoices, accounts receivables, catering logs, purchase orders, and petty cash receipts. Information was also obtained from the School Business Administrator and documents provided by the FSN staff. The OFAC review also included information provided to the IG and USDOJ by Marvin Lehmann, Esq. and Bruce Rosen, Esq., counsels for the District.

The District had expenditures of \$272,810.00 in outstanding invoices for meals prepared and served at Board meetings that cannot be attributed to the student meal program. The amount identified included meals prepared and served contrary to certain requirements of the Accountability Regulations, N.J.A.C. 6A:23A-7.12 et seq. The issues of noncompliance to the Accountability Regulations are further explained below.

The District failed to comply with certain provisions of the Accountability Regulations as those regulations pertain to meal allowances, N.J.A.C. 6A:23A-7.12(f).

The OFAC review of the assorted documents provided by the District revealed that during the school years 2007-2008 through 2013-2014, the FSN provided meals for Board meetings, committee meetings, and various special events. The OFAC selected invoices covering the time period of July 1, 2013 through May 27, 2014 for review. During that time period, District

documents revealed meals were provided for fifteen (15) separate meetings. The unpaid Board meeting meal invoices for the same time period totaled \$22,797.33. The breakdown of the invoices included \$8,330.00 for 833 meals, linen charges totaling \$2,432.10 and a service charge of \$12,035.23. With the exception of three of those meetings, the equivalent of sixty 60 dinners were prepared.¹ For the remaining three meetings, the FSN invoices indicate it served 32, 40, and 13 dinners.

When requested to justify the need to prepare sixty (60) dinners for Board meetings on a recurring basis, Mr. Lehmann and Mr. Rosen represented the attendees who were provided with a meal included honorees and students who were invited to participate in the program. Other regular attendees included approximately three dozen individuals. Those individuals were identified as nine board members, the superintendent, three assistant superintendents, the board secretary, assistant secretary, comptroller and five assistants, two attorneys, five individuals who serve as technicians for sound and video broadcast recording, a security supervisor, investigator, an electrician, the Harassment, Intimidation and Bullying coordinator, and a five members of the Reserve Officers' Training Corps flag team. Although attendance by Board members and senior administrative personnel is recorded in the meeting minutes, the District does not maintain a record of each individual who is served a meal.

As previously noted, the per-meal charge included a service charge totaling \$12,035.23 for the time period under review. The District represented, through Mr. Lehmann and Mr. Rosen, the service charges were based on the use of two cook managers to prepare food (hot and cold items prepared at separate locations) and two service workers assigned to the meeting location. The food was prepared at two kitchen locations and delivered by truck by another employee from the Property and Plant Department.

The breakdown of meal costs also included costs for tablecloths to cover tables on the dais, ancillary tables for electronic equipment, the assistant superintendents and administrators, as well as two meal rooms. Approximately thirty 30 tablecloths and 24 cloth napkins were used per meeting. The charge per tablecloth was \$4.50 and \$0.15 per cloth napkin.

The OFAC examination of invoices for the Board meeting meal costs revealed the District employees used their personal credit/debit cards to obtain groceries from area markets. Items purchased included seafood, pizza, chicken, pasta, vegetables, fruits, pastries and beverages. The individuals would be reimbursed from a District petty cash fund. The prepared food would be served at the beginning of the Board meeting.

Pursuant to N.J.A.C. 6A:23A-7.12(f), school districts must solicit quotes if required by the Public School Contracts Law (PSCL). Because the District Business Administrator is a qualified purchasing agent, adherence to the provisions of the PSCL are required when the cost of the goods or services exceeds \$5,400.00.

¹ The District invoice describes the meals served as, 60 ppl dinner, Unit price \$10.00, Total \$600.00.

The District acknowledged it did not solicit quotes. In an explanation from Mr. Lehmann and Mr. Rosen, based on the District's interpretation of the Accountability Regulation N.J.A.C. 6A:23A-7.12, they are permitted to use FSN for Board meals if they would be less expensive than can be provided from an outside vendor.

The solicitation of quotations would enable the District to determine the most cost effective means to provide light meals and refreshments in accordance with the regulations that indicate the average cost per meal shall not exceed \$10.00.

Based on the review of the Board meeting invoices, it appears the actual cost of providing the light meals exceeded the \$10.00 amount permitted by the Administrative Code. The District invoices represent the per-meal cost was limited to \$10.00. However, that cost does not include the service fee of \$12,035.23 charged by the FSN. The service charge fees invoiced during the 2013-2014 school year exceeded the cost of the meals by \$3,705.23. The invoices also included linen charges of \$2,432.10 for the same time period. If the cost of the linen service and the service fees are included as part of the 833 meals served, the actual cost equates to \$27.37 per meal. This per meal cost is excessive for a light meal. The applicable Administrative Code N.J.A.C. 6A:23A-7.12(f) reads as follows:

(f) Regular meetings, special meetings, and work sessions of the board of education shall be limited to light meals and refreshments for all board members. (Emphasis added)

1. The meals may be served to employees who are required to attend the event and where it is impractical for the employee to commute to and from his or her residence between the end of the work day and the beginning of the event, or where the employee is required to remain at the school district to prepare for the event.

2. The school district shall acquire the light meals and refreshments by the solicitation of quotes if required pursuant to N.J.S.A. 18A:18A-1 et seq. (Emphasis added)

3. Where the school district's food service program can prepare comparable meals at a lower cost, the food service program shall be used.

4. The average cost per meal shall not exceed \$10.00. (Emphasis added)

5. The school district shall purchase or prepare food that are sufficient to provide each board member, dignitary, non-employee speaker or allowable staff member one meal. (Emphasis added) Meals should be carefully ordered to avoid left-overs. Unintended left-over food should be donated to a charitable shelter or similar facility, if at all possible.

Conclusion:

The true cost of the meals prepared and served by the FSN is excessive. Both the cost and number of meals exceed the limitations established by N.J.A.C. 6A:23A-7.12(f).

Recommendation:

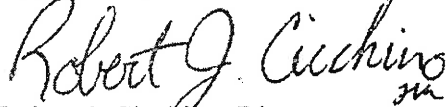
The District must submit a Corrective Action Plan identifying the procedures that it will develop and implement to ensure compliance with the provisions of the Accountability Regulation, N.J.A.C. 6A:23A-7.12(f).

Submitted by:



Thomas C. Martin, Manager
Investigations Unit

Approved by:



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

Examiner:

Nancy Orsini
Karl T. Feltes