



Depew Union Free School District Financial Condition

Report of Examination

Period Covered:

July 1, 2012 – April 26, 2016

2016M-229



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

November 2016

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Depew Union Free School District, entitled Financial Condition. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for district officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Depew Union Free School District (District) is located in the Towns of Cheektowaga and Lancaster in Erie County. The District is governed by a Board of Education (Board) that is composed of seven elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the District's chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction. The Business Administrator is responsible for maintaining accounting records and preparing financial reports.

The District operates three schools with approximately 1,800 students and 360 employees. The District's budgeted appropriations for the 2015-16 fiscal year totaled \$41 million, which were funded primarily with State aid, real property taxes and sales tax.

Objective

The objective of our audit was to review the District's financial condition. Our audit addressed the following related question:

- Did the Board adopt realistic budgets to ensure that the real property tax levy is not greater than necessary to fund operations?

Scope and Methodology

We examined the District's finances for the period July 1, 2012 through April 26, 2016. On October 4, 2016, District officials provided us with the District's audited financial statements for the fiscal year that ended June 30, 2016. As a result, we added updated 2015-16 financial information in our report and informed District officials of these changes. Although District officials were given an opportunity to revise their response letter, which we received on September 26, 2016, they chose not to submit a revised response letter.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

Comments of District Officials and Corrective Action

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. District officials disagreed with certain aspects of our findings and recommendations in our report. Appendix B includes our comment on an issue raised in the District's response.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the District Clerk's office.

Financial Condition

A school district's financial condition is a factor in determining its ability to fund educational services for students within the District. The Board, Superintendent and Business Administrator are responsible for accurate and effective financial planning for the use of District resources. They should prepare and adopt annual budgets that contain realistic estimates of revenues, appropriations and the use of fund balance. Fund balance represents the cumulative residual resources from prior fiscal years that can, and in some cases must, be used to lower property taxes for the ensuing fiscal year. New York State Real Property Tax Law limits the amount of unrestricted fund balance to no more than 4 percent of the subsequent year's budget. District officials should ensure that unrestricted fund balance does not exceed the amount allowed by law.

The Board and District officials overestimated appropriations in the adopted budgets and allowed unrestricted fund balance to exceed the statutory limit. As of June 30, 2015, unrestricted fund balance totaled \$3.8 million and was 9 percent of 2015-16 budgeted appropriations, which exceeded the limit by 5 percentage points. This trend is projected to continue through 2016-17.

Budgeting

In preparing the budget, the Board and District officials should develop accurate estimates of revenues (e.g., State aid), appropriations and the amount of fund balance that may be used to help finance appropriations. After taking these factors into account, the Board should determine the tax levy that is necessary to fund operations. Accurate budget estimates help ensure that the property tax levy is no greater than necessary.

We compared estimated revenues and appropriations with actual operating results for 2012-13 through 2015-16 and found that the District overestimated appropriations by more than \$11 million (8 percent, Figure 1).

Figure 1: Overestimated Appropriations				
	Appropriations^a	Expenditures	Difference	Percentage
2012-13	\$37,524,900	\$34,889,300 ^b	\$2,635,600	8%
2013-14	\$38,991,800	\$36,744,900	\$2,246,900	6%
2014-15	\$41,109,200	\$37,952,700	\$3,156,500	8%
2015-16	\$41,589,700	\$37,969,300	\$3,620,400	10%
Totals	\$159,215,600	\$147,556,200	\$11,659,400	8%

^a Includes prior year's encumbrances and budget modifications
^b Excludes \$2.4 million unbudgeted transfer to the capital projects fund from a capital reserve

Appropriations that were consistently overestimated from 2012-13 through 2014-15 included operations, such as school building operations and maintenance (\$279,297, 12.5 percent budget variance), teaching expenditures¹ (\$538,359, 24 percent) and employee benefits² (\$953,604, 20 percent). Actual revenues were generally consistent with budgeted estimates over the same period.

Because some of these costs are determined by contractual agreements, District officials should be able to reasonably estimate these appropriations when they prepare the annual budget. Budgeting practices that continually overestimate expenditures result in tax levies that are higher than necessary. In the 2016-17 budget, the Board and District officials increased appropriations for operations and maintenance and teaching expenditures, but decreased appropriations for employee benefits.

Fund Balance

A school district may retain a portion of fund balance at the end of the fiscal year for cash flow needs and to provide a cushion against unexpected expenditures. However, unrestricted fund balance cannot exceed the 4 percent limit. Any surplus fund balance over this percentage should be used to reduce the upcoming fiscal year's tax levy. When fund balance is appropriated as a funding source, the expectation is that there will be a planned operating deficit in the ensuing fiscal year equal to the amount of fund balance appropriated. This allows a school district to return excess fund balance that is accumulated in prior years back to the residents.

Due to the District's practice of overestimating appropriations, it realized operating surpluses from the 2012-13 through 2014-15 fiscal years (Figure 2). As a result, the District did not use the appropriated fund balance it budgeted to help finance operations.

¹ Teaching expenditures include salaries, equipment, conferences, supplies and textbook expenditures.
² Employee benefit expenditures include retirement contributions, health insurance, Social Security, unemployment insurance and workers' compensation.

Figure 2: Unrestricted Fund Balance at Fiscal Year-End			
	2012-13	2013-14	2014-15
Beginning Fund Balance	\$15,531,800	\$12,958,500	\$11,701,000
Add: Operating Surplus	\$638,600	\$551,200	\$799,200
Add: Transfer from Debt Service Fund	\$0	\$0	\$981,500
Add: Prior Period Adjustments	\$0	\$10,700	\$4,600
Less: Use of Reserves	(\$3,211,900)	(\$1,819,400)	(\$1,132,300)
Ending Fund Balance	\$12,958,500	\$11,701,000	\$12,354,000
Less: Nonspendable Fund Balance	\$96,000	\$93,400	\$93,400
Less: Restricted Fund Balance (Reserves)	\$8,929,000	\$7,713,200	\$8,350,000
Less: Encumbrances	\$59,900	\$18,600	\$95,600
Less: Appropriated Fund Balance for the Ensuing Year	\$2,450,000	\$2,375,000	\$2,300,000
Unrestricted Fund Balance at Fiscal Year-End	\$1,423,600	\$1,500,800	\$1,515,000
Ensuing Year's Budgeted Appropriations	\$38,961,200	\$40,787,200	\$41,225,100
Unrestricted Fund Balance as a Percentage of the Ensuing Year's Budget	4%	4%	4%

The District appropriated an average of \$2.4 million in unrestricted fund balance as a financing source in the annual budget for 2012-13 through 2014-15. This appropriation of fund balance reduced the level of the District's reported unrestricted fund balance at the end of each fiscal year. However, the District did not need to use any of the appropriated fund balance to finance operations because the District realized operating surpluses during the same period. When unused appropriated fund balance was added back, the recalculated unrestricted fund balance exceeded the statutory limit by 5 to 6 percentage points (Figure 3).

Figure 3: Unused Fund Balance			
	2012-13	2013-14	2014-15
Unrestricted Fund Balance at Year-End	\$1,423,600	\$1,500,800	\$1,515,000
Add: Appropriated Fund Balance Not Used to Fund Ensuing Year's Budget	\$2,450,000	\$2,375,000	\$2,300,000
Recalculated Unrestricted Fund Balance	\$3,873,600	\$3,875,800	\$3,815,000
Recalculated Unrestricted Fund Balance as a Percentage of Ensuing Year's Budget	10%	10%	9%

While the District has realized operating surpluses and retained excessive fund balance, it also levied real property taxes averaging \$16.5 million during each of the three years. The District also ended the 2015-16 fiscal year with an operating surplus. The District's practice of appropriating fund balance that is not needed to finance operations is, in effect, a reservation of fund balance that is not provided for by statute.

District officials used the operating surpluses to fund established reserves in the general fund. For example, from 2012-13 through 2014-15, the District charged expenditures totaling \$1.5 million to the retirement contribution reserve, but during the same time added \$1 million to the reserve from the operating surpluses.

The Board's rationale for replenishing the reserves in this manner is unclear. While the Board adopted a resolution approving the use of the surplus funds to replenish reserves, a more appropriate method the Board could use to demonstrate its intent to fund or replenish reserves would be to include a provision to increase the reserves in the proposed budget presented to residents for approval. In this way, District residents would be aware of the Board's intent to both fund and charge expenditures to reserves during the upcoming year.

Recommendations

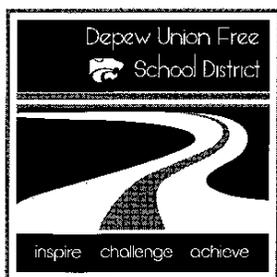
The Board and District officials should:

1. Develop realistic estimates of appropriations and the use of fund balance in the annual budget.
2. Ensure that the amount of unrestricted fund balance is in compliance with the statutory limit and develop a plan to use excess funds in a manner that benefits residents. Such uses could include, but are not limited to:
 - Funding one-time expenditures;
 - Funding needed reserves; and
 - Reducing District property taxes.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The District officials' response to this audit can be found on the following pages.



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September 23, 2016

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RE: Depew Union Free School District Response and Corrective Action Plan to Financial Condition Report of Examination for the Period July 1, 2012 through April 26, 2016

Dear Mr. Mazula:

The Depew Union Free School District is in receipt of the State Comptroller's Office Draft Report of Examination for Financial Condition for the period July 1, 2012 through April 26, 2016. On behalf of the District, we would like to thank the staff of the Comptroller's Office, who we found to be courteous and professional throughout the audit process. The District welcomes the feedback provided by the Comptroller's Office and appreciates the opportunity to strengthen our practices as a result of reflection on that feedback.

The District, while pleased that the State Comptroller's audit did not identify any instances of fraud or misappropriation of funds, nor did the audit identify any instances of waste or misuse, the District disagrees with some of the viewpoints made in the audit.

The report contains several conclusions that reflect, in our viewpoint, subjective opinion statements by the Comptroller's auditors related to the District's financial management, specifically in the areas of budgeting practices and fund balance management. We respectfully acknowledge the Comptroller's perspective in those areas, but the District and its elected Board of Education firmly believe that our conservative approach to financial management is consistent with our legal authority and our fiduciary responsibility to taxpayers. Furthermore, both of the District's Internal and External Auditors agree with our financial practices and condition of the District, including the establishment and use of our reserve funds. In fact, in our most recent Risk Assessment, the auditors commented that, *"The District will need to maintain very conservative budgeting practices in order to avoid a year with low fund balance which would require a sharp increase in the tax levy."*

As stated in the draft report, *"A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively..."* and *"A school*

"Inspiring, Challenging, Achieving"

district's financial condition is a factor in determining its ability to fund educational services for students within the District." We as a District couldn't agree more. School districts must run their operations effectively, efficiently and be able to provide the necessary educational opportunities to the students of the district. The Depew Union Free School District has done a remarkable job in meeting all three of those identified criteria.

In fact, the Depew Union Free School District was recently recognized for its Achievement Index in the **Buffalo Business First 2016 Schools Guide** edition. The aim of this index is to identify districts that manage to post strong academic records, compared to several socioeconomic indicators. In 2015, the District was ranked 35th out of 96 districts within Western New York, this year the District moved up 24 places and ranked 11th. Furthermore, the District has elevated its graduation rate from 77% in 2011 to a current and sustained level of over 90%. Throughout this same time period, the District has reduced its staffing through attrition at a rate of 9.5% (See Attached 2016-2017 Budget Presentation.) and maintained an average budget increase of only 1.23% with an average levy increase of 2.11%. Finally, even the New York State Office of the State Comptroller has recognized that the Financial and Environmental Stress of the Depew Union Free School District has had no designations since 2013, which is the most favorable of the four established stress categories.

The draft report made the recommendation that the Board and District officials should develop realistic estimates of appropriations and the use of fund balance in the annual budget. The Depew Union Free School District has been doing just that in one of the most volatile financial times in decades. The District has had to respond to unsettled contracts, unpredictable health care and retirement benefit increases, along with numerous legislatively initiated unfunded mandates; like lead water testing, carbon monoxide detectors and the Annual Professional Performance Review process, just to name a few. These circumstances have been coupled with the Tax Levy Cap, Gap Elimination Adjustment and the freezing of the Foundation Aid Formula, which directly accelerate the defunding of public education.

In consideration of these factors that are unpredictable and out of our control, the District, in an effort to maintain programming for our students and avoid becoming educationally insolvent, have employed conservative budgeting practices. If we did not adopt these measures, our reserves would have quickly been depleted, placing the District in a situation where an override of the tax levy cap would be needed to sustain educational programming and being designated by the Comptroller's Office as being in significant fiscal stress.

When suggesting that the District has overestimated appropriations, specifically in the areas of operations, such as school building operations and maintenance; teaching expenditures and employee benefits, it is due to several factors. With regard to school building operations and maintenance, the District has had to deal with and respond to unpredictable weather patterns over the last several years. We have simply been trying to plan for spikes in utility costs and snow removal based on previous weather patterns, as these budgets, in some years have exceeded their appropriated amounts. In addition, fuel prices jumped to over \$4.60 per gallon in 2009 – 2010, which impacted all school districts' fixed fuel budgets, coupled with the impact on the delivery of materials and supplies. When considering both the areas of teaching expenditures and employee benefits, again the District was in the process of negotiating two of the largest

collective bargaining agreements during this examination period and had no clear indication of what the final salary increases and/or health care benefit obligations would result. Now that these contracts have been settled, we have and will continue to be able to reasonably estimate these appropriations when we prepare the annual budget.

The draft report offered a second recommendation to ensure that the amount of unrestricted fund balance is in compliance with the statutory limit and develop a plan to use excess funds in a manner that benefits residents. Such uses could include, but are not limited to; Funding one-time expenditures, Funding needed reserves, and Reducing District property taxes. The District has been funding needed reserves, in order to avoid budget deficits and reductions to programming and staff and has presented these plans to the public on an annual basis. (See Attached 2016-2017 Budget Presentation)

In addition, the report claims that, *“When unused appropriated fund balance was added back, the recalculated unrestricted fund balance exceeded the statutory limit by 5 to 6 percentage points.”* The District completely disagrees with this interpretation as it is in stark contrast to the Office of the State Comptroller’s directive found in **“Fund Balance Reporting and Governmental Fund Type Definitions”**, which was updated in April 2011 and originally issued in November 2010. It states that, *“...the portion of the General Fund fund balance subject to Section 1318 of the Real Property Tax Law is: unrestricted fund balance (i.e., the total of the committed, assigned, and unassigned classifications), minus appropriated fund balance, amounts reserved for insurance recovery, amounts reserved for tax reduction, and encumbrances included in the committed and assigned fund balance.”* Therefore, it is an inappropriate calculation to add back in the Appropriated Fund Balance Not Used to Fund Ensuing Year’s Budget. The actual amount to be examined and commented on should only be the Unrestricted Fund Balance at Year End, which is below the statutory limit of 4% and verified by the District’s External Auditors.

See
Note 1
Page 13

It is worth noting that since 2009 the District has reduced its reserves by 33%, which includes our Capital Reserve. Each year, these reserves are utilized with the sole purpose of smoothing out the unpredictable expenses, insufficient revenue from Albany and protecting our students and taxpayers. In fact, in the 2016-2017 Budget Plan, the District allocated \$500,000 from the Employee Retirement System Reserve, \$483,790 from the Employee Benefit Accrued Liability Reserve, \$65,889 from the Tax Certiorari Reserve, \$266,554 from the Capital Reserve for Vehicles and \$55,000 from the Repair Reserve for a total of \$1,371,233. If the District did not have the foresight and conservative budgeting practices that it employs, this appropriation would have been a burden on the general fund budget and / or the tax levy and / or a significant reduction to educational programming and employees. In fact, by the District utilizing these established reserves, it allows the District to avoid having to borrow the funds, pay interest rates and then negatively impact our District taxpayers. The District does agree that it will provide the Board with a more detailed memorandum regarding the rationale for replenishing these reserves at the end of each fiscal year.

The Depew Union Free School District’s Board of Education has been fiscally prudent in protecting against future financial difficulties. Given the financial condition of New York State, there is no guarantee that measures such as freezing Foundation Aid or reintroducing the Gap

Elimination Adjustment will not be enacted in future state budgets. The Depew Union Free School District is owed over \$30 million in Foundation Aid, if the formula created by the Campaign for Fiscal Equity lawsuit had been calculated since that time and the Gap Elimination Adjustment was not applied. In fact, in a recent interview held on September 12, 2016 on the NYSSBA News "Newsmaker" segment, New York State Comptroller Thomas DiNapoli said that school districts should not be alarmed, but cautions that the economy is slowing and schools could face a tighter budget picture next year. He coupled that with a significantly low inflation factor, which would hold the Tax Levy Cap to below 1%. Without conservative budget estimates, the potential of large staff and program reductions exists each year that New York State fails to properly fund school districts through state aid.

In conclusion, while we certainly understand and respect the comments made by the staff of the State Comptroller's office, the Depew Union Free School District and its Board of Education believe that our financial management practices provide long-term fiscal stability for our District and help to provide the educational programming that our children deserve.

Sincerely,

Jeffrey R. Rabey Ph.D. ¹
Superintendent of Schools
Depew Union Free School District

Barbara Staebell
President
Board of Education

APPENDIX B

OSC COMMENT ON THE DISTRICT'S RESPONSE

Note 1

For fiscal years 2012-13 through 2014-15, the District appropriated an average of \$2.4 million of fund balance for planned operating deficits, yet none of the funds were used because it realized operating surpluses each year. The District's practice of appropriating fund balance that is not needed to finance operations is, in effect, a reservation of fund balance that is not provided for by statute. The recalculation of unrestricted fund balance is to illustrate the impact that this budgeting practice has on the District's compliance with the statutory limit.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed District officials to gain an understanding of the District's financial management practices.
- We analyzed 2012-13, 2013-14 and 2014-15 budgeted appropriations and revenues and compared them to actual results. We calculated the results of operations for each of these years. We also identified accounts that had significant budget variances.
- We analyzed fund balance for 2012-13 through 2014-15 and determined whether appropriated fund balance and reserves were used as budgeted.
- We calculated unrestricted fund balance as a percentage of the following year's budget. We included both appropriated fund balance and unrestricted fund balance in our calculations.
- We reviewed the 2016-17 budget and compared it to the 2015-16 budget. We documented any increases or decreases to selected appropriation and revenues codes.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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