



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

August 10, 2016

Ms. Carla Thomas, Board President
Pleasantville Board of Education
801 Mill Road, P.O. Box 960
Pleasantville, NJ 08232

Dear Ms. Thomas:

SUBJECT: Pleasantville Public Schools – Employee Misconduct – OFAC Case #INV-024-16

The Department of Education, Office of Fiscal Accountability and Compliance (OFAC) completed an investigation of the Pleasantville Public Schools (District) compliance with educational statute and code as it relates to a criminal history review of its staff. As a result of the review, the OFAC has identified material issues of noncompliance with N.J.S.A. 18A:6-7.1. The issues of noncompliance are detailed in the attached Report of Examination. Please provide a copy to each board member.

Utilizing the process outlined in the attached "Procedures for LEA/Agency Response, Corrective Action Plan and Appeal Process," the Pleasantville Board of Education (Board) 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 Thomas C. Martin, Manager, Investigations Unit, at (609) 633-9615.

Sincerely,

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

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Attachments

c: Robert Bumpus
Michael Yapple
Richard Stepura
Garnell Bailey
Constance Bauer
Stephen Eells

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

PLEASANTVILLE PUBLIC SCHOOLS

EMPLOYEE MISCONDUCT

OFAC CASE #INV-024-16

REPORT OF EXAMINATION

AUGUST 2016

**PLEASANTVILLE PUBLIC SCHOOLS
EMPLOYEE MISCONDUCT**

EXECUTIVE SUMMARY

The New Jersey Department of Education (Department), Office of Fiscal Accountability and Compliance (OFAC) received a written complaint alleging the Pleasantville Board of Education (Board) approved a volunteer, who was disqualified by the Department, to assist with coaching basketball at the Pleasantville Public Schools (District).

The complaint also alleged a violation of the facility usage requirements as set forth by the Board. This allegation was in relation to a Board approved Amateur Athletic Union (AAU)¹ basketball tournament held at the District.

An investigation was initiated to determine the validity of the information received. The OFAC investigators interviewed individuals thought to have knowledge of the incident and also reviewed board minutes, District policy, supplemental payroll forms, facilities usage contract, and other pertinent District documents.

The requirements of the use of the District's facilities are set forth in District's Use of School Facilities policy. There is no basis in education statute or regulation for this policy's provisions; therefore, it is the District's responsibility to determine if a policy violation occurred and take whatever action the District deems appropriate.

The OFAC investigation confirmed that a volunteer who, was disqualified, as a result of a January 2015 Department criminal history review, continued to coach an AAU basketball team at the District's middle school.

The remainder of this report contains the investigative summary, conclusion, and recommendation.

¹The OFAC review determined the tournament was not an AAU sanctioned event.

INVESTIGATIVE SUMMARY

The New Jersey Department of Education (Department), Office of Fiscal Accountability and Compliance (OFAC) received a written complaint alleging the Pleasantville Board of Education (Board) approved a volunteer, who was disqualified by the Department, to assist with coaching basketball at the Pleasantville Public Schools (District).

The complaint also alleged a violation of the facility usage requirements as set forth by the Board. This allegation was in relation to a Board approved Amateur Athletic Union (AAU)² basketball tournament held at the District.

In July 2016, the OFAC initiated an investigation and interviewed individuals thought to have knowledge of the incident. The investigator also reviewed relevant documents including board minutes, District policy, supplemental payroll forms, and the basketball tournament facilities usage contract.

Criminal History Records Check (Disqualified Voluntary Basketball Coach)

In December 2014, Cornelius Cherry submitted an application to volunteer as a basketball coach at the District. The applicant was required to complete the criminal history process prior to being approved to the position. The Department's Criminal History Review Unit, conducted the background check which resulted in the disqualification of Mr. Cherry holding any position within any educational institution under the supervision of the Department. In a correspondence dated December 24, 2014, Mr. Cherry and the District were notified of the disqualification. On January 8, 2015, the District confirmed reception of the notification.

On Monday July 11, 2016, Stephen Townsend, Pleasantville Middle School Principal, was interviewed; Mr. Townsend informed the investigator that he gave permission to Mr. Cherry to coach an AAU basketball team consisting of District pupils. The practices were held at the middle school gym during the 2015-2016 school year. Mr. Townsend stated he was aware Mr. Cherry was disqualified from volunteering to coach a school team at the District, but was unaware that Mr. Cherry was not allowed to have contact with pupils in any educational institution.

N.J.S.A. 18A:6-7.1 states in relevant part; A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils.

²The OFAC review determined the tournament was not an AAU sanctioned event.

CONCLUSION

The District did not adhere to the provisions of N.J.S.A. 18A:6-7.1 with respect to allowing Mr. Cherry to volunteer as a coach after it was determined that he was disqualified from holding such a position.

Use of school facilities

On February 5, 2016, Mr. Townsend submitted two Facility Usage application requests to hold an “AAU basketball tournament” at the District’s high school and the middle school on March 26 and 27, 2016. On both applications, Mr. Townsend placed a check mark next to Non-Profit to stipulate that the tournament was a not for profit event. The application was submitted to William Marsh, Facilities Director, who presented it to the Board. At the February 23, 2016 Board meeting, a motion was passed by a six to two vote to approve the request.

On March 7, 2016, the District provided Mr. Townsend with a *Permission to use the Board of Education Facilities* contract which outlined the terms of use for the event. The contract detailed total costs for using the facilities (usage fee and cost for utilizing the custodial and security staff), stipulating that payment and proof of insurance should be submitted to the Business Office two weeks in advance. The contract was signed by Mr. Marsh. The Board approved the facilities usage for the basketball tournament.

During Mr. Townsend’s interview, he related the following:

- Mr. Townsend hosted a basketball tournament at the high school and the middle school in conjunction with Mr. Mike Melton of Spotlight Basketball.
- Mr. Townsend and Mr. Melton agreed that Mr. Townsend would receive the gate admissions fee, concession sales and would pay the District for the facility usage. Mr. Melton would provide insurance for the event and would receive the team tournament entry/participation fees.
- Mr. Townsend received the insurance documentation from Mr. Melton, but forgot to turn it in to the business office prior to the event.
- In regards to the tournament being represented as a nonprofit AAU sponsored event. Mr. Townsend said it was not his intent to make any misrepresentation to the Board. He described the AAU as a culture and has belonged to the AAU organization for years, but forgot to renew his membership. His organization (Key Strickland School of Basketball) does not profit from the tournaments and he is in the process of filing the paperwork to be a nonprofit organization, but as of the March 26 and 27, 2016 tournament, he had not done so.
- Mr. Townsend stated food at the concession stands was sold during the event by his family and friends.

Mr. Townsend provided the investigator with a credit card bill of the expenditures and a personal bank statement showing a cash deposit he claimed was the proceeds from the event.

Mr. Townsend did not provide any receipts showing gate admission fees collected or sales made from the concession stands.

Mr. Melton was interviewed on June 16, 2016. Mr. Melton stated that he contacted Mr. Townsend to host the tournament and confirmed that Mr. Townsend was responsible for paying the facility usage fees and that he (Mr. Melton) would provide the insurance.

According to Elisha Tompkins, District Business Administrator (BA), sometime after the tournament, members of District's security and custodial staff, who worked the event, came to his office to inquire why they were not paid. The BA checked the records and found payment was not made by Mr. Townsend. The BA contacted Mr. Townsend and requested payment immediately. Mr. Townsend subsequently made payment to the District by submitting a personal check.

The use of the District's facilities is guided by the provisions set forth in the District's Use of School Facilities policy. There is no basis in education statute or regulation for this policy's provisions. Although it is the District's responsibility to determine policy violation and any action that should be taken to ensure conformance with its policies, the following information should be noted:

- Payment to the District's Assistant Business Administrator (ABA) by Mr. Townsend was not made prior to the event.
- Proof of insurance was not submitted to the ABA by Mr. Townsend prior to the event.
- The tournament was represented to the Board as an AAU sponsored event by Mr. Townsend.
- The tournament was represented to the Board as a nonprofit organization event.
- An authorized Pleasantville Public Schools Food Services employee was not utilized to prepare the food served during the event.
- A concession fee of 10 percent of the revenue collected and certified by a certified public accountant should have been paid to the District by Mr. Townsend.

Pleasantville Public Schools Policy #7510-Use of School Facilities states:

“Who May Use Facilities:

It is the Board of Education's intention to grant the use of school facilities under the attached rules and regulations for activities of educational, cultural, civic, social, recreational, governmental, religious, charitable groups and individuals, which are to be sponsored by responsible, recognized local persons, organizations, agencies, or institutions.

Requirements of Users:

The district's application for the use of school facilities must be completed and signed.

The renter shall secure and pay the premiums for general liability insurance in the amount of \$1,000,000 (One Million Dollars) for coverage of the entire time the facilities will be utilize. The renter must present before renting, an insurance certificate in the above amount, naming Pleasantville Public Schools as an additional named insured. Said insurance certificate must be filed with the Assistant Business Administrator at least seven days prior to the date of use...”

“A \$50 non-refundable application fee is due at the time the application is submitted. Payment of fees related to the event must be made at least seven days before the date of use. All payments must be in the form of a certified check or money order payable to the Pleasantville Board of Education. Non-payment will automatically cancel the contract...”

“Responsibilities of User:

The person or persons whose name or names appear on the application must take full responsibility for the use of the approved area and must identify themselves accordingly to the custodian in charge...”

“Only authorized Pleasantville Public Schools Food Service Employees shall prepare food on premises for all functions...”

“For Profit Organizations charging admission fees shall be charged a concession fee of 10% of revenue collected for the event certified by a certified public accountant.”

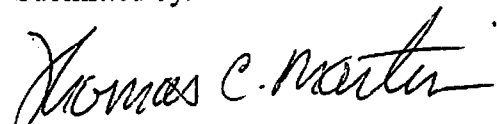
CONCLUSION

This matter is not under the jurisdiction of the OFAC and the District can take whatever action it deems appropriate for this matter.

RECOMMENDATION

The District must develop and submit to the OFAC a corrective action plan that will identify the procedures the District will implement to ensure compliance with N.J.S.A. 18A:6-7.1.

Submitted by:



Thomas C. Martin, Manager
Investigations Unit

Approved by:



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

Investigator(s):

Francesco Frangella

State of New Jersey
Department of Education
Office of Fiscal Accountability and Compliance

PROCEDURES FOR LEA/AGENCY RESPONSE
CORRECTIVE ACTION PLAN AND APPEAL PROCESS

Board of Education Response:

Pursuant to N.J.A.C. 6A:23A-5.6, the following actions shall occur:

- (a) Any school district or county vocational school district that has been subject to an audit or investigation by the Department of Education, Office of Fiscal Accountability and Compliance (OFAC) shall discuss the findings of the audit or investigation at a public meeting of the district board of education no later than 30 days after receipt of the findings.
- (b) Within 30 days of the public meeting required in (a) above, the district board of education shall adopt a resolution certifying that the findings were discussed in a public board meeting and approving a corrective action plan to address the issues raised in the findings. The resolution shall be submitted to the OFAC within 10 days of adoption by the board of education.
- (c) The findings of the OFAC audit or investigation and the board of education's corrective action plan shall be posted on the district's web site, if one exists.

If the board of education disputes any of the findings of the audit or investigation, it may file a written appeal with the OFAC of any disputed finding(s) within 10 days of adoption of the resolution. Seeking an appeal of the findings does not preclude adherence to the provisions of (a), (b), and (c) listed above.

Corrective Action Plan:

The corrective action plan is to be used when the LEA/Agency is in agreement with any of the findings. To contest a finding, the appeal process must be used. After the appeal is settled, a corrective action plan must be filed for any finding upheld during the appeal process.

The corrective action plan must be prepared by completing the attached form. The LEA/Agency must submit the following information:

- Recommendation number
- Corrective action (approved by the board)
- Method of implementation
- Person responsible for implementation
- Completion date of implementation

If the corrective action plan is acceptable, a letter will be sent to the LEA/Agency indicating that it has been accepted.

If the corrective action plan is not acceptable, a letter will be sent to the LEA/Agency indicating whether further clarification is required or further action is necessary.

Appeal Process:

The appeal process is used to contest disputed findings.

Within 10 days of the board's adoption of the resolution approving an appeal of the findings of the audit or investigation, a written request by the LEA/Agency to review the disputed finding(s), recommendation(s), or questioned costs must be submitted to the OFAC Director. The Request for Appeal must indicate the finding(s) in question.

The Request for Appeal must be in writing and the LEA/Agency must present any supporting documentation for the appeal. Subsequent to the submission of the Request for Appeal, the OFAC Director will issue a written decision.

If the final determination made by the Director, is still unsatisfactory to the LEA/Agency, the LEA/Agency may file a Petition of Appeal pursuant to N.J.A.C. 6A:3-1.3.

PLEASANTVILLE SCHOOL DISTRICT
EMPLOYEE MISCONDUCT
CORRECTIVE ACTION PLAN

Pleasantville Board of Education - Atlantic County
 EMPLOYEE MISCONDUCT

Date of Board Meeting

August 16, 2014

Reviewed and Approved

[Signature]
 Chief School Administrator

Date

10/18/14

Reviewed and Approved

[Signature]
 Board Secretary/Business Administrator

Date

10/18/14

	MANAGEMENT REPORT FINDING	RECOMMENDATION	CORRECTIVE ACTION Method Of Implementation	Person Responsible	Completion Date
OFAC-1	<u>Pleasantville School district had a volunteer basketball coach participating in afterschool activities that did not have criminal history clearance.</u>	Recommendation: The Board and or agents of the board must approve all participants within the school environment to have criminal background clearances. N.J.S.A. 18A:6-7.1	The district will have an in-service with the district and building administrators participated in professional development to ensure that administrators will not permit individuals who previously failed a criminal history review from interacting in any way with the district students. This volunteer was properly criminally reviewed and not presented to the BOE for approval.	<u>Business Administrator Superintendent Director of Human Resources</u>	<u>30-Nov-16</u>
OFAC-2	<u>Pleasantville School District violated their facility usage policy.</u>	Recommendation: The district must adhere to regulations and policy established by the Board of Education.	The district imitated the use of a web based facility usage process to ensure strict compliance with board policy and created significantly improved checks and balances. (School Dude)	<u>Business Administrator Superintendent Facilities Coordinator</u>	<u>30-Nov-16</u>