

STATE OF NORTH CAROLINA
Office of the State Auditor



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December 2, 2020

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Mark Johnson, State Superintendent, Department of Public Instruction
Eric C. Davis, Chairman, State Board of Education

Ladies and Gentlemen:

This letter presents results of our performance audit at the North Carolina Department of Public Instruction (Department).

The Office of the State Auditor conducted an audit of Coronavirus Relief Funds that were allocated to the Department from the 2020 COVID-19 Recovery Act. Specifically, the two objectives of this audit were to determine whether the Department established and implemented procedures to ensure that:

1. Coronavirus Relief Funds were spent in accordance with the 2020 COVID-19 Recovery Act and subsequent amendments
2. Programs that received Coronavirus Relief Funds accomplished their intended purpose, such as improving student ability through reading and math interventions and providing school nutrition services to vulnerable students

The audit scope included the period of March 1, 2020 through August 31, 2020.

To achieve the audit objectives, auditors interviewed personnel, observed operations, and reviewed policies and procedures, financial information, reports, memos, and emails.

As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion. See the appendix on page 25 for internal control components and underlying principles that were significant to our audit objectives.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings are presented on pages 5-10. State Superintendent Mark Johnson reviewed a draft copy of this report. His written comments are included starting on page 15.

We wish to express our appreciation to the staff of the Department of Public Instruction for the courtesy, cooperation, and assistance provided to us during the audit.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Beth A. Wood". The signature is written in a cursive style with a large initial "B".

BETH A. WOOD, CPA
STATE AUDITOR

AUDIT OF CORONAVIRUS RELIEF FUNDS AT THE DEPARTMENT OF PUBLIC INSTRUCTION

On March 27, 2020, the President of the United States signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act.¹ The CARES Act established the federal Coronavirus Relief Fund and appropriated \$150 billion to this fund for distribution to state, local, and tribal governments.² The State of North Carolina received a total of \$3.59 billion in financial assistance through the federal Coronavirus Relief Fund. The purpose of these funds is to provide financial assistance to cover costs that:

- Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19)
- Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government
- Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

The North Carolina General Assembly enacted the 2020 COVID-19 Recovery Act³ (Recovery Act) on May 4, 2020 to assist local governments, communities, families, workers and other individuals and businesses by providing federal relief and recovery funds from the CARES Act.

The Recovery Act established a Coronavirus Relief Fund that is to be maintained as a special fund, administered by the North Carolina Office of State Budget and Management, to carry out the provisions of the law. The funds are to be used “in a manner that is consistent with the authorizing federal legislation and that responsibly provides for the public health and economic well-being of the State.”⁴

Of the \$3.59 billion from the CARES Act, \$316 million was allocated to the Department of Public Instruction (Department) through the Coronavirus Relief Fund. The funds were to be used to support the Department’s operations and ensure that the State can continue to achieve the mission of providing a sound public education to the approximately 1.5 million students⁵ enrolled in North Carolina during the pandemic.

The Recovery Act, along with subsequent amendments, provides specific provisions for which the Department must use the funding. For example,

- School nutrition services⁶
- Purchases of equipment⁷ for both students and personnel
- Contracted services for school health support personnel

¹ U.S. Public Law 116-136.

² <https://home.treasury.gov/system/files/136/Payments-to-States-and-Units-of-Local-Government.pdf>.

³ Session Law 2020-4.

⁴ Session Law 2020-4 Section 1.3.

⁵ Average Daily Membership for county, city, and charter schools in the 2020–2021 school year. Average Daily Membership is the number of students for which a public school unit is financially responsible. The calculation is used to allot funding to public school units to assist in serving the needs of students.

⁶ Allowable uses include costs for personal protective equipment, costs to transport meals, and payroll expenditures of staff working in nutrition services.

⁷ Equipment includes Wi-Fi gateway router devices for school buses, community and home mobile internet access points, and computers and other electronic devices.

- Supplemental summer learning program
- Assistance and support for Public School Units providing remote instruction
- Providing nondigital remote instruction resources to students with limited connectivity

The audit scope included procedures that the Department implemented for the following allocations:

- \$75 million for school nutrition services provided in response to COVID-19 from March 16, 2020, through December 30, 2020
- \$70 million for providing supplemental summer learning programs for students in kindergarten through 4th grade whose learning has been negatively affected⁸ by the impacts of COVID-19
- \$30 million for the purchase of computers or other electronic devices for use by students in response to COVID-19
- \$5 million for the purchase of computers or other electronic devices for use by school personnel in response to COVID-19

Key terms discussed in this memo include:

CARES Act – the federal Coronavirus Aid, Relief, and Economic Security Act (U.S. Public Law 116-136) that created the federal Coronavirus Relief Fund.

Coronavirus Relief Fund – the fund established by the State to provide necessary and appropriate relief from the effects of COVID-19.

COVID-19 – the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) that emerged from Wuhan, China in December 2019.

Department of Public Instruction – The North Carolina Department of Public Instruction is charged with the **supervision** and **administration** of the state’s public school system (pre-kindergarten through 12th grade), in accordance with all rules and regulations adopted by the State Board of Education.

Public School Units - refers to local education agencies, independent public schools (charter schools, laboratory schools, regional schools, innovative schools), and other education programs.

⁸ Negatively affected means that, due to COVID-19, students were not on track to meet 2019-2020 year-end expectations. A portion of funding is also available for students in grades three and four during the 2020-2021 school year who are not on track to meet 2020-2021 school year-end expectations.

1. \$31 MILLION OF CORONAVIRUS RELIEF FUNDS DISTRIBUTED FOR SUMMER LEARNING PROGRAM WITHOUT A METHOD TO ENSURE STUDENT ABILITY WAS IMPROVED

The Department of Public Instruction (Department) distributed approximately \$31 million⁹ of 2020 COVID-19 Recovery Act (Recovery Act) funds for the summer learning program without establishing a method to assess whether the program assisted students that were negatively affected¹⁰ because of COVID-19. As a result, the Department spent \$31 million in taxpayer money without knowing whether student ability improved. According to the Department, it did not establish procedures to assess the success of the summer learning program because the Recovery Act did not explicitly require it to do so. However, State law and best practices require that management establish ways to assess whether the program accomplished the intended purpose.

No Procedures Established to Ensure Summer Learning Program Improved Student Ability

The Department distributed \$31 million for the summer learning program without establishing procedures to ensure:

- All students that were negatively affected by COVID-19 were identified to participate in the program
- What percentage of identified students actually participated in the program
- The program improved the students' ability for reading and/or math

The Recovery Act allocated \$70 million to the Department to be distributed to public school units¹¹ for the summer learning program. Approximately \$31 million of the funds had been distributed as of August 31, 2020.

The Department created a policy that included the program purpose and eligible uses for the funds. However, no procedures were established to ensure the program improved student ability.

Resulted in No Way to Know Whether Student Ability Improved

As a result, the Department spent \$31 million in taxpayer money without knowing how much or even whether student ability was improved. For example, the Department does not know:

- How many students were eligible to participate in the summer learning program
- How many students participated in the summer learning program
- What percent of students' reading and/or math ability improved at conclusion of the summer learning program
- What percent of students who were not on track to meet 2019-2020 year-end expectations were on track at conclusion of the summer learning program
- Whether the summer learning program met the needs of the students

⁹ According to Department accounting records as of August 31, 2020.

¹⁰ Negatively affected means that, due to COVID-19, students were not on track to meet 2019-2020 year-end expectations. A portion of funding is also available for students in grades three and four during the 2020-2021 school year who are not on track to meet 2020-2021 school year-end expectations.

¹¹ Refers to local education agencies, independent public schools (charter schools, laboratory schools, regional schools, innovative schools), and other education programs.

Department Stated Not Required to Determine Whether Program Achieved Purpose

According to the Department, it did not establish procedures to assess the success of the summer learning program because the Recovery Act did not explicitly require the Department to do so.

State Law and Best Practices Require Procedures to Determine Program Success

State law¹² requires state agencies to establish policies and procedures (internal controls) and holds management responsible for determining that programs accomplish their intended purpose. Specifically:

The management of each State agency bears full responsibility for establishing and maintaining a proper system of internal control within that agency.

Internal control...[is] an integral process, effected by an entity's governing body, management, and other personnel, designed to **provide reasonable assurance regarding the achievement of objectives related to the effectiveness and efficiency of operations.** *[Emphasis added]*

Additionally, best practices suggest that the Department develop and define the data needed to determine if the summer learning program assisted students in improving their abilities. Specifically, best practices identified by the Government Accountability Office state:

Management defines objectives in measurable terms so that performance toward achieving those objectives can be assessed.¹³

Recommendation

The Department should gather the information needed to determine how much or even whether student ability was improved by the summer learning program.

2. \$37 MILLION OF CORONAVIRUS RELIEF FUNDS DISTRIBUTED FOR NUTRITION SERVICES WITHOUT ESTABLISHING A METHOD TO MEASURE RESULTS

The Department of Public Instruction (Department) distributed approximately \$37 million¹⁴ of 2020 COVID-19 Recovery Act (Recovery Act) funds to public school units¹⁵ for nutrition services¹⁶ without establishing a method to measure results. Consequently, the Department has no way of knowing whether (1) all of the children that needed meals received them, (2) social distancing and personal hygiene measures were sufficient to protect the health of children, families and employees, and (3) schools only received the amount needed to sustain their nutrition program. The Department said it did not establish a method to measure results because public school units were allowed to use the funds in numerous ways which made measurement difficult. However, best practices required the Department to measure whether intended results were achieved.

¹² North Carolina General Statute 143D-7 and 143D-3.

¹³ United States Government Accountability Office, Standards for Internal Control in the Federal Government, September 2014.

¹⁴ Based on the Department's accounting records as of August 31, 2020.

¹⁵ Refers to local education agencies, independent public schools (charter schools, laboratory schools, regional schools, innovative schools), and other education programs.

¹⁶ Allowable uses include costs for personal protective equipment, costs to transport meals, and payroll expenditures of staff working in nutrition services.

No Method Established to Measure Results of Spending

The Department did not establish a method to measure the results of the Recovery Act fund spending it used to provide school nutrition services during the COVID-19 pandemic.

On March 16, 2020, approximately 1.5 million¹⁷ students in the State's public school system were forced to leave the traditional in-person school setting and transition to online learning as a result of the COVID-19 pandemic. This transition left about 900,000¹⁸ students without ready access to meals traditionally provided on-site by the public school system.

In response, the Recovery Act allocated \$75 million to the Department for school nutrition services. Approximately \$37 million of the funds have been spent as of August 31, 2020.

The Department said its school nutrition¹⁹ priorities during the pandemic are:

- Providing meals for the most vulnerable, food-insecure²⁰ children
- Protecting the health and well-being of children, families and employees through social distancing and personal hygiene measures
- Promoting program sustainability²¹

However, the Department did not establish a method to measure whether and to what extent the intended results of its spending were achieved.

Department Has No Way to Know Whether Intended Results Were Achieved

Since the Department did not establish a method to measure the results of Recovery Act spending for school nutrition services, the Department has no way to know whether:

- All of the children who needed to receive meals actually received them
- Social distancing and personal hygiene measures used while providing emergency school nutrition services were sufficient to protect the health and well-being of children, families and employees
- Schools that needed additional funding to sustain their nutrition program only received the amount necessary

¹⁷ Average Daily Membership for county, city, and charter schools in the 2020–2021 school year. Average Daily Membership is the number of students for which a public-school unit is financially responsible. The calculation is used to allot funding to public school units to assist in serving the needs of students.

¹⁸ N.C. Department of Public Instruction's press release "*North Carolina Summer Nutrition Programs Offer Free, Healthy Meals for Children During the Coronavirus Pandemic*", dated June 11, 2020.

¹⁹ Allowable uses include costs for personal protective equipment, costs to transport meals, and payroll expenditures of staff working in nutrition services.

²⁰ USDA - Food insecurity is the limited or uncertain availability of nutritionally adequate and safe foods or limited or uncertain ability to acquire acceptable foods in socially acceptable ways.

²¹ According to the Department, given the concern related to the loss of potential revenue due to the pandemic and the emergency leave enacted for state employees by the Governor, there was a concern that school nutrition programs would need additional funding to continue to operate and provide meals.

Too Difficult to Measure Results

The Department said it did not establish a method to measure results because public school units were allowed to use the funds in numerous ways which made measurement difficult. According to the Department, each public school unit was allowed to use its allocation of Recovery Act funds at its discretion as long as it complied with the Department's policy.

The Department stated that it plans to monitor the use of the Recovery Act funds at the public school units after December 30, 2020.

However, it will be too late to monitor spending then because all of the funds are required to be spent by December 30, 2020.

Best Practices Required Department to Measure Results

Best practices identified by the Government Accountability Office (GAO) require management to determine whether intended results were achieved. The GAO states:

Legislators, oversight bodies, those charged with governance, and the public need to know whether... government programs are achieving their objectives and desired outcomes.²²

Management determines whether performance measures for the defined objectives are appropriate for evaluating the entity's performance in achieving those objectives.²³

Management establishes activities to monitor performance measures and indicators. These may include comparisons and assessments relating different sets of data to one another so that analyses of the relationships can be made and appropriate actions taken.²⁴

Recommendation

The Department should gather the information needed to determine whether the intended results of its Recovery Act spending were achieved.

3. DEPARTMENT DISTRIBUTED APPROXIMATELY \$76 MILLION BUT DID NOT MONITOR SPENDING

The Department of Public Instruction (Department) did not monitor federal funds distributed to public school units²⁵ to provide economic support in the wake of COVID-19.²⁶ As a result, there was an increased risk that public school units could have misused the funds without the misuse being detected. According to Department management, it did not monitor spending of the funds because of a vacant manager position in the Monitoring and Compliance Division.²⁷ Federal regulations require the Department to monitor funds spent by public school units.

²² United States Government Accountability Office, Government Auditing Standards, July 2018.

²³ United States Government Accountability Office, Standards for Internal Control in the Federal Government, September 2014.

²⁴ United States Government Accountability Office, Standards for Internal Control in the Federal Government, September 2014.

²⁵ Refers to local education agencies, independent public schools (charter schools, laboratory schools, regional schools, innovative schools), and other education programs.

²⁶ The total amount of funds distributed includes funds for the summer learning program, the school nutrition support, as well as various other programs for which funds were received from the Coronavirus Relief Fund.

²⁷ The Monitoring and Compliance Division is responsible for monitoring the funds spent by public school units.

Monitoring Not Performed

The Department did not monitor \$76 million²⁸ in federal funds distributed to public school units to ensure the funds were spent in accordance with the 2020 COVID-19 Recovery Act²⁹ and subsequent amendments (Recovery Act). Specifically, the Department did not:

- Evaluate the risk of misspending by each public school unit for the purpose of developing a monitoring plan
- Develop a monitoring plan to address the risk of misspending
- Compare supporting documents (i.e. invoices, receipts, payroll records) to public school unit expenditures

Resulted in Increased Risk of Undetected Misuse

Without monitoring, the Department could not detect misuse of Recovery Act funds. Specifically, the Department could not ensure that public school units only used Recovery Act funds for:

- Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19)
- Expenditures that were not accounted for in the budget most recently approved as of March 27, 2020 for the State or government
- Expenditures incurred during the period that begins on March 1, 2020, and ends on December 30, 2020
- Activities and programs to meet the requirements specified by legislators in the Recovery Act. For example, providing school nutrition services, electronic devices, and improved internet connectivity to students

Caused by Vacancy and Transition of Duties

According to Department management, it did not monitor public school unit spending because the manager position in the Monitoring and Compliance Division was vacant.

Additionally, the Department stated that the Monitoring and Compliance manager position became vacant near the end of state fiscal year 2020. This position remained vacant until the end of August 2020. During that time, the Department decided to transition this entire section under the leadership of the Internal Audit Division.

Due to the extended vacancy and moving of the position and responsibilities, the Department chose to postpone monitoring until the position was filled to ensure the new manager could provide input into the process.

²⁸ According to Department accounting records as of August 31, 2020.

²⁹ Session Law 2020-4.

Federal Regulations Require Monitoring of Program Funds

Federal regulations³⁰ require the Department to monitor the public school units' spending of Recovery Act funds. Specifically, the Department to must:

Monitor the activities of the subrecipient³¹ as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance.

Recommendation

Department management should monitor public school unit spending to ensure the funds are spent in accordance with the 2020 COVID-19 Recovery Act.

³⁰ 2 CFR 200.331(d).

³¹ The public school units are considered subrecipients.

The Office of the State Auditor (OSA) is required to provide additional explanation when an agency's response could potentially cloud an issue, mislead the reader, or inappropriately minimize the importance of the auditor findings.

Generally Accepted Government Auditing Standards state,

When the audited entity's comments are inconsistent or in conflict with the findings, conclusions, or recommendations in the draft report, the auditors should evaluate the validity of the audited entity's comments. If the auditors disagree with the comments, they should explain in the report their reasons for disagreement.

In its response to this audit, the Department of Public Instruction (Department) made numerous inaccurate and potentially misleading statements. To ensure the availability of complete and accurate information, and in accordance with *Generally Accepted Government Auditing Standards*, OSA offers the following clarifications for the **most significant inaccuracies**.

Department's Response to Finding #1: Funds were Distributed for Summer Learning Program Without a Method to Ensure Student Ability was Improved

In its response, the Department refutes the reason why it did not have a method to measure the success of the Summer Learning Program. It stated that the reason why it was unable to determine whether student ability improved was due to the State Board of Education. Specifically, the Department's response stated:

DPI gave staff from OSA incorrect information or an incorrect impression

Those statements are not accurate, do not represent DPI, and that staff member should not have spoken on behalf of DPI

DPI had a valid, reliable tool in place to measure whether student learning had improved. This tool was also personalized for each student specifically so that instruction could be customized to maximize each student's learning ability. Regrettably, early on in this pandemic but well after it was clear that it would be critically important to be able to track how student learning was impacted by remote learning, the NC Board of Education (State Board) acted to end the contract with the vendor for the use of the aforementioned tool.

However, at no time during the audit did **managers** directly responsible for the Summer Learning Program ever once state that it had a tool that could have monitored student outcomes but was recently taken away.

During these numerous conversations, the **only reason** Department **management** gave for not establishing a method to ensure student ability improved in the Summer Learning Program was that the 2020 COVID-19 Recovery Act (Recovery Act) did not require it to do so.

Regardless, the Department should have implemented some way to ensure:

- All students that were negatively affected by COVID-19 were identified to participate in the program
- What percentage of identified students actually participated in the program
- The program improved the students' ability for reading and/or math

Further, OSA only had conversations with **management** during this audit. All evidence collected for this finding (including statements) were obtained from:

- K-3 Literacy Director
- K-12 Computer Science Director
- Deputy State Superintendent for Innovation

And this issue was discussed at length with senior members of Department **management** prior to sending the draft report. It is management's responsibility to ensure that the findings and related discussions are communicated upward all the way to the Superintendent.

Department's Response to Finding #2: Funds were Distributed for Nutrition Services Without Establishing a Method to Measure Results

In its response to this finding, the Department made several inaccurate and potentially misleading statements.

FIRST, the Department disagrees with the finding and distracts the reader by providing information on program background as well as goals the Department established for Nutrition Services.

OSA does not dispute the Department's efforts or that the Department established goals for the school nutrition service Recovery Act funds.

The finding stated that the Department distributed \$37 million of Coronavirus Relief Funds for nutrition services **without establishing a method to measure results**.

The only mention the Department makes of attempting to measure results is performing desk audits at public school units to assess sustainability.

However, the Department's plan is **not sufficient** and **not timely**.

It is not **sufficient** because the desk audits will not allow the Department to know whether intended results of the funds were achieved because the Department never determined what the individual PSU's needs were.

It is not **timely** because, as the finding stated, the Department does plan to monitor the use of the Recovery Act funds at the public school units after December 30, 2020.

However, it will be too late to monitor spending then because all of the funds are required to be spent by December 30, 2020.

SECOND, the Department contends in its response that it would have been unable to ensure that the schools only received the funding necessary to sustain their nutrition program because Session Law 2020-4 prescribed the distribution plan.

This is misleading. Session Law 2020-4 states that "Funds for these services shall be allocated in the same manner as if the participating public school units were reimbursed by school meal receipts or federal funds."

While the Department distributed the money in accordance with the law, nothing in the law stated how the Department was to allocate funds to the public school units. The Department chose to allocate the funds based on each public school unit's proportion of the state's total federal reimbursements and eligible student meal receipts in February 2020.³²

If the Department wanted to distribute the money based on more individual and present needs of public school units, **it could have**.

Department's Response to Finding #3: Distributed Approximately \$76 Million But Did Not Monitor Spending

In its response to this finding, the Department made several inaccurate and potentially misleading statements.

FIRST, the Department disagrees with this finding and discusses the procedures it has planned to perform or is currently performing to monitor the spending of the Recovery Act fund spending. The Department's statements could mislead the reader to believe that the Department has been monitoring spending all along.

This is not true.

During the time covered under this audit (through August 31, 2020), the Department did not:

- Evaluate the risk of misspending by each public school unit for the purpose of developing a monitoring plan
- Develop a monitoring plan to address the risk of misspending
- Compare supporting documents (i.e. invoices, receipts, payroll records) to public school unit expenditures

No monitoring had been performed over Recovery Act fund spending by any division in the Department (including by School Nutrition).

Therefore, more than \$76 million of Coronavirus Relief Funds were distributed and spent with no ability to detect misuse and take timely corrective action.

SECOND, the Department claims that its monitoring plan for the Coronavirus Relief Funds is sufficient by stating its approach is in compliance with Uniform Grant Guidance.

This approach is in compliance with the Uniform Grant Guidelines as 2 CFR 200.331, which does not require a risk assessment be conducted at the time of distribution of funds.

This is misleading.

There is nothing in the Uniform Grant Guidance that talks about when a risk assessment should be performed. In fact, the Uniform Grant Guidance makes no mention of timeliness at all.

³² According to Department Management, February 2020 data was used because it was the last normal reimbursement period prior to the pandemic and therefore, the most reflective of student participation data and school meal recipients in the School Breakfast Program and National School Lunch Program.

However, the Standards for Internal Control in the Federal Government issued by the Government Accountability Office (GAO) prescribes that management should consider updating its risk assessment process in the event of a significant change (**such as a global pandemic**).

As part of risk assessment or a similar process, management identifies changes that could significantly impact the entity's internal control system. Identifying, analyzing, and responding to change is similar to, if not part of, the entity's regular risk assessment process. However, change is discussed separately because it is critical to an effective internal control system and can often be overlooked or inadequately addressed in the normal course of operations.

The Coronavirus Relief Funds were **special, time-limited, and large sum of monies**. Therefore, the Department should have reassessed its risk assessment as recommended by the GAO and considered additional monitoring due to the special circumstances.

THIRD, the Department again contends that OSA received incorrect information from a "staff member at DPI not authorized to speak on behalf of DPI management."

This is not true.

OSA only had conversations with **management** during this audit. All evidence collected for this finding (including statements) were obtained from:

- School Nutrition and District Operations Director
- School Nutrition and District Operations Assistant Director
- K-3 Literacy Director
- K-12 Computer Science Director
- Monitoring and Compliance Manager
- Internal Audit Director
- Chief Business Officer
- Finance Manager
- School Financial Reporting Section Chief

The Internal Audit Director reports directly to the Superintendent of Public Instruction.

During these numerous conversations, while Department **management** did state that they were planning on performing monitoring in the future as part of the Department's annual monitoring plan, the reason Department **management** gave for not monitoring spending (as of August 31, 2020) was the Monitoring and Compliance Division's vacant manager position and transition.

Further, this issue was discussed at length with senior members of Department **management** prior to sending the draft report. It is Department **management's** responsibility to ensure that the findings and related discussions are communicated upward all the way to the Superintendent.



PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION | Mark Johnson, *Superintendent of Public Instruction*

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November 12, 2020

The Honorable Beth A. Wood, State Auditor
Office of the State Auditor
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0601

Dear State Auditor Wood,

Below, please find the North Carolina Department of Public Instruction's (DPI) response to your findings in connection with the performance audit of Coronavirus Relief Funds.

Administration of Coronavirus Relief Funds has been unique in that the funding was intended to provide emergency relief to benefit children, educators, and support staff across the state. DPI vigorously worked with subrecipients to deliver the funds and provide training and technical assistance related to allowability for use of the funds, while keeping in mind that the most important focus was helping those in need. Throughout the process, guidance from authoritative resources has been fluid and evolving. Staff in various divisions throughout DPI have worked closely and tirelessly with subrecipients to help during this unprecedented time.

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OFFICE OF THE NORTH CAROLINA SUPERINTENDENT

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AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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Finding 1: \$31 Million of Coronavirus Relief Funds Distributed for Summer Learning Program Without a Method to Ensure Student Ability Was Improved

Recommendation: The Department should gather the information needed to determine how much or even whether student ability was improved by the summer learning program.

DPI agrees with the finding and the recommendation, but unfortunately, the tool to measure student ability was terminated by the NC Board of Education. Any effort to measure the impact now simply cannot be made based on quantifiable, verifiable information.

DPI had a valid, reliable tool in place to measure whether student learning had improved. This tool was also personalized for each student specifically so that instruction could be customized to maximize each student's learning ability. Regrettably, early on in this pandemic but well after it was clear that it would be critically important to be able to track how student learning was impacted by remote learning, the NC Board of Education (State Board) acted to end the contract with the vendor for the use of the aforementioned tool, apparently at the request of a competitor vendor. The State Board did not put a new diagnostic tool in place, so DPI had no accountability tool to measure improvement, or lack thereof, by the summer learning program.

DPI strongly advised the State Board to keep the diagnostic tool in place for the rest of the school year and into the summer of 2020. The State Board instead discontinued use of the assessment and only used the vendor to store old data. Funds intended to cover the cost of this diagnostic tool reverted to the overall state budget rather than going to support students in classrooms or learning remotely.

As was carefully and repeatedly made clear to the State Board, the diagnostic tool could have easily been used to measure students' abilities when they returned to more structured learning environments; in this case, at the start of the summer program and again at the end of the summer program. This has been the practice in previous years for summer learning programs. The tool was digital and had already been used by students in classrooms and students who were forced to learn remotely at home. The diagnostic could have been easily expanded for grades beyond kindergarten through third and to cover math. Again, all of this was explained clearly to the State Board.

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Further, the State Board was warned that if we did not continue the contract for the tool, NC public schools would lose the ability to measure student learning loss or progress. When pressed for a reason why the State Board would not continue, members responded that they believed teachers already had enough data on students and that the State Board felt the benefits of this tool did not merit funding.

DPI shares your disappointment that we could not assess and measure the ability of these students and are not able to provide quantitative data on whether or not the summer program helped, and if not, how the instruction could have been strengthened. The sad reality is that the State Board's decision means we are not able to provide a valid, reliable measure of the learning loss caused by the pandemic or to determine how much, or whether, student ability was improved by the summer learning program.

DPI cannot speak for why the State Board chose to not have a diagnostic tool in place during this pandemic, but the leadership of the State Board seemed to enjoy a close relationship with one of the primary competitors of the vendor who supplied the diagnostic tool. In a text message chain between Larry Berger, the Chief Executive Officer of a rival vendor and direct competitor of the aforementioned tool, and JB Buxton, the former Chair of the Student Learning and Achievement Committee of the State Board, Berger lobbied Buxton to end the contract for the diagnostic tool. According to the text messages, the two apparently had phone conversations as well. Buxton then led the successful effort to end the contract.

As for the statements regarding DPI not assessing the success of the summer program because it wasn't a requirement of law, not knowing the number of eligible participants, and not knowing the number of actual participants in the program, a staff member at DPI gave staff from OSA incorrect information or an incorrect impression. My team will be contacting you to understand who at DPI gave you this false information. Those statements are not accurate, do not represent DPI, and that staff member should not have spoken on behalf of DPI. DPI does have data to indicate how many students were eligible to participate in the summer learning program. DPI will have the final number of students who participated in the summer learning program, or were supported by the summer program funding, upon the final date of the funding cycle, December 30, 2020. Eligibility and participation data will be included in the final report that the State Board is required to report to the Joint Legislative Education Oversight Committee, no later than February 15, 2021, on the implementation of this subdivision and the use of funds for summer learning programs.

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Finding 2: \$37 Million of Coronavirus Relief Funds Distributed for Nutrition Services Without Establishing a Method to Measure Results

Recommendation: The Department should gather the information needed to determine whether the intended results of its Recover Act spending were achieved.

DPI disagrees with the finding that \$37 Million of Coronavirus Relief Funds were distributed for nutrition services without establishing a method to measure results.

The School Nutrition Division established specific objectives to allocate and distribute Coronavirus Relief Funds to local Public School Units (PSUs) to monitor their use and document the implementation strategies of each PSU as indicators of performance outcomes. To date, four of the five oversight objectives have been achieved and desk audits are underway to examine the allowable use of funds and to assess and document PSU implementation strategies. These implementation strategies are the indicators as to whether these funds were used to support nutrition services, as established in session law, thus supporting overall program sustainability. The results, however, will not be available until after PSUs have expended their allotment of funds (on or before December 30, 2020) and the audit of PSU expenditures and implementation strategies is complete.

School meals provided through the National School Lunch Program during the instructional day are a primary source of food and nutrition for nearly 60% of students enrolled in North Carolina's public schools. In March 2020, Executive Order 117 closed schools to students as a result of the pandemic. With the closure of schools, students had limited access to school meals; this condition posed a challenge to meeting the nutritional needs of the state's most food-insecure vulnerable students. To address this challenge, the School Nutrition Division implemented state-wide emergency meal distribution operations to prevent a secondary public health nutrition crisis among food-insecure children.

The School Nutrition Division provided leadership and direction to support all 115 school districts and all Charter Schools that participate in the Federally-assisted School Nutrition Programs as they transitioned their local School Nutrition Programs from school-based meal programs during the instructional day for enrolled students to a community-based emergency public health nutrition response programs available to all children ages 18 and under. PSUs located meal sites and deliveries in areas of the county/community where census data or school data indicated high populations of food-insecure, economically disadvantaged children were located.

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In other words, DPI used the federal money to feed children during the pandemic regardless of whether or not they were a student at a particular school. This was my desire as State Superintendent as well as the desire of the State Board, the Governor, and the federal government. DPI worked to provide food to any child who was in need of food during this crisis. The alternative would be letting children go hungry.

To address this massive state-wide program transition, the Division established Three *Guiding Principles* to inspire and inform education leaders through the transitional process and ultimately provide a basis for state and local nutrition-related decision-making during the pandemic. The *Guiding Principles* were to:

1. Provide as many meals as possible to food-insecure, vulnerable children;
2. Protect the safety, health and well-being of children, staff, families and communities by implementing social distancing and personal hygiene protocols; and
3. Promote school nutrition program sustainability and integrity.

These *Guiding Principles* are aspirational statements intended to provide clear, consistent leadership to those administering the emergency public health nutrition response that had never been implemented in the state. The *Guiding Principles* were developed long before Coronavirus Relief Funds were appropriated and were never established as the metric by which efficacy of Coronavirus Relief Funds would be measured.

Throughout the pandemic, the School Nutrition Division established multiple specific goals to address each of the *Guiding Principles*. In early April, it became clear Federal reimbursement funds (from the US Department of Agriculture) would be reduced due to a sharp reduction in reimbursable meals served. Under normal school operations, 1.2 million reimbursable meals are provided to students daily; during the emergency public health response, reimbursable meals were reduced to an average of 500,000 daily given the requirement for meals to be delivered to children or picked up at designated sites throughout the counties. As a result, the division established a goal of seeking additional funding to support program sustainability, since the emergency public health response could not be sustained if there were not sufficient funds to compensate employees, purchase food and supplies and distribute or deliver meals throughout all 100 counties. (Note: The amount of federal reimbursement is based on the number of actual reimbursable meals served; the number of reimbursable meals was reduced by nearly sixty percent. Based on the reduction in Federal funds, the Division established a goal to request State funding support to help promote program sustainability. In the absence of sufficient funding, there were concerns PSUs may be required to furlough staff and the emergency public health nutrition response may not be sustainable).

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In response, we requested funding assistance from the NC General Assembly (NCGA) to support *Guiding Principle #3: Promote school nutrition program sustainability and integrity*. As a result, the NCGA appropriated \$75M in Coronavirus Relief Funds to support nutrition services for children throughout the state. The session law was further amended by SL 2020-80 to extend the period of use from June 30, 2020 through December 30, 2020 to allow optimal use of the funds during the pandemic.

Requesting/receiving these funds was one of many goals established to support the *Guiding Principle* of promoting program sustainability and integrity. Specific objectives were implemented to achieve this goal and to promote overall compliance with Coronavirus Relief Fund requirements. These objectives included the following:

1. Collaboration with the State Board to develop and subsequently approve an Allotment Policy for these funds; (accomplished May 19, 2020)
2. Allotment of funds to eligible SFAs in a manner consistent with Session Law and State Board policy; (accomplished date June 1, 2020)
3. Establishment of guidance for School Nutrition Programs describing the allowable use of Coronavirus Relief Funds (initial guidance published June 24, 2020; second phase of guidance published August 12, 2020; third round of guidance pending release week of November 2, 2020)
4. Development and provision of continuing education for Superintendents, Finance Officials, School Nutrition Directors and other appropriate personnel in the allowable use and documentation of Coronavirus Relief Funds (accomplished initially June 24 – 25, 2020 for School Nutrition and Finance Officials and weekly thereafter; June 24, 2020 and August 13, 2020 for Superintendents); and
5. Monitoring of PSUs in the use of their Coronavirus Relief Funds by conducting desk audits of expenditures to determine whether funds were used for allowable purposes and to assess categories of expenditures as a measure of how the funds supported program sustainability at the local level. Desk audits to determine allowable use and area(s) in which program sustainability was impacted are currently in progress. (Note: actual supporting documents such as invoices or receipts or other records are being compared with actual expenditures by PSUs to determine whether expenditures were consistent with the allowable use of Coronavirus Relief Funds).

While specific guidance describing allowable uses of Coronavirus Relief Funds for nutrition services was (and continues to be) provided to PSUs, each PSU could exercise local discretion to determine how its respective allocation would best be used based its individual program sustainability needs, as long as the funds were used only for allowable purposes. Any allowable use of the funds at the local level would ultimately contribute to overall program sustainability,

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thus helping to achieve the goal. Some PSUs used the funds for employee compensation; some used the funds to support meal deliveries throughout the community using yellow school buses and other vehicles. At the time of this response, the division, in consultation with the Office of State Budget and Management’s Pandemic Recover Office (NC PRO), as the authoritative source for the allowable use of these funds, has identified the following purposes, also called “implementation strategies” for which the funds may be used locally:

- Salaries/benefits for School Nutrition Personnel;
- Hazard pay for eligible School Nutrition Personnel;
- Equipment, materials and supplies essential to the meal service during the emergency response;
- Personal Protective Equipment;
- Costs associated with the use of yellow school buses and other meal delivery vehicles used for meal distribution in the community;
- Alternative Point of Service (POS) technologies to support daily meals counts and overall program integrity;
- Conditions where actual expenditures exceed revenues and
- Other allowable expenditures to support program sustainability (many of which were approved on a case-by-case basis in PSUs).

The School Nutrition Division has not only had a plan to monitor the use of these funds, the plan is currently being implemented among sub-recipients. PSUs that utilized Coronavirus Relief Funds prior to June 30 are undergoing desk audits at this time. The desk audit consists of a comparison of actual expenditures to the documents that substantiate those expenditures, including invoices, receipts and other records to determine whether the funds were used for allowable purposes. Each PSU’s intervention strategies (items bulleted above) are also being assessed to document “how” the Coronavirus Relief Funds were used to promote program sustainability. The second wave of audits will begin on November 26, 2020. Audits are examining allowable use of the funds as well as an assessment of each PSU’s implementation strategies supported by these funds.

DPI respectfully disagrees the School Nutrition division should be held accountable to establish performance measures for “aspirational statements” as reflected in the audit report and shown in bold below:

- **All of the children who needed to receive meals actually received them;** there is no reasonable strategy to measure this outcome during the emergency public health response since children receiving meals are not specifically identified. Again, children were not

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specifically identified so that any child who showed up in need of food would be able to eat.

- **Social distancing and personal hygiene measures were used while providing emergency school nutrition services were sufficient to protect the health and well-being of children, families and employees;** there is no reasonable strategy to measure this but local school districts of course took measures to protect the health of children, families, and employees using the emergency school nutrition services.
- **Schools that needed additional funding to sustain their nutrition program only received the amount necessary;** Session Law 2020-4 prescribed a distribution plan; DPI allocated funds in accordance with the law.

Instead, DPI maintains the School Nutrition division established and implemented objectives for the allocation and distribution of Coronavirus Relief Funds. DPI worked collaboratively with the NC PRO, as the authoritative source for Coronavirus Relief Funds, to develop, distribute and communicate guidance delineating the allowable use of the funds to sub-recipients. Finally, DPI contends the division also established a monitoring plan based on the allowable use guidance developed in consultation with NC PRO and consistent with the US Treasury Department requirements. Ultimately the goal of the School Nutrition Coronavirus Relief Funds was to support overall program sustainability that would enable each PSU to maintain its emergency public health nutrition response to help prevent child hunger during the pandemic.

Finding 3: Department Distributed Approximately \$76 Million But Did Not Monitor Spending

Recommendation: Department management should monitor public school unit spending to ensure the funds are spent in accordance with the 2020 COVID-19 Recovery Act.

DPI disagrees with the finding that the department distributed approximately \$76 million but did not monitor spending.

Divisions within DPI use different methods and various tools to comply with subrecipient monitoring requirements. The programmatic and fiscal monitoring processes align with the three elements of monitoring described in the finding: a risk assessment by public-school unit, a monitoring plan, and a comparison of supporting documents to public-school unit expenditures. The various divisions each perform risk assessments, prepare monitoring plans, and conduct the programmatic and fiscal monitoring reviews (which address a comparison of supporting documents to public-school unit expenditures) of public-school units each year. Some divisions complete their own programmatic monitoring and depend on the Monitoring and Compliance section to conduct fiscal monitoring. Other divisions, like School Nutrition, complete their own

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programmatic and fiscal monitoring. The School Nutrition division performed a risk assessment related to Coronavirus Relief Funds and monitoring activities have been well underway.

As stated previously, some divisions rely on the Monitoring and Compliance section to perform fiscal monitoring activities. The Monitoring and Compliance section has longstanding procedures, including an annual timeline. The section initiates the fiscal monitoring risk assessment over the summer, finalizes it in the fall, and performs monitoring activities between October and June of each year. The Monitoring and Compliance section included risk factors associated with the Coronavirus Relief Funding within the fiscal monitoring risk assessment for the year. The fiscal monitoring risk assessment and monitoring plan was completed in October 2020, as planned. The risk assessment includes the Coronavirus Relief Funds appropriations and total spending risk factors. The Monitoring and Compliance section will begin fiscal monitoring reviews in November 2020.

The Monitoring and Compliance section chose to include the Coronavirus Relief Funding within the annual fiscal monitoring risk assessment and monitoring plan instead of creating a separate risk assessment and monitoring plan because it allows the section to consider the risk associated with each public-school unit, and all federal and state funds received by the public-school units while also considering resource availability. This approach is in compliance with the Uniform Grant Guidelines as 2 CFR 200.331, which does not require a risk assessment be conducted at the time of distribution of funds.

Again, like some of the incorrect statements your staff received about the number of students eligible for the summer learning program, your staff received incorrect information or an incorrect impression from a staff member at DPI not authorized to speak on behalf of DPI management. My team will be contacting you to understand who at DPI gave you information without consulting their manager. Specifically, the statement related to the vacancy as cause for a delay in monitoring efforts is false. Also, the statement about moving the entire section is unrelated to the finding.

Those statements are not accurate, do not represent DPI, and that staff member should not have spoken on behalf of DPI. We will work with OSA to discover how your staff received that false information and take the appropriate personnel actions.

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Please feel free to contact Jeani Rousseau or me if you have any questions about our response.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Johnson". The signature is fluid and cursive, with a prominent loop at the end.

Mark Johnson

c: Eric Davis, State Board of Education Chairman
Alan Duncan, SBE Audit Committee Chair
Todd Chasteen, Audit Committee Member
David Stegall, Deputy Superintendent of Innovation
Kathryn Johnston, Deputy Superintendent of Operations
Beverly Emory, Executive Director of Leandro Implementation
Jeani Rousseau, Director of Internal Audit

Internal Control Components and Principles Significant to the Audit Objective

Our objectives were to determine whether the Department of Public Instruction established and implemented procedures to ensure that:

1. Coronavirus Relief Funds were spent in accordance with the 2020 COVID-19 Recovery Act and subsequent amendments
2. Programs that received Coronavirus Relief Funds accomplished their intended purpose, such as improving student ability through reading and math interventions and providing school nutrition services to vulnerable students

Internal control components and underlying principles that were significant to our audit objectives are identified in the table below.

	Audit Objective 1	Audit Objective 2
Control Environment		
1. The oversight body and management should demonstrate a commitment to integrity and ethical values.		
2. The oversight body should oversee the entity's internal control system.		
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.		
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.		
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.		
Risk Assessment		
6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.	X	X
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.	X	X
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.		
9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.		
Control Activities		

10. Management should design control activities to achieve objectives and respond to risks.	X	X
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.		
12. Management should implement control activities through policies.	X	X
Information and Communication		
13. Management should use quality information to achieve the entity's objectives.	X	X
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.		
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.	X	X
Monitoring Activities		
16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.	X	X
17. Management should remediate identified internal control deficiencies on a timely basis.	X	X

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This audit required 1,488 hours of auditor effort at an approximate cost of \$154,804.