



The School Board of Brevard County, Florida Investigation of Specific Allegations Related to Whistleblower Complaint WB 18-001

Prepared By:

Internal Auditors

September 21, 2018

TABLE OF CONTENTS

Transmittal	1
Background	2
Results	4
Overall Observation	7
Appendix A	

TRANSMITTAL LETTER

September 21, 2018



7351 Office Park Place
Melbourne, Florida 32940-8229
O 321-751-6200 F 321-751-1385
www.rsmus.com

The Audit Committee of the
School Board of Brevard County, Florida
2700 Judge Fran Jamieson Way
Viera, Florida 32940-6699

Re: Whistleblower Complaint WB 18-001

Dear Audit Committee:

At the request of the School Board of Brevard County (“District” or “School Board”) on August 21, 2018, and pursuant to our Agreement for Internal Audit Services executed August 15, 2018, we hereby submit our Investigation of Specific Allegations Regarding Whistleblower Complaint WB 18-001. Our scope was limited to the specific allegations in Whistleblower Complaint WB 18-001. At the School Board Members’ (“the Board”) or Superintendent’s discretion, we could expand the scope to include a broader sample and/or additional procedures. In the event the District or any other party provides us with additional information, we reserve the right to evaluate the new information, and if necessary, update our results.

Our report is organized into the following sections:

Background	This provides an overview of the whistleblower allegations, salary adjustment process, as well as relevant Statutes and governance.
Results	This section provides the results of our procedures during this investigation.
Overall Observation	The overall observation noted during our investigation is detailed in this section.
Appendix A	This appendix includes our detailed spreadsheet of information tested in our investigation.

As always, please feel free to contact us with any questions.

Respectfully Submitted,

RSM US LLP

INTERNAL AUDITORS

BACKGROUND

Whistleblower Complaint

Pursuant School Board policy 3211 *Whistleblower Protection*, “the Board expects support staff members to report any violation or suspected violation of and Federal, State or local law, policy, or regulation committed by any employee... as well as any suspected act of gross mismanagement... gross waste of public funds, or gross neglect of duty committed by an employee. If the alleged misconduct that is reported involves a board member or the Superintendent, the report is to be filed directly with the School Board Attorney who is hereby authorized to engage outside counsel to conduct the investigation concerning the alleged misconduct.”

On July 25, 2018, a formal whistleblower complaint WB 18-001 was submitted to the School Board members and School Board Attorney that includes alleged improprieties in the employee compensation adjustment process. We understand that the School Board Attorney’s office began an investigation at that time, and as of the date of this report no conclusion or final report has been issued by the School Board Attorney. We were contacted by the Board on August 21, 2018, and were requested to perform an investigation of the specific allegations within Whistleblower Complaint WB 18-001.

The allegations in the whistleblower complaint identified 21 District employees and tracked their job title and salary changes back to July 1, 2016. The complaint letter alleges that “the misconduct under question may involve the Superintendent, Dr. Desmond Blackburn; Assistant Superintendent of Financial Services (CFO), Ms. Pennie Zuercher and Deputy Superintendent of Human Resources, Dr. Carol Tolx.”

The specific allegations of Whistleblower Complaint WB 18-001 are:

- “Official public records have the appearance of awarding compensation and promotions to support staff members prior to School Board awareness or approvals.”
- “Job description changes for the appearance of reclassification/transfer without competing interests are also questionably revealed in the data.”

We received the complaint documentation from the School Board Attorney on August 21, 2018, and met with the Superintendent on August 22, 2018, to review the allegations made and the extent of the investigation completed. We interviewed several key stakeholders including the Whistleblower, the School Board Attorney, the Chief Financial Officer, the Deputy Superintendent of Human Resources, the Chief Information Officer, other members of Cabinet and various department heads. We also spoke with the former Superintendent.

We requested documentation from the Human Resources Division (“HR”) including: Support/Reclassification Transfer Forms, salary change dates and approvals, job postings and a listing of applications thereto, and Board approval of salary adjustments. In addition, we received system data from Educational Technology to confirm names of users who performed salary adjustments in the system and dates/times the changes were made.

Fieldwork began on August 22, 2018, and a complete set of requested documentation was received from HR on September 6, 2018. We regularly updated the Superintendent throughout our fieldwork and conducted an exit meeting with the Deputy Superintendent of HR on September 14, 2018, to discuss open items. We held a joint meeting with the Deputy Superintendent of HR and the Superintendent on September 17, 2018 and HR subsequently provided additional documentation. We held a final exit meeting with the Superintendent on September 21, 2018. This report documents the results of our investigation.

BACKGROUND - CONTINUED

Salary Administration Governance

The salary administration process is complex and is governed by several authorities, including Florida Statute, School Board Policy, bargaining agreements, and District procedures. Prevailing authoritative guidance is dependent upon the classification of employee (bargaining or non-bargaining), type of salary adjustment (slotting, new hires, promotion, transfer, temporary assignment, demotion, termination, etc.), and position (administrator, instructional staff, or support staff).

The table below summarizes relevant Florida Statutes:

Florida Statute 1012.22(1)(c)
<ul style="list-style-type: none"> - The district school board shall adopt a salary or salary schedules to be used as the basis for paying all school employees. - The district school board shall adopt a performance salary schedule that provides annual salary adjustments for instructional personnel and school administrators that is based upon performance.
Florida Statute 1012.22(1)(e)
<ul style="list-style-type: none"> - The district school board shall act on recommendations of the district school superintendent regarding transfer and promotion of any employee.

The table below summarizes relevant School Board Policy:

School Board Policy 6510
<ul style="list-style-type: none"> - Employment of all District personnel...must be approved by the Board, except where authority to appoint certain personnel of the District has been delegated to the Superintendent in Policy 3120 [listed below]. - Salaries of all employees shall be determined by the Board on the recommendation of the Superintendent and shall be outlined in the annual salary schedule adopted by the Board.
School Board Policy 3120
<p><u>Administrators</u></p> <ul style="list-style-type: none"> - The Board shall approve the employment, determine the compensation, and establish the term of employment for each administrator employed by the Board. - Approval shall be given only to those candidates for employment recommended by the Superintendent. - Administrators are individuals who supervise the resources, operations, and management of school(s) and/or department(s) and meet established qualifications. <p><u>Instructional Staff</u></p> <ul style="list-style-type: none"> - The Board shall approve employment upon recommendation of the Superintendent. - Instructional staff includes: classroom teachers, librarians/media specialists, guidance counselors, social workers, career specialists, school psychologists, other instructional staff (such as: primary specialists, learning resource specialists, instructional trainers, and adjunct educators), and additional District defined positions including, registered nurses, audiologists, physical/occupational therapists, and speech pathologists. <p><u>Support Staff</u></p> <ul style="list-style-type: none"> - The employment of support staff members prior to approval by the Board is authorized when their employment is required to maintain continuity in District operations. Employment shall be recommended to the Board no later than the month following employment. - Support employees include all those employees who work in non-instructional, non-contracted roles and serve at the pleasure of the Board subject to dismissal, transfer, promotion, or resignation and the provisions of the grievance procedure for bargaining unit employees.

BACKGROUND - CONTINUED

Salary Administration Process – continued

The table below summarizes relevant procedures in HR's Non-Bargaining Salary Administration Handbook (revised 8/22/2017):

<p>Section VIII. Salary Administration (page 6)</p> <ul style="list-style-type: none"> - Salary adjustment requests for non-bargaining employees will be reviewed and approved by Human Resources Services. The request will be reviewed for both internal and external equity. - Human Resources Services is responsible for evaluating all salary adjustment requests and taking whatever action is appropriate. - The Division will coordinate activities and take recommended actions to the Superintendent for Board approval.
<p>Section VIII. Salary Administration, Slotting (page 7)</p> <ul style="list-style-type: none"> - The Human Resources Division is responsible for conducting equity analyses, initiating job description reviews, evaluating equity issues, and recommending non-bargaining salary decisions to the Superintendent for approval.
<p>Section VIII. Salary Administration, Responsibilities (pages 10-11)</p> <ul style="list-style-type: none"> - The immediate supervisor is responsible for initiating action for promotions, transfers, demotions and new hires as well as job classification activities. Obtaining the required approval of the appropriate superintendent or authority is the responsibility of the supervisor. - Human Resources Services is responsible for the analysis of all factors impacting pay grade, salary, and slotting decisions as well as the allocation of the salary budget for non-bargaining employees. - The School Board is responsible for the approval of all staffing levels and changes, job description qualification changes and additions, budgets for salary and reclassification, and other personnel actions.
<p>Section VIII. Salary Administration, Exceptions (page 11)</p> <ul style="list-style-type: none"> - Any exception to the policies and procedures outlined in this handbook must be approved by the Superintendent or his designee.

RESULTS

Below is a summary table of the results of our procedures. Please see Appendix A for full testing details related to this investigation.

Attributes	
1	Was there a completed Support Reclass/Transfer form on record?
2	Was the job posted and competed?
3	Was the salary adjustment action approved by the School Board?
4	Was Board approval received prior to the salary adjustment being made in the system?

Employee	Job Title	Salary Adjustment Action	Administrator Approver of Salary change	RSM Testing			
				1	2	3	4
1	District Network Engineer/Technology Coordinator	Transfer	Russell Cheatham	✓	✓	✓	✗4
2	Coordinator - Program Development for Brevard After School	Transfer	Jeff Arnott	✓	✓	✓	✗4
3	Coordinator - Program Development for Adult/Community Ed	Promotion	Jeff Arnott	✓	✓	✓	✗4
4	Asst Director - Leading and Learning Head Start	Transfer	Jane Cline	✓	✗2	✓	✓
5	Technology Technician - Information Systems Services	Transfer	Russell Cheatham	✓	✓	✓	✗4
6	Electronics Technician - Plant Operation and Maintenance	Transfer	Dane Theodore	✓	✓	✗3	✗4
7	Superintendent	Contractual raise	School Board	N/A	N/A	✓	N/A
8	Systems Analyst II - Food and Nutrition Services	Transfer	Jeff Arnott	✓	✓	✓	✗4
9	Project Field Coordinator - Planning and Project Management	Transfer	Pennie Zuercher	✓	✓	✓	✗4
10	Supervisor - Risk Management	Transfer	Mark Langdorf	✓	✓	✓	✗4
11	Administrative Secretary - Risk Management	Transfer	Pennie Zuercher	✓	✓	✓	✗4
12	Asst Superintendent Chief Information Officer - Educational Technology	Transfer	Carol Kindt	✓	✓	✓	✓
13	Manager - Accounting	Market Adjustment	Pennie Zuercher	✓	N/A	✗3	✗4
14	Administrative Secretary - District School Security	Promotion	Major Andrew Walters	✓	✓	✓	✗4
15	School Secretary - Manatee Elementary	Promotion	Carl Brown	✓	✓	✓	✗4
16	Buyer - Purchasing and Warehouse Services	Promotion	Mark Mullins	✓	✓	✓	✗4
17	Custodian - Environmental Health & Safety	Transfer	Dane Theodore	✓	✓	✓	✗4
18	IA - John F. Turner Elementary	Transfer	Tanya Knowles	✓	✓	✓	✗4
19	School Secretary - Lewis Carroll Elementary	Transfer	Pennie Wade	✓	✓	✓	✗4
20	School Secretary - Thomas Jefferson Middle School	Transfer	Meara Trine	✓	✓	✓	✗4
21	Employment Manager - Human Resources Services	Transfer	Carol Kindt	✓	✓	✓	✗4

RESULTS - CONTINUED

Attribute Results and Conclusions

1	<p>We reviewed the 21 salary adjustment actions listed in Whistleblower Complaint WB 18-001 to determine if they were properly documented with a completed Reclassification/Transfer Form. We noted no exceptions in our testing.</p>
*2	<p>The results of our testing for Whistleblower Complaint WB 18-001, "Job description changes for the appearance of reclassification/transfer without competing interests are questionably revealed in the data" are as follows:</p> <ul style="list-style-type: none"> Employee #4 was transferred from Principal to Assistant Director of Leading and Learning Head Start. Per the Deputy Superintendent of HR, the job was not posted and competed because this situation did not require it. Per review of policies and procedures, we are unable to determine that this job was properly posted and competed. Employee #7 was a salary adjustment as the results of an annual raise built into the approved Superintendent employment agreement. Thus, no job posting or hire recommendation was considered necessary and is noted as N/A in our results. This is not exception. Employee #13 did not have a change in title associated with pay increase for Manager Accounting. Per the Chief Financial Officer and the Deputy Superintendent of HR, this employee was given a salary adjustment while remaining in the current job position and pay grade. Thus, no job posting or hire recommendation was considered necessary and is noted as N/A in our results. This is not exception. <p>Conclusion: Based on the results above, it appears that the allegation in Whistleblower Complaint WB 18-001 is validated for 1 of the 21 employees listed in the complaint. Policies and procedures regarding the job posting process were not clearly documented, therefore we were unable to determine if the transfer that occurred without a job posting is appropriate. See the Overall Observation for recommended action.</p>
*3	<p>The results of our testing for Whistleblower Complaint WB 18-001, "Official public records have the appearance of awarding compensation and promotions to support staff members prior to School Board awareness or approvals" are as follows:</p> <ul style="list-style-type: none"> Employee #6 was transferred on March 10, 2017. Per HR, this was not included in the Board approval packet due to human error and is likely due the nature of the manual reporting process. Employee #13 was not transferred or promoted. This salary increase was a market adjustment effective April 26, 2018. It was not approved by the Board or Superintendent. <p>Conclusion: Of the 2 not reported to the Board, 1 was due to human error and the other was not approved by the Board or Superintendent. This is an override of management controls and an exception to policy and customary practices. See expanded results on page 7.</p>
*4	<p>Per the specific allegation in Whistleblower Complaint WB 18-001, "Official public records have the appearance of awarding compensation and promotions to support staff members prior to School Board awareness or approvals." We reviewed HR system data to determine dates when salary adjustments were entered into the system, and compared them to the dates of the Board approvals.</p> <p>Conclusion: We noted that of the 19 salary adjustments that were reported to the Board, 17 were reported after the salary had been adjusted in the system. While the allegation in the whistleblower complaint is validated for these 17 salary adjustments, the Policies are silent as to whether the Board should be notified before or after the salary adjustments are made. Thus it appears that the established practice is to report employee changes in position to the Board for approval after the change had taken place. See the Overall Observation for recommended action.</p>

RESULTS - CONTINUED

Employee #13 Market Adjustment - Management Override of Controls

Our testing noted that Employee #13 had received an \$8,541.21 annual market adjustment, or pay raise of 12.5%, while remaining in his/her current job position. This adjustment was granted only to this particular employee, not the entire position group. In addition, this is the only market adjustment in the sample we tested. Per our discussions with multiple cabinet members, market adjustments are very rare.

The Deputy Superintendent of HR and the CFO stated to us that this market adjustment was initiated at the request of the CFO, analyzed and recommended for approval by HR, and verbally approved by the Superintendent. As the alleged approval was verbal, there is no audit evidence available for review. Therefore, to confirm the verbal approval, we interviewed the former Superintendent. The former Superintendent stated he did not and would not approve such a market adjustment. Thus, this market adjustment was not approved by the Board or the Superintendent.

Management override of controls occurs when management in an organization utilizes the authority granted to them to circumvent the internal controls in place. Superintendent approval is an internal control meant to provide monitoring and oversight of the salary adjustment process. This market adjustment was processed without Superintendent approval thus the controls over pay adjustments were overridden. Lack of adherence to the internal controls established at the District results in increased risk of error, fraud, abuse, and poor public perception.

OVERALL OBSERVATION

Observation	1. Roles and Authority Levels
<p style="text-align: center; background-color: red; color: white; padding: 5px;">High</p>	<p><u>Board and Superintendent Approval</u></p> <p>In regards to the roles and authority of the Board and the Superintendent, there appears to be conflicting interpretations held by District leadership and the Board:</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>Interpretation 1 - The Board should approve all salary adjustments of all employees when brought forth by the Superintendent. This understanding is based on the interpretation of School Board Policy 6510 <i>“the Salaries of all employees shall be determined by the Board on the recommendation of the Superintendent...”</i></p> </div> <p>Due to conflicting interpretations and lack of clarity in the Policies, we analyzed the results of our testing of Attribute 3 to determine the established practice at the District. As detailed in the Results section, in our testing of Board Approval (Attribute 3) we noted 16 of the 21 salary adjustments were reported to the Board thus 5 were not. Of the 16 that were reported to the Board, 14 were reported after the salary had been adjusted. The Policies are silent as to whether the Board should be notified before or after the salary adjustments are made.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>Interpretation 2 - The Board should approve salary schedules, and the Superintendent has the authority to award compensation at his/her discretion within those schedules, without Board notice or approval. This understanding is also founded in the interpretation of School Board Policy 6510 <i>“Salaries of all employees... shall be outlined in the annual salary schedule adopted by the Board.”</i> This process occurs annually during the budget process.</p> </div> <p>We noted no audit evidence of the Superintendent’s approval on the Reclassification/Transfer Forms. We are therefore unable to review an audit trail that documents and confirms that the actions had been properly approved by the Superintendent as required by the Non-Bargaining Salary Administration Handbook, VIII, page 7 <i>“The Human Resources Division is responsible for...recommending non-bargaining salary decisions to the Superintendent for approval.”</i></p>
<p>Recommendation</p>	<p>We recommend that the Board and Superintendent collaboratively review the current delegation of authority levels and roles and update the School Board Policy and District procedures accordingly. The Policy should clearly articulate each party’s roles and responsibilities, as well as the approval process. The process should be clearly and formally documented in order to minimize any misunderstanding or other related risks. All respective handbooks should also be updated for alignment with the updated Policy.</p> <p><u>Documented Approval</u></p> <p>Currently, the salary adjustment forms utilized by the District do not allow for Superintendent signature for approval. If it is the Board’s intention to have to Superintendent approve each salary adjustment action, we recommend that the form include a line for Superintendent signature of approval. If it is the intent of the Board to have all salary adjustments reported to them the form should include the date it is reported to the Board.</p> <p>The scope of this investigation was limited to the allegations in Whistleblower Complaint WB 18-001. At the Board’s or Superintendent’s discretion, we could expand the scope to include a broader sample and/or additional procedures.</p>

Appendix A



Employee	Job Title	Job posting start date	Job posting end date	# of days job posted	Date of job start date	Date applied	Date of Recommendation	# Applicants for Job Posting	Salary Adjustment Action	Salary Change Date	Board Approved Date	Administrator Approver of Salary change	RSM Testing			
													1	2	3	4
1	District Network Engineer/Technology Coordinator	1/31/2017	2/6/2017	6	2/7/2017	2/3/2017	3/16/2017	4	Transfer	3/24/2017	5/9/2017	Russell Cheatham	✓	✓	✓	*4
2	Coordinator - Program Development for Brevard After School	10/26/2016	11/1/2016	6	11/2/2016	10/31/2016	11/28/2016	12	Transfer	12/14/2016	2/14/2017	Jeff Arnott	✓	✓	✓	*4
3	Coordinator - Program Development for Adult/Community Ed	9/2/2016	9/9/2016	7	9/12/2016	9/2/2016	10/3/2016	13	Promotion	10/3/2016	11/22/2016	Jeff Arnott	✓	✓	✓	✓
4	Asst Director - Leading and Learning Head Start	*2	*2	*2	*2	*2	*2	*2	Transfer	10/17/2017	10/10/2017	Jane Cline	✓	*2	✓	✓
5	Technology Technician - Information Systems Services	6/13/2017	6/19/2017	6	7/31/2017	6/13/2017	7/31/2017	3	Transfer	7/27/2017	9/12/2017	Russell Cheatham	✓	✓	✓	*4
6	Electronics Technician - Plant Operation and Maintenance	1/11/2017	1/18/2017	7	1/19/2017	1/18/2017	3/13/2017	5	Transfer	3/10/2017	*3	Dane Theodore	✓	✓	*3	*4
7	Superintendent	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Contractual raise	7/12/2017	N/A	School Board	N/A	N/A	✓	N/A
8	Systems Analyst II - Food and Nutrition Services	2/23/2017	3/1/2017	6	3/2/2017	2/27/2017	3/15/2017	6	Transfer	3/13/2017	4/18/2017	Jeff Arnott	✓	✓	✓	*4
9	Project Field Coordinator - Planning and Project Management	6/13/2017	6/19/2017	6	6/20/2017	6/13/2017	7/17/2017	8	Transfer	7/12/2017	8/22/2017	Pennie Zuercher	✓	✓	✓	*4
10	Supervisor - Risk Management	9/9/2016	9/15/2016	6	9/16/2016	9/12/2016	10/3/2016	4	Transfer	10/18/2016	12/13/2016	Mark Langdorf	✓	✓	✓	*4
11	Administrative Secretary - Risk Management	1/26/2017	2/1/2017	6	2/8/2017	2/1/2017	2/27/2017	7	Transfer	3/10/2017	4/18/2017	Pennie Zuercher	✓	✓	✓	*4
12	Asst Superintendent Chief Information Officer - Educational Technology	11/28/2016	12/7/2016	9	12/8/2016	12/2/2016	1/25/2017	2	Transfer	1/27/2017	1/24/2017	Carol Kindt	✓	✓	✓	✓
13	Manager - Accounting	*2	*2	*2	*2	*2	*2	*2	Market Adjustment	4/26/2018	*3	Pennie Zuercher	✓	N/A	*3	*4
14	Administrative Secretary - District School Security	12/19/2017	1/8/2018	20	1/15/2018	12/20/2017	1/29/2018	18	Promotion	2/13/2018	3/27/2018	Major Andrew Walters	✓	✓	✓	*4
15	School Secretary - Manatee Elementary	10/18/2016	10/24/2016	6	1/3/2017	10/18/2016	1/3/2017	19	Promotion	1/11/2017	2/14/2017	Carl Brown	✓	✓	✓	*4
16	Buyer - Purchasing and Warehouse Services	8/1/2017	8/10/2017	9	8/21/2017	8/9/2017	8/30/2017	15	Promotion	9/28/2017	11/21/2017	Mark Mullins	✓	✓	✓	*4
17	Custodian - Environmental Health & Safety	10/23/2017	10/27/2017	4	11/6/2017	10/24/2017	11/20/2017	2	Transfer	11/28/2017	1/23/2018	Dane Theodore	✓	✓	✓	*4
18	IA - John F. Turner Elementary	12/4/2017	12/8/2017	4	12/11/2017	12/5/2017	1/16/2018	6	Transfer	1/16/2018	3/13/2018	Tanya Knowles	✓	✓	✓	*4
19	School Secretary - Lewis Carroll Elementary	8/3/2017	8/9/2017	6	8/10/2017	8/3/2017	8/28/2017	13	Transfer	8/29/2017	10/24/2017	Pennie Wade	✓	✓	✓	*4
20	School Secretary - Thomas Jefferson Middle School	6/7/2017	6/13/2017	6	7/1/2017	6/13/2017	7/3/2017	17	Transfer	7/3/2017	8/8/2017	Meara Trine	✓	✓	✓	*4
21	Employment Manager - Human Resources Services	6/15/2017	6/22/2017	7	7/1/2017	6/22/2017	7/31/2017	4	Transfer	7/27/2017	9/12/2017	Carol Kindt	✓	✓	✓	*4

Attributes	
1	Was there a completed Support Reclass/Transfer form on record?
2	Was the job posted and competed?
3	Was the salary adjustment action approved by the School Board?
4	Was Board approval received prior to the salary adjustment being made in the system?



RSM US LLP
7351 Office Park Place
Melbourne, Florida 32940
321.751.6200
www.rsmus.com

RSM US LLP is a limited liability partnership and the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. The member firms of RSM International collaborate to provide services to global clients, but are separate and distinct legal entities that cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party.

For more information, visit rsmus.com/aboutus for more information regarding RSM US LLP and RSM International.

© 2018 RSM US LLP. All Rights Reserved.

