



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.

(continued on next page)

OFFICE OF THE NORTH CAROLINA SUPERINTENDENT

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AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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.

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.

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.

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).

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,

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

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

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.

Auditor Wood
Coronavirus Relief Funding Response
Page 10
November 10, 2020

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 stylized with a large, sweeping initial "M" and a long, horizontal flourish 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