



ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS

December 17, 2013

Kenney Gulley, Board Chair
Montgomery County School District
640 Woodford Drive
Mount Sterling, Kentucky 40353

RE: Findings and Recommendations

Dear Chairman Gulley:

As you are aware, this office has recently examined the hiring of a Director of Special Projects at Montgomery County School District (District). We have completed our examination of this matter and are presenting to you, as Board Chair, our findings and recommendations.

To address the concerns, we requested and examined certain District records related to the hiring and recent employment of the Director of Special Projects, including, but not limited to, Board meeting minutes, position descriptions, position postings, applications submitted for consideration to the District for the position, annual salary of the current and former Directors of Special Projects, selection committee notes, and committee candidate valuations. In addition to the documentation examined by this office, we conducted interviews with all selection committee members, including the Assistant Superintendent, who served as the selection committee Chair. We also spoke with the District Chief Administrative Officer (CAO), a District Board Attorney, and representatives at the Kentucky Department of Education (KDE), Office of Education Accountability (OEA), and the Education Professional Standards Board (EPSB).

Please note that the purpose of this examination was not to opine on whether the candidate selected for employment as the Director of Special Projects by the District was the best candidate for the position; but rather, the examination was performed to determine whether the appropriate hiring process was followed to fill the Director of Special Projects position and whether the District's hiring of the Superintendent's spouse for this position complied with the requirements of state statute.

In conducting the examination, we attempted to gain a thorough understanding of the position and its performance responsibilities, both past and present. The following is a brief history of the position and its job responsibilities:

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Position History

The position description for the Director of Special Projects was newly developed in September 2011, a few months after the current Superintendent was hired by the Board. According to the Superintendent and other District personnel, this position had previously been referred to as the Director of Special Education. The position was filled for contract year 2011-2012 with a salary of \$81,419.37, which was slightly over the minimum pay for this position on the District's approved pay scale. The pay scale for this position at that time was \$81,000 to \$88,000.

The Director of Special Projects position was vacated in July 2012, and from August 2012 to January 2013, the District filled the position with two different individuals serving as acting or interim directors. The salary of the acting Director of Special Projects who was appointed on August 13, 2013, was \$72,687 for contract year 2012-2013. In October 2012, the District hired an interim Director of Special Projects, who because she was a retired school employee, was paid the daily wage threshold of \$264.12 per day. The Board approved pay scale for this position for 2012-2013 was \$82,620 to \$89,760.

In January 2013, the position was again vacated and the District posted the position for candidates to apply. The position was not filled at that time and due to the change in school year, the District re-posted the position in July 2013, then, according to the Assistant Superintendent and former Director of School Improvement, the District actively pursued filling the position in October 2013 after tests scores returned and the District leadership identified a significant gap in special education scores.

After reviewing information submitted by 26 candidates, the former Director of School Improvement initially selected four candidates for further consideration. Three of the four candidates initially vetted by the Director of School Improvement were ultimately interviewed by a selection committee comprised of five District personnel, including the Assistant Superintendent who served as the committee chair. The fourth candidate initially selected was not interviewed. District records and interviews with committee members indicate that each candidate was independently assessed by committee members and the recommended candidate for the position was unanimously selected by the committee without influence from the Superintendent. The salary recommended by the CAO and Assistant Superintendent for this position was \$90,000. The approved salary schedule range for 2013-2014 for this position is \$87,770 to \$91,017.

Job Responsibilities

The position description for the Director of Special Projects remained relatively unchanged between 2011 and 2013. The documented performance responsibilities for this position included evaluating staff. The only revision to the position description made before 2013 was in June 2012, when the position description was revised to add one additional performance responsibility, which stated “[a]ssists the Director of Pupil Personnel with student attendance services.”

The position description for the Director of Special Projects remained nearly the same from September 2011 to October 2013. However, the CAO stated that in June 2012 oversight for the exceptional children program was added to the job responsibilities of the District’s Director of School Improvement, as the former Director of Special Projects’ employment was ending effective July 1, 2012. According to the CAO, with the added job responsibilities “the Director of School Improvement was responsible for supervising and evaluating the director of special projects and the assistant director of special projects.” The District, in its response to our request for information, stated all other positions that were previously evaluated by the former Director of Special Projects including the evaluation of school psychologists, occupational therapist, the Program Assistant for Special Projects, and an educational diagnostician beginning July 1, 2012 were to be evaluated by the Assistant Director of Special Projects. However, the position description posted in January 2013 reflected supervisory duties were included in this position.

In October 2013, the Director of Special Projects’ position description was again changed, adding five performance responsibilities to the position, eliminating two job responsibilities, and officially reassigned the position to report to the Assistant Superintendent and stated that the position did not supervise staff. The job responsibilities specifically eliminated from this position were related to conducting walkthroughs in the classrooms and evaluating assigned staff.

After gathering information, examining the requested documentation, and conducting interviews to address issues associated with this hiring, auditors identified the following findings and recommendations.

Finding 1: Unreasonable modifications were made to the Director of Special Projects position description to accommodate the recommendation of the Superintendent’s spouse for this position.

Per the District CAO, the Superintendent and CAO revised the position description for the Director of Special Projects in October 2013 after a selection committee identified the Superintendent’s spouse as the recommended candidate to appoint to the position.

According to one District Board Attorney, the CAO contacted him and indicated that the selection committee was in the process of filling the Director of Special Projects position and it appeared that the Superintendent's spouse was the leading candidate. The CAO contacted the Board Attorney to see whether there needed to be modifications made to the position description for the candidate to qualify under Kentucky State Statute (KRS) 160.380. Per KRS 160.380(2)(e),

No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least eight (8) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

Based on the position description in effect and used at the time of the job posting and interview process, the Superintendent's wife would not have qualified for the position as the last revised position description clearly indicated that the employee in that position would report to the Superintendent or designee and would supervise and evaluate staff assigned to the position.

During an interview, the Assistant Superintendent and the CAO both stated that they were unaware of any other director positions within the District which do not supervise staff. Based on statements made by District personnel and a Board Attorney, we question the reasonableness of the accommodations made by the District to allow for the hiring of the Superintendent's spouse into this position. Furthermore, based on the description posted by the District for the position and the criteria for employment under KRS 160.380(2)(e), it appears the Superintendent's spouse should not have been considered eligible for consideration. The application dated March 15, 2013 stated [i]f you are a relative under the provision of the law, KRS 160.380(2)(e),(f), and (g), please understand we can not employ you for a position in our school district. Are you related to the Superintendent or any of the Board Members of Montgomery County Public Schools?" The Superintendent's spouse responded "[y]es, I am a relative."

Recommendations

We recommend the District evaluate whether candidates are eligible, based on all applicable criteria, for specific positions posted prior to selecting candidates for further consideration, rather than perusing ineligible candidates and subsequently altering the originally posted duties in the position description in an attempt to then make the candidate eligible. We recommend that such revisions to accommodate the appointment of a specific individual not be allowed. Any modifications to a position description should be made by the District to ensure the job duties are consistent with that needed by the District and consistent with its operation.

We further recommend, given the appearance that this candidate was ineligible for this position as posted, the Board review the actions taken by District personnel and discuss the matter to determine the appropriate actions necessary to ensure this issue is appropriately resolved.

Finding 2: District characterization of the position for which the Superintendent's spouse was hired is not consistent with the job title and district documentation.

According to the District, the Director of Special Projects' position is not a supervisory position, but rather is a compliance position. While the District eliminated specific language from the position description in an attempt to comply with state statutes after the selection committee recommended hiring the Superintendent's spouse, as noted in Finding 1, the position posted by the District to be filled was a supervisory position as evidenced by the job posting.

As was previously described in this letter, the position of the Director of Special Projects was created in late 2011, and included supervision of a number of personnel in the District. Although the position description for this position was revised in June 2012, to include one additional job responsibility, the position description posted by the District for the Director of Special Projects, in 2013, reflected that of the original position description established by the District in 2011. The job details for the position posted also included supervision of staff and reported to the "Superintendent/Designee." See Exhibit A. Based on the District's records, it appears that the position for which the Superintendent's spouse was hired is effectively a different position from that posted by the District.

Despite the recent revisions made by the District to the Director of Special Projects' position description to accommodate the hiring of the Superintendent's spouse, the position description for this position includes specific performance responsibilities which appear unreasonable to perform if the position, at some level, does not involve supervision. Examples of such responsibilities include:

[a]ssumes responsibility for the effective and efficient operation of the District Preschool...[e]nsures management of the operations, opportunities, and resources for a safe, efficient and effective learning environment...[r]emains abreast of and enforces district policy and procedure, State and Federal laws and regulations.

For an individual to assume responsibility for a program, to ensure management of operations, and enforce district policy, this individual would have to have authority over other staff to see that these performance responsibilities are met and supervise their activity regardless of whether they are required to perform the evaluations of those employees. While the District has stated many times during the examination process that the Director of School Improvement was given oversight responsibilities of the District's exceptional children programs and staff previously evaluated by the Director of Special Projects were evaluated by others effective July 1, 2012, the duties formally assigned to this position indicate that the position has remained one of authority and supervision. Further, the very nature of a director position requires supervision, whether clearly stated or implied, otherwise it seems questionable whether the position is actually functioning as that of a director.

In light of the requirements under KRS 160.380 and the information provided to this office by the District, auditors question the District's ability to consider and employ the Superintendent's spouse in this director position.

Recommendations

We recommend the District periodically review position descriptions to ensure the performance responsibilities are an accurate reflection of the expectations of each position within the District. The accuracy of the position description is vital to ensure clear communication between the employee, the District, the Board, and the public at large as to the areas of responsibilities for each position. We again recommend that the District only modify position descriptions to be consistent with the needs and operation of the District, and not to accommodate the appointment of a specific individual. Also, the position description should be used as the basis for an employee's evaluation.

Finally, we recommend the Board reevaluate the position for which the Superintendent's spouse was hired and include in this evaluation a comparison of the duties of the position as posted to the modified duties of the position when filled by the Superintendent's spouse. We further recommend the Board review the actions taken by District personnel and discuss the matter to determine the appropriate actions necessary to ensure this issue is appropriately resolved.

Chairman Gulley
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We trust that the findings and recommendations we have presented to you through this letter will assist the Board in strengthening its controls and oversight of District financial activity. Given the results of this examination, and the nature of the findings, this office is referring both findings to OEA and EPSB for further consideration.

If you have any questions regarding this letter, please contact me at (502) 564-5841. Thank you, in advance for your attention to these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam H. Edelen', written over a light blue horizontal line.

Adam H. Edelen
Auditor of Public Accounts

cc: Joshua Powell, Montgomery County School District Superintendent

Exhibit A

Montgomery Co KY
Director of Special Projects (427)

JOB POSTING

Job Details

Title Director of Special Projects
Posting ID 427
Description

TITLE: Director of Special Projects

QUALIFICATIONS: 1. Kentucky Certificate with proper endorsements.
2. Such additional qualifications as the Superintendent or Board may find appropriate and acceptable.

REPORTS: Superintendent/Designee

SUPERVISES: Staff members as assigned

JOB GOAL: To provide continual support and assistance to teachers and administrators in all areas pertaining to the district's Special Projects.

PERFORMANCE RESPONSIBILITIES

1. Informs and updates the district of any new regulations, appropriate assessment instruments, IEP (Individual Education Plan) techniques, new curricular methods and materials, or program changes and/or expansions relative to exceptional children programs.
2. Assumes responsibility for the effective and efficient operation of the District Preschool Program.
3. Conducts walkthroughs in classrooms and makes suggestions for improvement.
4. Evaluates assigned staff in compliance with the District's procedures for staff evaluation.
5. Assists in the development, implementation and evaluation of assigned federal and state programs.
6. Works with teachers, principals, and central office administrators in problem prevention and resolution.
7. Uses technology to enhance productivity and professional growth; access and manipulate data; communicate and collaborate with colleagues, staff and community; conduct research/soive problems.
8. Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.
9. Advocates, nurtures, and sustains a school culture, climate and instructional program conducive to student learning, and staff professional growth.
10. Ensures management of the operations, opportunities, and resources for a safe, efficient and effective learning environment.
11. Collaborates with staff and community, responds to diverse interests and needs and mobilizes community resources.
12. Acts with integrity, fairness and in an ethical manner.
13. Influences the school environment on behalf of students and their needs.
14. Remains abreast of and enforces district policy and procedures, State and Federal laws and regulations.
15. Prepares a variety of reports/documents; makes presentations; maintains a variety of records as required by the Superintendent.
16. Participates in required training and professional growth activities relative to job assignment as directed by or approved by the Superintendent. 17. Performs such other tasks and assumes such other responsibilities as may be assigned by the Superintendent/Designee.

Shift Type Full-Time
Salary Range Per Year
Location Central Office

Montgomery Co KY

Director of Special Projects

Applications Accepted

Public Start Date

01/25/2013