HARRISBURG SCHOOL DISTRICT

# OFFICE OF SOLICITOR

James E. Ellison, Esquire

# Lincoln Administration Building

# 1601 State Street • Harrisburg, PA 17103

717.703.4054 • 717.703.4127

[Jellison@hbgsd.us](mailto:Jellison@hbgsd.us)

[www.hbgsd.us](http://www.hbgsd.us)

April 26, 2019

Pedro A. Rivera, Secretary **SENT VIA FIRST CLASS AND ELECTRONIC MAIL**

Commonwealth of Pennsylvania

Department of Education

Office of the Secretary

333 Market Street

Harrisburg, PA 17126-0333

Dear Secretary Rivera:

Please be advised that the undersigned represents the interests of the Harrisburg School District (“District”) as solicitor. As you are aware, the District recently requested a meeting with the Pennsylvania Department of Education (“PDE”) to discuss and resolve outstanding issues and questions related to its ongoing audit. The District requested the meeting in good faith and with a hopeful eye towards working collaboratively with PDE to secure all information necessary to complete the audit in a timely fashion. To date, the District has received approximately 300 information requests from the auditor and, as you will glean from the information to be provided below, complied with 99% of such requests. Given its high compliance rate, the District expected that there was little to no cause for concern that PDE would conclude that there was pervasive noncompliance with the auditor’s information requests at the time the meeting was proposed.

PDE representatives agreed to meet with District representatives on Wednesday, April 24, 2019 at 2:00 p.m., at which time the District was presented with a list of fourteen (14) unanswered information requests, including a renewed request for access to its eFinance system, which I understand to be a significant point of disagreement between the parties as the District has legitimate concerns pertaining to protecting confidential employee information housed in the system. The District agreed to provide responses to 13 of 14 information requests within forty-eight (48) hours (though it later learned that many responses were duplicative, having already been provided by other staff members). Notwithstanding the Chief Recovery Officer graciously extending the response deadline to six (6) days, the District indicated its intention to submit responsive answers to those requests within 48 hours as promised. The only outstanding issue was the request for unfettered, offsite remote access to the eFinance system, which the parties discussed almost immediately at the onset of the meeting.

To be clear, the District understands its statutory and regulatory obligations to fully comply with the audit process. Indeed, we respectfully submit that compliance to date with 99% (313 of 314) of the auditor’s information requests evidences the District’s commitment to fulfilling those obligations faithfully. And while the District and PDE have an honest and good faith disagreement over whether those statutory obligations include providing unfettered offsite access to a database that contains confidential information such as employee social security numbers, bank account information and checking account routing numbers, the District nonetheless believed that a workable resolution with the auditor and PDE could be achieved to secure and produce the information being sought from the eFinance database.

In good faith, the District hoped that this could be accomplished at the 2:00 p.m. meeting and, to that end, engaged the auditor regarding the scope of information sought from the eFinance system given the confidential nature of some of its data. In response, the auditor could not articulate the type of information he was seeking; volunteered that he had no knowledge of how to operate the eFinance system; and rejected our prior offer to grant him onsite access to the system using one of our trained employees to operate it under his complete supervision and control. Rejecting our proposal seemed curious given the auditor’s admission that he was unable to operate our system and had agreed to the same proposal during other audits. Indeed, when we noted the incongruency of granting him unfettered remote access to the eFinance system given his inability to operate it and refusing us an accommodation which he had afforded other clients in prior audits, the auditor and other PDE representatives refused to discuss the matter further. The remaining information requests were addressed during the balance of the meeting (as discussed above) and favorably resolved. At that point, the meeting was poised for conclusion and adjournment, but PDE representatives had one last piece of information to share with the District.

PDE representatives then informed the District, for the first time, that they had suspended nearly $11,000,000.00 in federal funding two hours BEFORE our meeting for the District’s failure to comply with the auditor’s information requests. As the District requested the meeting for the specific purpose of resolving outstanding compliance issues, and agreed during the meeting to resolve 13 of 14 outstanding information requests within 1/3 of the time afforded by the Chief Recovery Officer (thereby bringing our overall compliance rate to 99.6%), District representatives felt blindsided by the pre-meeting determination to cut their federal funding. Consequently, the District had no choice but to conclude that PDE never intended to meet and resolve the parties’ few outstanding issues in good faith.

Today, at the direction of Superintendent Dr. Sybil Knight-Burney, the District submitted responsive answers to the 13 information requests, as promised. Additionally, Dr. Knight-Burney consulted with the leadership for each of the District’s collective bargaining units to seek their input as to their respective members’ concerns, if any, about the District allowing free access to their confidential information. Leadership expressed surprise and concern about the confidential information which could be accessed, and advised that their memberships would be consulted and surveyed to determine if they would consent to disclosure. Leadership subsequently alerted Dr. Knight-Burney on behalf of their respective memberships that disclosure was authorized, thereby implicitly relieving the District of any liability resulting therefrom. Such authorization by our entire staff affords the District an opportunity to reach an accord with the auditor and PDE, and agree to provide read only access to our eFinance system. This places the District in full compliance with all audit information and access requests. Accordingly, the District requests reinstatement of its monthly federal funding allocation in the amount of $10,929,748.00.

Thank you for your attention and anticipated cooperation. If you have any questions, comments or concerns, please do not hesitate to contact me.

Very Truly Yours,

James E. Ellison

James E. Ellison, Esquire

Solicitor

Harrisburg School District