

Upshur County Schools Special Circumstance Review Update

December 2023



Background

The West Virginia Department of Education (WVDE) Office of Federal Programs conducted a routine monitoring of Upshur County Schools in December of 2022. This resulted in a report of findings which was completed on February 10, 2023. Per Federal Program protocols, counties are provided 60 days to respond to findings; establishing Upshur County Schools' deadline for response as May 8, 2023. The State Superintendent of Schools notified the Office of Accountability the week of May 8, 2023, of his intent to commence a Special Circumstance Review of Upshur County Schools. This put into motion planning phases inclusive of team members from the Offices of Accountability, Federal Programs, and Finance. The team began its Special Circumstance Review of Upshur County Schools on May 22, 2023. The review process, consisting of interviews and document review, was conducted as outlined in West Virginia Board of Education (WVBE) Policy 2322: West Virginia System of Support and Accountability.

Focus Area 1: Operation of Federal Programs

Noncompliance 1.1: *The team identified 12 instances of contracts that included food and beverage charges for staff retreats for Stonewall Resort totaling \$49,260. Food and beverage expenses for conferences are not an allowable expenditure with Federal funding. Overnight accommodation was provided for staff at Stonewall Resort, which is 25 miles from the board office. This would not be considered a reasonable and necessary cost to the federal award. No sign-in sheets or meeting agendas were provided to support the need to have retreats at Stonewall Resort.*

Noncompliance 1.2: *The team noted 14 contracts that appeared to include food and beverage charges for staff retreats at CJ Maggie's, a local restaurant, totaling \$21,834.29. The food and beverage charges were confirmed through staff interviews. Food and beverage expenses for conferences are not an allowable expenditure with Federal Funding. One sign-in sheet was provided, and no meeting agendas or room rental agreements were provided to support the need to have retreats at this location.*

Noncompliance 1.3: *The team discovered an instance of a contract for a staff retreat at a bed and breakfast in Buckhannon totaling \$1,415.94. Overnight accommodation was provided at the bed and breakfast, which is located six miles from the board office. This would not be considered a reasonable and necessary cost to the federal award. No supporting documentation was provided to support the usage of the bed and breakfast.*

Noncompliance 1.4: *Two instances of food being provided for school events that included staff were noted totaling \$810. Food and beverage expenses for staff or meetings of the general public are not an allowable expenditure. No sign-in sheets or agendas were provided to support these events.*

Noncompliance 1.5: *The team found one instance of the P-Card being used to purchase Sheetz gas cards totaling \$100 which were charged to Title I. No documentation was provided to support the purchase of the gas cards.*

Noncompliance 1.6: *Several areas of noncompliance occurred related to the 2021 Model Schools Conference charged to Title II. A purchase order (PO) was created in the amount of \$34,000, but the district continued to modify the purchase and add individuals to the registration after the PO was approved.*

The actual cost totaled \$38,000. The registration list included an individual that does not appear to be an Upshur County Schools employee. Additionally, the registration list included individuals who, based upon their job titles, should not have attended a Model Schools conference being paid for with Title II funds. A charter bus appears to have been reserved for travel to the Model Schools Conference but was later cancelled. As a result, the district paid a \$250 cancellation fee, which is a violation of WVBE Policy 8200.

Noncompliance 1.7: *The team noted several areas of noncompliance related to travel expenditures. Upshur County Schools does not have a sufficient travel policy. In the absence of a travel policy, GSA (General Services Administration) travel procedures and policies are to be followed when expending federal funds. There were several instances where individuals received reimbursement for meals on single-day travel, potentially creating taxable compensation to the employees being reimbursed. In one instance, an individual submitted mileage reimbursement for 8 different days, but was paid for nine days. There were many instances where there was not out of county travel and/or professional leave forms provided (even though the county has a policy requiring them). Further, individuals were reimbursed for daily meals exceeding the amount allowable by the GSA.*

Noncompliance 1.8: *The team noted instances of a significant amount of federal funding being used to pay for Out of Calendar Days for employees with contracts of 240 days up to executive level employees with 261-day contracts. These payments were paid at rates substantially higher than the individual's normal daily rates. These payments were not board approved and were not supported by records showing actual time worked. In the case of the three 261-day employees, they were already being paid under their normal contract to work those days and received additional federal compensation totaling \$75,100. Charges to federal awards for salaries must be based upon records that accurately reflect the work performed and must be supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable and properly allocated. These expenditures would not be an allowable use of funds under the federal award.*

Corrective Actions: *The WVDE has requested a refund of all payments made by Upshur County Schools for unallowable expenditures. This will require a check to be remitted in the amount of \$221,394.12 made payable to the WVDE. These funds will be returned to the U.S. Treasury as the grant awards they are associated with have expired. Unallowable expenditures on non-expired funds will require \$122,485.33 to be moved to non-federal funds. Proof of WVEIS journal entries for these transactions must be provided to the WVDE, Division of Federal Programs and Support. At the completion of these transactions, the federal funds will once again be available to Upshur County Schools for allowable purposes through the remainder of the associated grant period.*

Upshur County Schools should continue collaboration with the necessary WVDE Offices for technical assistance and support. It should also seek quality professional development to enhance efficiency. Additionally, Upshur County Schools shall establish and monitor protocols to ensure WVBE Policy and W. Va. Code are observed and followed.

Progress for Corrective Actions: Upshur County Schools has been proactive in seeking professional development in the areas of noncompliance. The nutrition director has actively participated in the regional cooperative of child nutrition directors. The treasurer and superintendent have also attended personnel training. The county has a standing meeting with central office directors each Thursday to improve operational efficiency.

Focus Area 2: Child Nutrition

Noncompliance 2.1: *Upshur County Schools could not produce documentation to support that a competitive bid had been conducted in alignment and accordance with state and federal procurement procedures for technology purchased with federal child nutrition funds.*

Preliminary reports indicated that iPads and MacBooks were acquired using federal funds designated for child nutrition. This was confirmed by the WVDE. It is unclear if this was the original intention of the technology purchase. It was confirmed they are not being used for students or educational purposes. Upshur County Schools has assigned iPads and MacBooks to staff members that are involved in federal child nutrition programs. It could not be confirmed that Upshur County Schools purchased devices from the state technology contract. When federal child nutrition funds are used for purchases, state and federal bidding procedures must still be followed. Upshur County Schools must provide the State Agency with policies, procedures, and practices to ensure this does not occur in the future. [WVBE Policy 8200](#)

Noncompliance 2.2: *Food purchases made with federal child nutrition funds could not be attached to any program category or expense in May 2020.*

The county purchased from several local restaurants and coded these expenses for child nutrition expenditures. These expenses could not be validated by meal counts and the county did not have any documentation to support that a bid had been conducted in alignment with local, state, and federal procurement standards. While individually, most of these purchases fell under the federal definition of micro-purchases, there is not any documentation to substantiate the proper procurement practices of these food items. There is no documentation to support these meals were solely for children. The following documentation was absent:

- Menus or any general meal documentation*
- Bubble Sheets (or any meal counting documentation)*
- Verbal or Written Quotes (to substantiate the purchases or meal quantities)*

The noncompliance is issued for the unallowable usage of the Nonprofit Food Service (NPFS) account expenditures and procurement violations. Records of procurement must be maintained per 2 CFR 200.318(i). The lack of records indicates these purchases could not be substantiated and they did not meet the requirements of 2 CFR 200.320 (Methods of Procurement).

Noncompliance 2.3: Fish Hawk Acres, LLC was paid \$10,000 by Upshur County Schools for meal boxes. This amount is over the state and federal definition of micro-purchases. There are more stringent documentation standards for purchases that exceed micro-purchasing thresholds. No documentation was present to support proper bidding procedures, meal counting, or anything that would indicate meals were solely for children. [WVBE Policy 8200 & § 200.320 Methods of procurement to be followed. https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320)

Noncompliance 2.4: Aladdin Food Service, LLC was paid \$12,150 by Upshur County Schools for meal boxes. This amount is over the state and federal definition of micro-purchases. There are more stringent documentation standards for purchases that exceed micro-purchasing thresholds. No documentation was present to support proper bidding procedures, meal counting, or anything that would indicate meals were solely for children. [WVBE Policy 8200 & § 200.320 Methods of procurement to be followed. https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320)

Noncompliance 2.5: Upshur County Schools had overclaiming of the federal Child and Adult Care Food Program (CACFP) at-risk snack and supper programs for April and May 2020. The WVDE had waivers available for sponsors to continue these programs if they had the capacity to do so. Traditionally these programs accompany enrichment programs – such as after-school and tutoring programs. However, under the pandemic waivers, counties could offer up these snacks and suppers at participating sites/schools under their sponsor application. They could be offered in a non-congregate setting (grab-and-go) and through parent/guardian pick up, the way that breakfasts and lunches for students were managed.

Upshur County Schools had claims for the following programs for these amounts:

• April 2020	\$15,436.31	CACFP At-Risk Snacks	# of snacks = 79
		CACFP At-Risk Suppers	# of suppers = 4,505
• May 2020	\$65,536.79	CACFP At-Risk Suppers	# of suppers = 19,219

The WVDE was unable to substantiate these meal counts due to the lack of documentation, such as bubble sheets or some other written form of record-keeping as support. The number of serving days for April was 16 days and the number of serving days for May was 21. This is indicative of meals not being served on weekends. The claiming dates would have aligned with meal service days. The county was operating a mobile meal delivery service using bus routes at this time. There are not any point-of-service records, receipts, or notes that would support these meals and the associated claims received for them. [7 CFR 226.14\(A\)](#)

Noncompliance 2.6: *Overclaiming of federal Summer Food Service Program (SFSP) meals for children June – August of 2020. Records received and reviewed by the WVDE on August 22, 2023, included meal count claims – such as bubble sheets used for point-of-service documentation. The WVDE had received reports regarding concerns of meal boxes made available during Summer 2020. Reports ranged from adults being given meals to extra meal boxes being disposed of in bulk. While there were several bubble sheets and other attempts to track meal boxes that were made available through bus routes and pick-ups at the county warehouse, records were incomplete for Summer 2020.*

Corrective Actions – Upshur County Schools needs to address the following items:

- Per 7 CFR 210.19(a)(1), the WVDE is requiring Upshur County Schools to reimburse its NPFS for the unallowable expenses using funds derived from non-federal sources. USDA has advised that future federal child nutrition funding should be withheld until it can be demonstrated that Upshur County Schools has repaid its NPFS account with non-federal funds. The total that must be replaced in this account is \$43,080. This amount will not be returned to the WVDE or USDA. It is the responsibility of the county to validate it has replaced its NPFS account with non-federal funds. [2 CFR 200.318\(i\) & 7 CFR 210.19\(a\)\(1\)](#)
- The county must provide written policies and procedures to indicate they will follow proper state and federal procurement procedures in the future.
- The WVDE expects Upshur County Schools to repay a total of \$80,973.10 for erroneous meal counts for the CACFP At-Risk Snack and At-Risk Supper Programs for April and May 2020. These funds will be received by the WVDE and returned to the United States Department of Agriculture (USDA).
- Due to all meal counts not being able to be validated, the WVDE expects Upshur County Schools to repay a total of \$348,340.04 for undocumented meal counts for June-August of 2020. These funds will be received by the WVDE and returned to the USDA.
- Total Fiscal Action: \$472,393.14
 - » Upshur BOE replacing funds in its NFSA = \$43,080
 - » Upshur BOE returning a total of federal funds = \$429,313.14

Progress for Corrective Actions: Upshur County Schools has replaced and returned the funds by the December 8, 2023, deadline. The Director of Nutrition has promoted transparency by connecting with the local Health Department. He has actively engaged himself with the Regional Cooperative of Nutrition Directors, corrected issues with bubble sheet documentation and streamlined the backpack weekend feeding program.

Focus Area 3: Local Policies and Procedures

Noncompliance 3.1: *The district has insufficient local policies and procedures.*

- *No P-Card/Credit Card Policy – The district did not provide, and the finance review team could not locate online a local policy that governs the use of the county’s P-Card and other credit cards. Section 1.3 of the West Virginia State Auditor’s Office (WVSAO) Purchasing Card Policies and Procedures manual requires local spending units to develop and document appropriate internal control procedures to ensure proper program oversight, compliance with P-Card Policies and Procedures and that P-Card usage is consistent with the WVSAO manual. Furthermore, Section 27 of West Virginia Board of Education (WVBE) Policy 8200, Purchasing Policies and Procedures Manual for Local Educational Agencies, states, “an LEA may establish by board policy a credit card program as an alternative payment method when making purchases of commodities and services, or for the payment of authorized travel expenses.” In the absence of a local policy, an LEA does not have authority to operate a credit card program.*
- *Insufficient Travel Policy – The district’s travel policy is included as a single paragraph within Upshur County Schools (Upshur County Schools) Policy 8006, Salary Schedules and Other Compensation. No separate travel policy was provided by the district or could be located online by the review team. During review of the travel section of Upshur County Schools Policy 8006, the policy was deemed to be insufficient as it does not provide for an appropriate level of consistent internal controls and procedures. Specifically, the policy does not address areas such as out-of-state travel, General Services Administration (GSA) per diem reimbursement limits, transportation other than by personal vehicle, Internal Revenue Service (IRS) reimbursement limits, reimbursement of registration fees, required supporting documentation when filing a claim for reimbursement, timing of authorization before travel, analysis of reasonable rate of employee attendance when more than one employee seeks to attend a training opportunity, etc. Furthermore, the review team reviewed evidence of the use of district P-Cards/credit cards for payment of travel expenses. However, the travel policy does not address such methods of payment for travel expenses.*
- *Insufficient Purchasing/Procurement Policy – During review of Upshur County Schools Policy 8001, Policy of Fiscal Administration, the policy was deemed to be insufficient as it does not provide for an appropriate level of consistent internal controls. Upshur County Schools Policy 8001 states that the board shall adhere to the purchasing procedures contained in WVBE Policy 8200. Upshur County Schools Policy 8001 provides for stricter approval authority levels than those contained within WVBE Policy 8200. However, Upshur County Schools Policy 8001 addresses no other purchasing procedures. While it is deemed appropriate for the board to follow WVBE Policy 8200, WVBE Policy 8200 only establishes the minimum system of purchasing rules and regulations that are to be followed by a county board of education. WVBE Policy 8200 encourages districts to develop local policies, practices and procedures that supplement the provisions of WVBE Policy 8200 (§126-202-3.3). Furthermore, the policy does not include elements required by WVBE Policy 8200, Purchasing Policies and Procedures Manual for Local Education Agencies. Specifically, section 28.2.1 of WVBE Policy 8200 requires LEAs to establish by local board policy the procedures to be followed in the case of an emergency at the local level that has not been declared an emergency by the Governor. Upshur County Schools Policy 8001 does not include procedures for local emergencies and no separate policy*

addressing local emergencies was provided by district staff or could be located online by the review team.

- *Insufficient Leave Policy – During review of Upshur County Schools Policy 5006, Employee Absence/Leave, the policy was deemed to be insufficient as it does not address all types of leave currently provided to various groups of employees throughout the district. Specifically, the policy does not address the following areas:*
 - » *Annual/vacation leave – the policy does not address which employees or groups of employees are eligible to receive annual/vacation leave, the rate at which such leave is accrued, whether such days accumulate with or without limit, and whether such days are payable to the employee upon separation of service and at what rate.*
 - » *Outside the school environment (OSE) days – the policy does not address OSE days, six of which are required to be included in the minimum 200-day employment calendar under WVBE Policy 3234, School Calendar.*
 - » *Out-of-calendar (OC) days – the policy does not address OC days, which are defined in WVBE Policy 3234 as “a nonpaid day that is not included as part of the minimum employment term.”*
- *Internal Controls – During our testing we noted several instances of overrides in internal controls. There were seven instances where purchases with federal funds were not approved by the Federal Program Director. We noted nine instances where an “approved” stamp was used in the place of an authorizing signature. In addition, there were two instances where purchase orders were completed after the invoice date.*
- *Conflicts of Interest – The district does not have a policy covering conflicts of interest. They do have a Policy of Fiscal Administration, but the policy does not address conflicts of interest.*
- *Personal Leave Incentive Program Inconsistent with Authorizing Statute – Upshur County Schools Policy 5026, Personal Leave Incentive Program, is not consistent with W. Va. Code §18A-4-10a, which states, “County boards of education are authorized to pay to their employees or to defined groups thereof, for the purpose of reducing absenteeism, a bonus at the end of an employment term for each unused day of personal leave accumulated by the employee during that employment term.” Under Upshur County Schools Policy 5026, employees are eligible for a \$400 bonus if they use three or less personal leave days (sick leave) each year, or if they accumulate a balance of personal leave days (sick leave) in relation to their years of service in accordance with a table provided in the policy. Given that Upshur County Schools Policy provides a lump sum payment of \$400, rather than a bonus for each unused day of personal leave accumulated, Upshur County Schools Policy 5026 is deemed to be inconsistent with W. Va. Code §18A-4-10a.*
- *Insufficient Salary/Compensation Policy – Upshur County Schools Policy 8006, Salary Schedules and Other Compensation, does not address the positions of superintendent, assistant superintendent, and treasurer. Policy 8006 should, at a minimum, address contract lengths, how salaries are to be determined, and types of leave available to these employees. Policy 8006 addresses those topics for other employees and groups of employees within the district.*

- *Review of the District's Travel Policy and Employee Travel Taken – Due to allegations uncovered through federal funding monitoring, the WVDE obtained county financial data for all travel payments made to central office employees by the county between the dates of July 1, 2019, and June 30, 2022. The data were reviewed analytically to determine which employees were receiving travel reimbursement payments, and a random sample of those individuals was selected for testing. The WVDE reviewed a total sample of twenty-one (21) employee travel reimbursement payments. For each travel reimbursement payment selected, the WVDE requested the following supporting documentation: (1) completed travel request form with corresponding approval, (2) completed travel reimbursement form, (3) copy of remittance for the travel reimbursement payment, and (4) documentation that out-of-state travel requests were board approved, if applicable. All documentation was reviewed for compliance with the county's local policies, WVBE policies, and West Virginia Statutes.*
- *The district does not have a sufficient travel policy in place. Specifically, the district does not have a policy in place that addresses areas such as out-of-state travel including the approval thereof, per diem reimbursement limits, travel authorization, etc.*
- *Twelve (12) of the twenty-one (21) travel reimbursement payments tested did not have a travel reimbursement form that was submitted within a reasonable time period after the conclusion of travel.*
- *One (1) of the twenty-one (21) travel request forms tested was not submitted for approval ten days prior to approval. This provision is stated on the face of the travel request form. However, there were an additional ten (10) instances in which a travel request form was not included within the supporting documentation as requested by the review team.*
- *Four (4) of the twenty-one (21) travel reimbursements tested did not have a corresponding hotel folio included within supporting documentation as requested by the review team.*
- *During the review, there were several instances discovered in which the superintendent submitted meal reimbursement for non-overnight travel. According to IRS Revenue Procedure 2019-48, a per diem allowance is treated as paid for meal and incidental expenses only if (1) the payor pays the employee for actual expenses for lodging based on receipts submitted to the payor,(2) the payor provides the lodging in kind, (3) the payor pays the actual expenses for lodging directly to the provider of the lodging, (4) the payor does not have a reasonable belief that the employee will or did incur lodging expenses, or (5) the allowance is computed on a basis similar to that used in computing an employee's wages or other compensation (such as the number of hours worked, miles traveled, or pieces produced). While the superintendent's contract includes a provision that all necessary expenses associated with attending professional meetings will be expensed by the board, there appears to be gross misinterpretation of this provision. Additionally, there is no evidence to support that the county treated these meal reimbursements as taxable events.*

Corrective Actions: Upshur County Schools should consult legal counsel to develop sufficient policies that address the needs represented above. Policy making is an important function of the board, and without comprehensive policy making, students, staff, and the public do not have sufficient guidance to operate within the local governing body.

The board shall adopt a stand-alone travel policy that incorporates at a minimum the following procedures:

- Per diem rate allotted to employees for overnight travel. Per diem guidance should include allotments for the first and last days of travel and partial meal reimbursement.
- Requirement of supporting documentation for submitted reimbursement claims.
- Submission timeline requirements associated with travel and reimbursement request forms.
- Travel authorization requirements.
- Explicitly state when board approval is required for employee travel.
- Treatment of gratuity reimbursement.
- An established travel policy should also incorporate provisions pertaining to in-county staff travel as a part of an employee's job duties to ensure that proper controls are in place in this function as well.
- Procedures must be developed to ensure that all employees' travel documentation (request forms, reimbursement forms, receipts, folios, etc.) is properly maintained.
- Applicable central office staff shall review IRS Revenue Procedure 2019-48 to ensure all travel reimbursement distributions are in compliance with the Internal Revenue Code.

Progress for Corrective Actions: Upshur County Schools has begun developing the process for reviewing and updating county policy. Upshur County Schools will prioritize policies mentioned within the Special Circumstance Review Report.

Focus Area 4: Personnel & Payroll

Noncompliance 4.1: *Inappropriate Personnel Actions*

- *Employment of unlicensed/uncertified staff – During the initial review, the review team became aware of two instances in which the district employed individuals who did not hold and did not apply for licenses/certificates from the WVDE. Furthermore, one of those instances appears to involve nepotism.*
 - » *Treasurer – The Upshur County Schools Treasurer does not hold and has not applied for the appropriate certification from the WVDE. WVBE Policy 5202, Minimum*

Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications, provides for a mechanism by which school districts can ensure they are hiring qualified professionals for their finance office. Although not required by statute or WVBE Policy 5202, the WVDE encourages districts to employ treasurers who satisfy the Professional Business Official Certificate requirements contained within WVBE Policy 5202.

- » *Summer Learning Academy Teacher – During interviews with central office staff, the review team became aware of the hiring of the then superintendent’s immediate family member as a summer learning academy teacher at Washington District Elementary. The board minutes from the April 19, 2022, board meeting reflect that employment of summer professionals was subject to appropriate certifications and background checks. WVDE certification records indicate that the superintendent’s immediate family member has not held any certificate or license issued by WVDE. Furthermore, central office interviews reported that this person had not completed an undergraduate degree at the time of the hire and was not seeking a degree in education.*

Noncompliance 4.2: Payroll

- *Compensation provided to employees without board approval – During the review of payroll records, the review team discovered numerous instances of compensation being provided to district employees without board approval.*
- *Payment of additional summer wages beyond what was approved by the board. - On July 26, 2021, the district provided additional wages related to the 2021 Summer Learning Academy that were not approved by the board. Communications provided to the review team show that some summer school staff were upset because they believed their summer pay was not sufficient, as they claimed they were promised a specific amount of “take home” or net pay rather than the gross daily rate that was previously approved by the board. At least one board member was aware of the complaints, but at no point did the board vote to retroactively provide additional compensation to summer school employees. This payment was funded with federal stimulus funds.*
- *Payout of out-of-calendar (OC) days – On June 28, 2022, the district provided additional compensation to various employees as a payout of OC days. There was no board approval provided by the district for these payments. Furthermore, WVBE Policy 3234, School Calendar, defines an out-of-calendar day as “a nonpaid day that is not included as a part of the minimum employment term.” Therefore, no county employee has a right to payment for such days. Such payments effectively increase employee contract lengths without the approval of the board. During interviews, district staff communicated that this compensation was for days worked during the summer because of the COVID-19 pandemic. However, no payroll logs, supervisor approvals, or timesheets were provided by the district to support that claim.*
- *Payment of additional compensation to the superintendent – At various points throughout the superintendent’s tenure, the district paid the superintendent amounts which were not authorized by the board within the superintendent’s contract or by amendment to the*

contract. Each superintendent contract includes language stating that the “written contract embodies the whole agreement between the board and the superintendent. There are no inducements, promises, terms, conditions, or obligations made or entered into by either the board or the superintendent other than contained herein.” The contracts further state that “no modification or waiver of this contract or of any covenant, condition, or provision of this contract shall be valid unless in writing and duly executed both by the superintendent and on behalf of the board.” The district provided no documentation showing that the board and the superintendent had agreed to any contract modification that would have authorized additional compensation above what was already included in the original contracts. Below is a summary of additional gross compensation provided to the superintendent outside of the approved contract:

- *Payment of attendance incentive bonuses – during each year of the superintendent’s contract, the district provided the superintendent with attendance incentive bonuses. For each year beginning in FY2019 and ending in FY2022, the district provided the superintendent with a \$400 bonus, which is tied to the attendance incentive bonus addressed in USC Policy 5026. Furthermore, for each year beginning in FY2020 and ending in FY2022, the district provided the superintendent with a \$500 bonus, which is tied to the teacher’s attendance incentive bonus authorized under W. Va. Code §18A-4-10(c). The superintendent does not qualify as a classroom teacher and is not entitled to such a bonus. There is no local policy authorizing such payment to non-teaching positions. Furthermore, the superintendent’s contract does not include a provision for any type of bonus. Therefore, both bonuses are deemed to be unauthorized. Unauthorized bonuses paid to the superintendent totaled \$3,100 between FY2019 and the end of FY2022.*
- *Payment of a stipend to attend a book study – On December 30, 2020, the district provided the superintendent with a \$70 stipend for attending a book study. The superintendent’s contracts are annual in nature and are developed to compensate the superintendent for all duties necessary to serve as county superintendent. As previously discussed, the contracts also explicitly state that the written contract embodies the full agreement between the superintendent and the board. Therefore, no additional compensation, other than what is contemplated within the written contract or amendments thereto, are deemed to be authorized by the board.*
- *Payout of unused leave days – While the superintendent’s contracts for FY2022 and FY2023 include a provision to be paid out for unused vacation days at the superintendent’s current daily rate, there were numerous instances of leave payouts which did not comply with the contract.
 - » *On June 28, 2021, the district provided additional compensation to the superintendent totaling \$11,365. This compensation was described on the check stub as 20 days of vacation at a daily rate of \$568.25. However, the superintendent’s contract for FY2021 did not authorize any payout of unused vacation days and the daily rate used for this payment was significantly higher than the superintendent’s true daily rate of \$413.79. Furthermore, this payment was funded with federal stimulus funds.*
 - » *On July 15, 2021, the district provided additional compensation to the superintendent totaling \$17,379.18. This compensation was described on the check stub as a payout of 42 vacation days at a daily rate of \$413.79. This payment is deemed to be unauthorized**

as her FY2022 contract only allowed for payout of unused vacation “not to exceed 10 days at her current rate of pay.” Note that an additional 10 days of vacation were paid out to the superintendent on June 30, 2022, but at an incorrect daily rate, which resulted in an overpayment of \$153.20.

- » On July 26, 2021, the district provided additional compensation to the superintendent totaling \$2,045.80. This payment represented the additional summer school wages paid by the district to Summer Learning Academy staff that were not approved by the board. This payment was also funded with federal stimulus funds.
- » On June 28, 2022, the district provided additional compensation to the superintendent totaling \$13,410.80. This compensation was described on the pay stub as 20 “OC Days” at a daily rate of \$670.54. The “OC Days” description on the pay stub refers to out-of-calendar days to which the superintendent is not entitled. As defined in WVBE Policy 3234, out-of-calendar days are nonpaid days which are not included as part of an employee’s minimum contract. OC days are tracked by districts to ensure employees with less than a 261-day contract are not taking off more days than they are entitled to. The superintendent is contracted for the full fiscal year covered by the board-approved contract. Therefore, there are no available days in the superintendent’s employment calendar which can be designated as unpaid. Furthermore, the rate used to payout these unauthorized “OC days” is significantly higher than the superintendent FY2022 daily rate of \$429.12.
- » In June 2022, the superintendent’s FY2022 contracted salary was arbitrarily increased by \$4,000. The superintendent’s contracted salary for FY2022 was \$112,000. However, the district increased it to \$116,000, resulting in an overpayment of \$4,000 during the month of June 2022.

- Misrepresentation of superintendent compensation – The review team requested copies of the district’s financial statement publication, which is required under W. Va. Code §18-9-3a. For FY2020, FY2021, and FY2022, the district underreported the superintendent’s compensation in those publications by \$899.99; \$12,335; and \$37,763.4
- Progression of employee leave balances – During the review of payroll records, the review team discovered multiple instances of the district paying out unused leave days without making appropriate reductions to employee leave balances. As a result, some employees may have overstated leave balances. Specifically, it was noted that at least 52 days of vacation leave payout to the superintendent were not removed from the superintendent’s available balance. Additional procedures are needed to determine the full scope of this issue.

Noncompliance 4.3: Supplemental and Stipend Payments

The WVDE obtained county financial data for all supplemental and stipend (extra) payments made by the county between the dates of July 1, 2019, and June 30, 2022. The data were reviewed analytically to determine which employees were receiving the most extra pay, and those individuals were selected for testing. To ensure sufficient testing coverage, individual employee extra pays were also selected

at random. For fiscal years 2020, 2021, and 2022 the WVDE reviewed a total sample of forty-five (45) employee extra payments. For each extra pay selected, the WVDE requested the following supporting documentation: (1) supervisor-approved timesheets, (2) supplemental contracts (if applicable), and (3) documentation that these contracts were board approved. All documentation was reviewed for compliance with the county's local policies, WVBE policies, and West Virginia Statutes.

- County board personnel do not seem to have a good understanding of supplemental payments and their need for an annual board-approved supplemental contract.
- County board personnel do not seem to have a good understanding of general recordkeeping requirements. Most of the items that the team requested for testing could not be provided.
- County board personnel allowed several individuals to accumulate overtime pay throughout the entire year and then submit this overtime for payment at the end of the year.
- County board personnel allowed payments to be processed for individuals without proper board approval.
- A timesheet could not be provided for one (1) of the forty-five (45) extra pay tested. [W. Va. Code 18A-4-16](#)
- Three (3) of the forty-five (45) extra pay tested did not have an immediate supervisor's signature on the employee timesheet. [Upshur County Schools Policy 8006, Section 8.3](#)
- Thirty-three (33) of the forty-five (45) extra pay tested required a board-approved supplemental contract. The board could not provide board-approved supplemental contracts for twenty-five (25) of these extra pay. [W. Va. Code 18A-4-16](#)
- The information contained in the supplemental contracts reviewed did not adhere to requirements in W. Va. Code. [W. Va. Code 18A-4-16](#)

Noncompliance 4.4: Payroll Function.

The WVDE obtained county financial data for all employee compensation paid between the dates of July 1, 2019, and June 30, 2022. To ensure sufficient testing coverage, individuals with different job titles and salary classifications were randomly selected for review. Due to allegations uncovered through federal funding monitoring, central office personnel were selected for testing in each fiscal year. For fiscal years 2020, 2021 and 2022 the WVDE reviewed a total sample of thirty-one (31) employee compensation payments. For each payment selected, the WVDE requested a (1) board-approved employment contract, (2) supervisor-approved timesheet, (3) employee paystub, (4) documentation of approved pay rate, degree or service level paid, and years of experience and (5) documentation of any county-approved salary supplements. All documentation was reviewed for compliance with the county's local policies, WVBE policies, and West Virginia Statutes.

- The board could not provide board-approved employment contracts for twenty-three (23) of the thirty – one (31) compensation payments tested. [W. Va. Code 18a-2-2](#)

- One (1) of the eight (8) employment contracts reviewed did not state the employee's annual salary. *W. Va. Code 18a-2-2*
- Twenty (20) of the thirty-one (31) compensation payments tested included supplemental pay. The WVDE was unable to recalculate six (6) of these supplemental payments. *W. Va. Code 18a-4 et seq.*
- Two (2) of the thirty-one (31) compensation payments tested could not be recalculated, exclusive of the six (6) supplemental payment issues mentioned previously. *W. Va. Code 18a-4 et seq.*

Corrective Actions: The board should do their due diligence when approving personnel decisions brought forth by the central office to ensure that all new hires are properly certified for the position in which they are recommended for hire. If a new hire is not properly certified, Upshur County Schools should work with the WVDE to request a waiver, if available, to move forward with the hire and to determine an appropriate course of action in which the uncertified hire is working toward certification. Based on guidance issued by the West Virginia Ethics Commission, nepotism should never be tolerated in the hiring process.

Compensation paid to Upshur County Schools employees beyond the contractual compensation agreed to between the employee and the district must be approved by the board. The board shall consult legal counsel when determining the legal authority of the district to provide various bonus and leave payouts to employees. The board shall also consult legal counsel when negotiating the superintendent contract to determine the legal authority of the terms of the contract.

- Procedures must be developed to ensure that all employees' pay documentation (timesheets, contracts, etc.) is properly maintained.
- Procedures must be developed to ensure that each timesheet is reviewed for accuracy and signed by the employee's supervisor.
- Procedures must be developed to ensure all supplemental contracts are placed on a board agenda and approved by the board. If an employee is continuing a supplemental contract from a previous year, the contract must be approved annually.
- The format and language of supplemental contracts should be reviewed, and changes made to adhere to W. Va. Code and local board policy.
- Procedures must be developed to correctly identify supplemental and stipend pay. Procedures must also be developed to maintain the proper documentation for each type of payment.
 - » Supplemental Pay is additional compensation paid to personnel who have regular positions throughout the employment term for the performance of duties other than their normal duties. Normally these additional duties are performed under a board

– approved supplemental contract over a period of time (i.e. – instructing, coaching, chaperoning, escorting, transporting, providing support services or caring for the needs of students, and which occur on a regular basis).

» Stipend Pay is additional compensation paid to personnel who have regular positions throughout the employment term for the performance of miscellaneous tasks from time to time. (i.e. – field trips, athletic events, proms, banquets, and band festival trips.) These payments are generally irregular in nature.

- Procedures must be developed to ensure that all employees’ pay documentation (timesheets, contracts, etc.) is properly maintained.
- The county must implement procedures to ensure that employees have a current, board-approved contract that meets the requirements stated in W. Va. Code 18a-2-2.
- Proper review procedures must be implemented to ensure the accuracy of payroll calculations.

Progress for Corrective Actions: Upshur County Schools worked in conjunction with the WVDE Office of Certification to assess employee certification/licensure including proper endorsements. It is also standard practice to consult legal counsel on questions pertinent to contractual compensation when necessary. They have implemented procedures and processes for contracts, timesheets, etc.

Focus Area 5: WVBE Policy 8200

Noncompliance 5.1: *The WVDE obtained county financial data for all purchases made by the county between the dates of July 1, 2020, and May 12, 2023. The data were reviewed analytically and purchases requiring board approval and purchases falling within each bid threshold in Policy 8200 were randomly selected for testing. To ensure sufficient testing coverage, purchases that fell below Policy 8200 bid thresholds were also selected at random.*

For fiscal years 2021, 2022, and 2023, the WVDE reviewed a total sample of forty-eight (48) purchases. For each purchase selected, the WVDE requested the following supporting documentation: (1) requisition and approved purchase order, (2) board approval (if applicable), (3) paid invoices and (4) competitive bid documentation (if applicable). The WVDE examined the sample for compliance related to the proper sequence of requisitions, purchase orders, and invoices. Further review of the purchase order samples took place to ensure competitive bids and board approval were obtained when applicable. Policy 8200 section 18.5 states “all contracts for the purchase of commodities or services, with the exception of consumable supplies, that involve the expenditure of \$100,000 or more must have the prior approval of the governing board.” Policy 8200 also requires each county board to adopt a local purchasing policy which, at a minimum, must adhere to the provisions of Policy 8200. Upshur County’s Policy 8001 – Policy of Fiscal Administration states “The board shall adhere to the purchasing procedures contained in West Virginia Board of Education Policy 8200 with the following restrictions:

- All purchases greater than \$5,000 but less than \$10,000 must have the prior approval of the appropriate director or the superintendent.
- All purchases greater than \$10,000 but less than \$50,000 must have the prior approval of the superintendent.
- All purchases greater than \$50,000 must have the prior approval of the board. The approval can be granted either as a consent agenda item or by a separate motion of the board.”

Additionally, the WVDE reviewed the financial data mentioned above specifically for purchases that might qualify as “stringing”. Policy 8200 section 7.5 defines stringing as “separating purchases into a series of separate requisitions or purchase orders for the purpose of circumventing the applicable threshold limits of the competitive bidding procedures”. The forty-eight (48) purchase orders tested were placed with thirty - three (33) different vendors. For each of the purchases made, the WVDE requested documentation that the appropriate competitive bids were obtained based on the amount that was spent with that vendor over the course of the entire fiscal year.

Based on interviews with central office staff, obtaining bids is currently the responsibility of either the Chief School Business Official (CSBO) or each individual making a requisition request, and the bid documentation is maintained by the finance office.

- Six (6) of forty-eight (48) sampled purchase orders were initiated and posted after receiving a detailed invoice from the vendor for the goods received or services rendered. [WVBE Policy 8200, Section 4.1](#)
- An invoice could not be provided for three (3) of the forty-eight (48) sampled purchase orders. [WVBE Policy 8200, Section 26.3; W. Va. Code §12-3-18](#)
- Thirty-three (33) of the forty-eight (48) individual purchase orders required some form of competitive bid solicitation prior to purchase. Competitive bid solicitation documentation could not be provided for twenty (20) of these purchase orders. [WVBE Policy 8200, Section 7.11](#)
- Twenty-two (22) of the forty-eight (48) individual purchases orders required board approval prior to purchase. Documentation of board approval could not be provided for thirteen (13) of these purchase orders. [WVBE Policy 8200, Section 18.5; Upshur County Schools Policy 8100](#)
- Total purchases with a vendor over the course of a fiscal year are not evaluated in aggregate when deciding whether competitive bids are required. [WVBE Policy 8200, Section 7.5](#)
- Thirty-one (31) of the forty-eight (48) sampled purchase orders did not have the required purchase requisition. [WVDE Policy 8200, Section 4.1](#)
- One (1) of the fifteen (15) purchase requisitions reviewed was missing a date. [WVBE Policy 8200, Section 4.1](#)
- Forty-six (46) of the (forty-eight) sampled purchase orders required the following before final payment could be made:

- » Documentation from the West Virginia Tax Commissioner that all taxes against the vendor have been paid or provided for.
- » Documentation of a release from the applicable county or municipality that all county or municipal business and occupation taxes have been paid.
- » Documentation from the West Virginia Insurance Commissioner that all payments, interest, and penalties related to Workers Compensation coverage have been paid or provided for.
- » Documentation from the Executive Director of Workforce West Virginia that all payments, interest and penalties related to Unemployment Compensation coverage have been paid or provided for. Forty-five (45) of the forty-six (46) sampled purchase orders did not have any record that these requirements were met before remitting final payment. [WVBE Policy 8200, Section 26.6 – 26.9](#)

Corrective Actions: Purchasing policy training should be provided to all school level and central office staff who routinely make purchases to ensure they understand the procurement requirements. All staff must follow the procurement guidelines and procedures in Policy 8200 to ensure requisitions and purchase orders are properly completed and approved prior to ordering goods and services. If individuals repeatedly place orders for goods/services without required prior approval, they should face appropriate disciplinary action, including being held personally liable for the purchases. Central office staff shall adopt procedures to help track instances of purchasing noncompliance. The county should review processes for issuing blanket purchase orders for supplies, such as bus parts or facilities-related parts, to ensure bids are obtained if the annual purchase of such parts exceeds the bid thresholds.

The county should implement a process to ensure that final payment is not sent to a vendor prior to following the procedures outlined in Policy 8200.

The county should implement a process to ensure that all relevant purchasing documentation is maintained for the required amount of time.

Progress for Corrective Actions: The WVDE has worked closely with Upshur County Schools and provided technical assistance as needed. While central office staff have received professional development, the county's next step is to increase training opportunities for school-based staff.

Focus Area 6: Excess Levy Call

Noncompliance 6.1: The WVDE obtained county financial data for all purchases made with excess levy funds by the county between the dates of July 1, 2020, and May 12, 2023. The data were reviewed analytically and purchases requiring board approval and purchases falling within each bid threshold in Policy 8200 were randomly selected for testing. To ensure sufficient testing coverage, several purchases that looked unlikely to fall within the levy call were selected for testing.

For fiscal years 2021, 2022, and 2023, the WVDE reviewed a total sample of twenty-seven (27) purchases. For each purchase selected, the WVDE requested the following supporting documentation: (1) approved purchase order, (2) additional detail of purchase (if necessary) (3) board approval (if applicable), and (4) competitive bid documentation (if applicable). The WVDE examined the sample to ensure that expenses were made in accordance with the levy call. Further review of the purchase order samples took place to ensure competitive bids and board approval were obtained when applicable.

- Six (6) of the twenty-seven (27) excess levy fund purchases were not made in accordance with the approved excess levy call. [W. Va. Code 11-8-16](#)
- Fourteen (14) of the twenty-seven (27) individual purchase orders required some form of competitive bid solicitation prior to purchase. Competitive bid solicitation documentation could not be provided for thirteen (13) of these purchase orders. [WVBE Policy 8200, Section 7.11](#)
- Seven (7) of the twenty-seven (27) individual purchase orders required board approval prior to purchase. Documentation of board approval could not be provided for any of these purchase orders. [WVBE Policy 8200, Section 18.5; Upshur County Schools Policy 8100](#)

Corrective Actions: The county should implement procedures to ensure that excess levy funds are only spent in accordance with the excess levy call. All expenditures accounted for within the excess levy call should be reviewed in comparison to the excess levy call to ensure the expenditure falls within a line item of the excess levy call.

Training should be provided on Policy 8200 to all school level and central office staff who routinely make purchases to ensure they understand the procurement requirements. All staff must be required to follow competitive bid solicitation and board approval requirements in Policy 8200 and local county policy. If individuals repeatedly place orders for goods/services without adhering to these requirements, they should face appropriate disciplinary action, including being held personally responsible for the purchases. Central office staff shall adopt procedures to help track instances of purchasing noncompliance.

Progress for Corrective Actions: Central office staff have been reviewing levy language and meeting with stakeholders to garner feedback and promote transparency.

Notable Areas of Progress

- A Superintendent's Advisory Council inclusive of school-based professional and service employees has been formed. They first met with Superintendent Christy Miller in November and plan to do so again on December 14, 2023.
- Central office staff have begun the process of reviewing and updating all county policies. Upshur County Schools will prioritize policies identified within this report.
- The superintendent has established a standing meeting every Thursday with directors.
- First quarter data meetings have been conducted with all principals. This included strategic plan reviews and achievement goal setting. The second quarter meeting will occur in January.
- Stakeholders are planning a meeting with regional representatives of business and industry.
- Stakeholder surveys have been developed to gather feedback from community members, staff, etc.
- The superintendent has developed an implementation plan to address the Science of Reading in Upshur County Schools.
- The superintendent requested an audit of Special Education in Upshur County Schools. Individuals from the WVDE conducted the audit in November. A report to the county with recommendations is forthcoming.
- The program for alternative learning has been revamped to strengthen systems of support with transitional resources.
- The Upshur County Schools Transportation Department is completing training with new bus operators.
- To positively impact the number of suspensions of lower socio-economic status and students with disabilities subgroups, principals recently received Implicit Bias training.

Next Steps

- Continue to address the noncompliance items recognized by the WVDE.
- Assess existing bus routes for efficiency.
- Identify measures to positively impact staff and student attendance.
- Monitor disciplinary responses to ensure consistency and fairness.
- Review complaint procedures and processes. Communicate expectations to staff, stakeholders, etc. and identify whom to contact at the appropriate levels when addressing concerns and/or complaints.
- Review staffing to assess the following:
 - » What impact, if any, do staffing overages have on the county's ability to supply classrooms with certified teachers?
 - » Are school staff such as Improvement Specialists, Speech Therapists, etc. being used in the most proficient manner to benefit students?
 - » Are Special Education staff and resources appropriately situated across schools to meet the needs of students relative to Individualized Education Plan (IEP), Individuals with Disabilities Education Act (IDEA) application, individualized services and Medicaid billing?