

**FINAL REPORT FOR THE
PERFORMANCE AUDIT OF THE PRINCE GEORGE'S COUNTY BOARD OF EDUCATION
FOR THE FISCAL YEAR 2020 AND 2021**

**PREPARED BY
PREMIER GROUP SERVICES INC
AS OF JUNE 24, 2022**

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I. EXECUTIVE SUMMARY

1. Background

Prince George's County Public Schools (PGCPS) is one of the nation's 20th largest school districts with 208 schools and centers, more than 136,500 students, and nearly 20,000 employees. The school system serves a diverse student population and is governed by the Board of Education.

The powers and mandatory duties of the Board of Education for the Prince George's County Public Schools (PGCPS) are defined in the Education Article of the Annotated Code of Maryland and Title 13A of the Code of Maryland Regulations (COMAR). The Board's primary responsibilities are to support the school system's strategic plan therefore, the board works to advance student achievement through community engagement, sound policy governance, accountability, and fiscal responsibility.

In the fiscal years 2020 and 2021, allegations of issuing sole-source contracts outside of the standard procurement process and reorganization and personnel actions outside the standard process for reorganization were made against the Board of Education.

As a result of the allegations, the Chairman of the Prince George's County Council and the Chairman of the Prince George's County Board of Education issued a request to MSDE to investigate the allegations creating the need for an independent performance audit.

Premier Group Services Inc. (PGS) was contracted by The Maryland Department of Education (MSDE) to conduct a Performance Audit of The Prince George's County Board of Education (BOE) for the fiscal years 2020 and 2021.

To accomplish the objective of the performance audit, Premier Group Services performed a hybrid examination (onsite and offsite) of personnel and procurement actions, interviewed BOE and PGCPS personnel, and assessed compliance with policies and procedures for selected personnel and procurement actions.

PGS conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based

on our audit objectives. The performance audit was also consistent with § 5-110 of the Education Article.

2. Summary of Results

Throughout the performance audit process, we gained deep exposure to the board of education management and operations and were able to identify the following issues as our report further describes.

This report presents the result of PGS work conducted to address the performance audit objectives. The board of education’s response to the findings as of 06/22/2022 is included in this report. Certain personnel, contractors, and board members’ names were replaced by (Employee#, Board Member#, and Contractor #) within this report.

No.	Category	Issue
Finding 1	Reorganization Committee	The board reorganization took place in violation of the Open Meetings Act (OMA).
Finding 2	Reorganization Committee & Personnel	The board reorganization committee terminated two board office employees without using the established policies and procedures for employee separation.
Finding 3	Reorganization Committee & Personnel	The board reorganization committee created positions and recommended salaries without using the established policies and procedures for position creation for PGcps employees.
Finding 4	Reorganization Committee & Personnel	For the Chief of Staff position, the board reorganization committee hired an employee that violated the state of Maryland secondary employment and ethics law.
Finding 5	Reorganization Committee & Personnel	Conflict of interest existed for the positions hired by the board reorganization committee.
Finding 6	Personnel	Personnel files were missing for selected employees.
Finding 7	Procurement	Conflict of interest existed, and proposal processes were circumvented for certain procurements actions initiated by the board.
Finding 8	Procurement	An individual board member executed contracts on behalf of the board of education without a board vote or approval.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

1. Objectives

Premier Group Services Inc. (PGS) was contracted by The Maryland Department of Education (MSDE) to conduct an independent performance audit due to allegations of issuing sole-source contracts outside of the standard procurement process and reorganization and personnel actions outside the standard process for reorganization by the Prince George's County Board of Education. The objective of the performance audit encompassed the following elements:

- ✓ Review of the complaints and letters received in 2021 by MSDE, members of the PGCPs Board of Education, staff of the PGCPs System, the Prince George's County Government, and any other entity that may be aware of allegations of procurement and/or reorganization actions that are outside of standard practice. This review includes meeting agendas, minutes, and work-session products.
- ✓ Interview any individuals who may provide perspective and information regarding the allegations of procurement and/or reorganization actions outside of standard practice, including, but not limited to, all members of the PGCPs Board of Education, PGCPs staff Government officials, and members of the public.
- ✓ Evaluate the policies, practices, protocols, authorities, statutes, and regulations for procurement and personnel actions.
- ✓ Assess the alignment of the Prince George's County Board of Education actions regarding procurement contracts and personnel actions with authorized policies, practices, protocols, authorities, statutes, and regulations.
- ✓ Using a random sample of procurements issued by the Prince George's County Board of Education in FY 2020 and FY 2021, analyze to determine whether the procurements are appropriate and aligned with Board policies and local statutes and regulations.
- ✓ Determine if recent personnel actions performed by reorganization committees or subcommittees of the Prince George's County Board of Education were performed based on Board policy, practice, local statutes, and regulations.

2. Scope

The scope of the performance audit included the PGCPs BOE reorganization, personnel, and procurement actions, and the related allegations for the fiscal years 2020 and 2021. These actions were initiated by the board and carried out by board

members and or the PGCPs employees under the supervision of the board of education. The performance audit did not constitute an audit of the financial statements in accordance with government auditing standards. PGS was not engaged for this matter and did not render an opinion on the PGCPs's internal controls over financial reporting or over financial management systems.

3. Methodology

The independent performance audit was conducted according to the generally accepted government auditing standards (GAGAS) as promulgated by the government accountability office (GAO) and was consistent with § 5-110 of the Education Article.

PGS planned and conducted this performance audit to accomplish the objective as specified above in three phases:

Phase 1 - Planning: During this phase of the audit, PGS:

- ✓ Conducted a Kick-off meeting with MSDE.
- ✓ Established the overall audit strategy (including field locations to visit) that determined the scope, timing, and direction of the audit to guide the development of the audit plan and submitted a plan for accomplishing the performance audit objectives.
- ✓ Obtained an understanding of the board of education operations.
- ✓ Reviewed the complaints and letters received in 2021 by MSDE, members of the PGCPs Board of Education, staff of the PGCPs System, and the Prince George's County Government, and emails and correspondence from board members.
- ✓ Performed a risk assessment and identified suitable criteria based on the audit objectives.
- ✓ Conducted an entrance conference with members of the PGCPs and BOE designees.
- ✓ After multiple attempts, obtained the preliminary documents needed to begin the audit.

Phase 2 - Fieldwork: During this phase of the audit, PGS performed inquiries, analytics procedures, and substantive testing to address the audit objectives. Specifically, PGS:

- ✓ Interviewed eight representatives of PGCPs to understand personnel and procurement policies and procedures, their responsibilities, and their awareness of and / or involvement in misconduct or allegations related to personnel and procurement actions initiated by the Board.

- ✓ Requested interviews with nine PGCPs current and former BOE members that were associated with the board actions in question and gleaned from other sources. These interviews were conducted to understand personnel and procurement policies and procedures, their responsibilities, and their awareness of and / or involvement in misconduct or allegations related to the board's personnel and procurement actions.
- ✓ Evaluated the policies, practices, protocols, authorities, statutes, and regulations for procurement and personnel actions.
- ✓ Assessed the alignment of the Prince George's County Board of Education actions regarding procurement contracts and personnel actions with authorized policies, practices, protocols, authorities, statutes, and regulations.
- ✓ Using a random sample of seventy procurements actions and seventy-five personnel actions initiated by the Prince George's County Board of Education in FY 2020 and FY 2021, analyzed, and determined whether the personnel and procurement actions were appropriate and aligned with board policies and local statutes and regulations.
- ✓ Determined if recent personnel actions performed by reorganization committees or subcommittees of the Prince George's County Board of Education were performed based on Board policy, practice, and local statutes and regulations.

Phase 3 - Reporting and Closeout: During this phase of the audit, PGS:

- ✓ Prepared and provided to MSDE an interim report presenting the preliminary results of the performance audit.
- ✓ Conducted a pre-exit conference meeting with MSDE to discuss the preliminary results of the audit.
- ✓ PGS prepared and provided a draft report to the Board of Education members, and MSDE.
- ✓ PGS held an exit conference with members of the PGCPs, the Board of Education members, and MSDE.
- ✓ Obtained the views of responsible officials of the board concerning the findings, conclusions, and recommendations in the audit report.
- ✓ Prepared and submitted electronic and twenty-five color and bound copies of the final report on the findings of the performance audit to MSDE.

III. RESULTS, ISSUES, RECOMMENDATIONS, AND BOARD RESPONSES

1. PGCPS Board of Education Reorganization and Personnel Actions

Background

The powers and mandatory duties of the Board of Education are defined in the Education Article of the Annotated Code of Maryland and Title 13A of the Code of Maryland Regulations (COMAR). The Board's primary responsibilities are to support the school system's strategic plan.

The Board of Education in the conduct of its business voted in closed session to create a reorganization committee on 12/10/2020. Pursuant to the creation of the committee, the Board of Education Office Reorganization Committee met on Wednesday, 12/16/2020, and moved forward with carrying out the motions voted upon in Executive Session on 12/10/2020. All actions were taken only after completely following advice provided by Board Counsel. As a result of the decision and motions voted upon, the following roles were created and/or posted by Monday, 12/21/2020:

- Chief of Staff
- Policy Director
- Executive Associate
- District Liaison

The board reorganization committee also created hiring committees and appointed Board individuals to serve on each of the hiring committees.

The committee directed the following positions to be created by Human Resources by Friday, 1/8/2021:

- Communications Specialist
- Community Engagement Manager
- Director of Academic Policy & Engagement
- Director of Budget & Fiscal Affairs

All board staff were notified on Friday, 12/18/2020 that such a reorganization was taking place (without specific details on roles/positions) and given notice that they are all required to reapply for their current positions if they wish to remain employed by the Board Office. All board staff employees whose positions were eliminated due to this reorganization were notified of the elimination of their roles via letter (digital and postal mail) on Monday, 12/28/2020.

Based upon the documents reviewed, information collected, and interviews conducted during the course of the performance audit, PGS finds as follows:

Finding 1: The board reorganization took place in violation of the Open Meetings Act (OMA).

The board reorganization was conducted in violation of the Open Meetings Act (OMA). Specifically, the meeting was held in a closed session and without sufficient public notice.

Further review of the Open Meetings Compliance Board decision (Document #15OMCB051.pdf) on the board of education reorganization committee meeting disclosed the following:

“We find that the Reorganization Committee of the County Board violated § 3-302(a) when it held an emergency meeting without sufficient public notice and violated § 3-301 to the extent that its discussions exceeded the provision of legal advice by counsel or consideration of personnel matters pertaining to specific individuals, as distinct from policy matters pertaining to specific positions. This opinion is subject to the acknowledgment requirement set forth in § 3-211”

Criteria 1: Title 3 - Open Meetings Act Subtitle 3 - Open Meetings Requirements § 3-301 Open sessions generally required: Except as otherwise expressly provided in this title, a public body shall meet in open session.

Title 3 - Open Meetings Act Subtitle 3 - Open Meetings Requirements § 3-302. Notice (a) Required. -- Before meeting in a closed or open session, a public body shall give reasonable advance notice of the session.

Cause 1: The board may have been improperly advised by counsel prior to the decision of establishing the committee.

Effect 1: The board violated state law and the decisions taken during the meeting may be in question.

Recommendation 1: The board should reevaluate the committee creation procedure and obtain legal counsel prior to the creation of any special purpose committee.

PGCPS Board of Education Response to finding 1: “BOARD RESPONSE - The Board agrees with this recommendation. After reviewing the OMA’s definition of and “Emergency” meeting and since the beginning of FY22, the Board has not had any emergency meetings. Additionally, since then, the Board has enforced the Board

Policy 9210 which gives the authority to the Chair to appoint committees of Board [and/or staff] members to study specific projects.”

Auditor Rebuttal 1: In response to the BOE remarks on the performance audit issues (finding 1), we would like to note that the board substantiated the finding. We appreciate the board’s commitment to implementing the recommended actions.

Finding 2: The board reorganization committee terminated two board office employees without using the established policies and procedures for employee separation.

PGS was made aware of two instances during the fiscal years 2020 and 2021 where the provisions of Board Policy 4200/PGCPS Human Resources protocols for employee separation were not followed.

Executive Director for the Board of Education Termination:

- a) On December 28, 2020, the Chair of the Board of Education Office Reorganization Committee sent a letter informing Employee #1, of the termination of her employment as the executive director for the board of education effective February 28, 2021.
- b) A subsequent letter dated January 20, 2021, was sent by the Board of Education Chair to Employee #1 informing her that the board had decided to extend the date for the elimination of the executive director position to June 30, 2021.
- c) On May 7, 2021, a board member serving as chairman Pro Tem during the special meeting of the board of education on April 28, 2021, sent another letter to Employee #1 informing her that her employment, as the executive director, for the board of education would be terminated effective May 7, 2021.

Executive Secretary for the Board of Education Termination:

- a) On December 28, 2020, the Chair of the Board of Education Office Reorganization Committee sent a letter informing Employee #2, of the termination of her employment as the executive secretary for the board of education effective February 28, 2021.
- b) A subsequent letter dated January 20, 2021, was sent by the Board of Education Chair to Employee #2 informing her that the board had decided to extend the date for the elimination of the executive secretary position to June 30, 2021.

These letters of separation were written and issued by the Board of Education for these two employees, not from the CEO or CEO designee.

Based on documents and information reviewed and interviews with Human Resources personnel, it is the board policy and Human Resources practice that all employee actions for certificated and non-certificated employees be handled by the CEO or CEO designee. The board of education employees are considered employees of PGCPS and have to go through the same hiring and termination process.

On 03/10/2022 a former board member indicated that the reorganization committee was made aware that it had been improperly advised by board legal counsel as it related to the terminations, and that the employees were at-will employees and therefore were terminated without cause.

Criteria 2: COMAR §14.27.02.24 - Layoffs: The Board shall develop fair and equitable procedures for the layoff of employees.

Board Policy 4200 - Employee and 4-205 Appeals Before the Board of Education:

A. Upon the recommendation of the Superintendent, the Board of Education (the Board) may suspend or dismiss an employee for immorality, misconduct, insubordination, incompetency, or willful neglect of duty. Upon a finding of just cause, the Superintendent shall communicate in writing to the employee...

Cause 2: Board office employees are considered employees of PGCPS. During the reorganization, the board reorganization committee may have considered the terminated employees as employees of the board office not subject to the PGCPs policies and procedures for separation.

Effect 2: The terminations led to legal action against the PGCPs.

Recommendation 2: The Board must consult legal counsel and the Superintendent for all separation actions affecting board office employees.

PGCPS Board of Education Response to finding 2: "BOARD RESPONSE - The Board agrees with this recommendation. At the April 28, 2022, General Meeting, the Board discussed in public the restructuring of the Board Office staff to be transferred under the direct supervision of the Administrative side of Prince George's County Public Schools. This will eliminate any future confusion regarding the Board or its member's authority of Board office staff as well as allow the staff members to be protected under a Union. The vote passed by an overwhelming majority of seven (7) for the transfer, three (3) against and one (1) abstention."

Auditor Rebuttal 2: In response to the PGCPs board of education remarks on the performance audit issues (finding 2), we would like to note that the board substantiated

the finding. We appreciate the board's commitment to implementing the recommended actions.

Finding 3: The board reorganization committee created positions and recommended salaries without using the established policies and procedures for position creation for PGCPs employees.

As a result of the reorganization, the following roles were created and/or posted by Monday, 12/21/2020:

- Chief of Staff
- Policy Director
- Executive Associate
- District Liaison (existing role, vacant)

The committee directed the following positions to be created by Human Resources by Friday, 1/8/2021:

- Communications Specialist
- Community Engagement Manager
- Director of Academic Policy & Engagement
- Director of Budget & Fiscal Affairs (previously created position under a different title during previous board office reorganization)

The board reorganization committee also created nine hiring committees and appointed the same members that had previously voted and sat on the reorganization committee to oversee the creation and hiring of the indicated positions. The appointed board members conducted interviews and selected candidates for hire.

Based on interviews conducted with the board of education and the human resources department members, the hiring documents and policies and procedures reviewed, PGS noted the following:

- a. During our interview on 3/10/2022 human resources officials made the following statements:
 - As related to board office employment some things were done differently in fiscal years 2020 and 2021. We went from working with the board chair to working with individual board members for the first time.
 - The board members developed position descriptions that were not in alignment with our recommendations.

- Individual board members were signing off selection certifications as opposed to the board chair.
 - At times they have given us guidance for the setting of salaries for certain positions.
 - In the absence of board-specific policies and procedures for board office employment, we have to apply PGcps policies and procedures for employment.
 - The Department of Operations & Staffing did not receive the Position Description Questionnaire.
- b. On 03/14/2022 a human resources official provided the position description for the positions created by the board.
- c. On 03/21/2022 the human resources official provided the following statement regarding the positions:
- The Department of Operations & Staffing did not receive the Position Description Questionnaire. “Prince George’s County School Administrative Procedures for the creation of positions can be found in Administrative Procedure 4101 and Administrative Procedure 4105. While the AP is labeled “Reclassification” we advise hiring managers to use this AP for the creation of “new” positions as well by using the Position Description Questionnaire.” The following policies and procedures were also provided.
 - [Administrative Procedure 4101 - Request for Reclassification of an Existing Position.pdf](#)
 - [Administrative Procedure 4101 Attachment - Position Description Questionnaire.pdf](#)
 - [Administrative Procedure 4105 - Fill a Vacancy.pdf](#)
 - [Administrative Procedure 4105 Attachment 1 - HR Position Transaction.pdf](#)
 - Salary information was given to Operations & Staffing via the Selection Memos.

Prince George’s County School Administrative Procedures for the creation of positions can be found in Administrative Procedure 4101 and Administrative Procedure 4105. While the AP is labeled “Reclassification” we advise hiring managers to use this AP for the creation of “new” positions as well by using the Position Description Questionnaire.

Further review of the board of education authority and responsibilities as related to employment indicates the following:

Per Prince George’s County Board of Education handbook, Authority and Responsibilities of the Board of Education: “The powers and mandatory duties of the

Board of Education are defined in the Education Article of the Annotated Code of Maryland and Title 13A of the Code of Maryland Regulations (COMAR). The Board's primary responsibilities, aligned to support the school system's strategic plan "The Promise of PGCPS", include but are not limited to the following:

1. Appointing the Chief Executive Officer of Schools, Educ. Art., §4-201.1.
2. Enacting, interpreting, and implementing policies, (Board Policy 9340, "Policy Development").
3. Adopting operating and capital budgets, Educ. Art., §5-101.
4. Making decisions on educational, budgetary, facility, and financial matters (including authorization of contracts and legal settlements), Educ. Art, §4- 108.
5. Establishing curriculum guides and courses of study, Educ. Art., §4-111.
6. Appointing personnel, Educ. Art., §4-103 and §6-201.
7. Establishing school boundaries, Educ. Art. §4-109.
8. Communicating with residents, staff, and students.
9. Acting in a quasi-judicial capacity, in particular, deciding student and employee appeals, Educ. Art., §3-1006; §4-205(c); §6-202.
10. Advancing a legislative agenda.
11. Making a continuous appraisal of the educational and administrative management of the school system, Board Policy 012

The board of education can only appoint personnel with the written recommendation of the county superintendent. These policies are further defined in the Board Policies 4000 - Personnel.

Criteria 3: Md. Code, Educ. Section 4-103 - School personnel: (a) On the written recommendation of the county superintendent and subject to the provisions of this article, each county board shall:

- 1) Appoint all principals, teachers, and other certificated and non-certificated personnel; and
- 2) Set their salaries.

Md. Code, Educ. Section 6-201 - Appointment, tenure, and qualifications.

(a) The county board shall employ individuals in the positions that the county board considers necessary for the operation of the public schools in the county.

(b)(1) The county superintendent shall nominate for appointment by the county board:

- i. All professional assistants of the office of county superintendent; and
- ii. All principals, teachers, and other certificated personnel.

Also, see the following policies and procedures:

- Board Policies 4000 - Personnel.
- Administrative Procedure 4101 - Request for Reclassification of an Existing Position.
- Administrative Procedure 4101 Attachment - Position Description Questionnaire.
- Administrative Procedure 4105 - Fill a Vacancy.
- Administrative Procedure 4105 Attachment 1 - HR Position Transaction.

Cause 3: The board members may not have been aware of policies and procedures for personnel.

Effect 3: When leadership does not follow the established policies and procedures it may negatively affect the tone at the top and it opens the door for other instances of noncompliance. Also, because of the controversy surrounding the positions, most of the hired employees resigned.

Recommendation 3: The BOE must follow established PGCPS policies and procedures for employees of the board office.

PGCPS Board of Education Response to finding3: "BOARD RESPONSE - The Board agrees with this recommendation. With the transfer of the supervision of the Board office to the Administration side of Prince George's County Public Schools, this matter should no longer be an issue."

Auditor Rebuttal 3: In response to the PGCPS board of education remarks on the performance audit issues (finding 3), we would like to note that the board substantiated the finding. We appreciate the board's commitment to implementing the recommended actions.

Finding 4: For the Chief of Staff position, the board reorganization committee hired an employee that violated the state of Maryland secondary employment and ethics law.

On 03/10/2022 PGS was made aware of Hotline complaint number PGCPS-21-04-0014 with allegations that the Board Office Chief of Staff (COS) had two full-time government positions representing a conflict of interest.

Our review of the allegation and investigation in conjunction with conclusions reached by the PGCPS internal auditors disclosed the following:

“Based on our investigation and key determinations the following conclusions were made: Holding the positions of BOE Chief of Staff and Chief of Police for City of Seat Pleasant could be considered a conflict of interest.

- Hiring and Prior Accusations Employee #3 was hired by the Board of Education as the Board Office Chief of Staff on March 15, 2021. Details of his hiring are confidential and not available for review. Employee #3 also holds the position of Chief of Police for the City of Seat Pleasant. Prior to his hiring, Employee #3 was accused of having someone else take a polygraph for him during a recertification test. The Maryland State Prosecutor’s office found no evidence of criminal conduct in February 2020.
- Non-Compliance with BOE Policy - Employee #3’s employment as BOE Chief of Staff is not in compliance with Policy and Administrative Procedure that prohibits employees from holding employment that conflict with their PGCPS positions. Administrative Procedure 4160, Employee Conflict of Interest, prohibits employees maintaining employment during the hours required of them to fulfill appropriate assigned duties. BOE Policy 0107, Ethics Regulations states that an official may not participate in a business entity for which the official is an officer. The City of Seat Pleasant also prohibits the Chief of Police from holding a position that conflicts with his work schedule.
- Non-Compliance with MD State Public Ethics Law- Employee #3’s employment appears to violate restrictions on secondary or outside employment. COMAR Title 19A, Section 5-502(b)(1) prohibits an official or employee from having secondary employment with an entity that does business with, is regulated by, or is under the authority of the State department or agency with which the official or employee is affiliated. Employee #3’s employment with both PGCPS and the City of Seat Pleasant appears to fall within the category of entities regulated by the State of Maryland.
- Potential Inability to Perform Responsibilities - Although Employee #3 has stated he works evenings as Chief of Police, these hours could conflict with the Board of Education’s schedule when the BOE Chief of Staff would need to be present. This includes BOE Meetings, Work Sessions, Committee Meetings, Retreats and Conferences.
- Potential Conflict of Interest with School Operations - Employee #3’s position as Chief of Police with the Seat Pleasant Police Department could provide a potential conflict with school operations. The Seat Pleasant Police department collaborates with schools on security incidents and events requiring police presence.

- Financial Conflict of Interest - The Seat Pleasant Police Department is also a PGCPs vendor creating a potential financial conflict and non-compliance with BOE Policy, 0107, Ethics Regulations.”

RECOMMENDATION: The Board of Education should review Employee #3’s employment and determine actions necessary to resolve the conflict of interest.

Further review of the Chief of Staff Hiring documents disclosed that he listed his employment as: “Seat Pleasant Police Department, City of Seat Pleasant, Maryland • October 2016 - Present, Chief of Police Deputy Chief Operating Officer”.

Employee #3 submitted a resignation Effective 5/21/2021, citing stress and workplace harassment as a reason for resigning.

Criteria 4: COMAR Title 19A, Section 5-502(b)(1) prohibits an official or employee from having secondary employment with an entity that does business with, is regulated by, or is under the authority of the State department or agency with which the official or employee is affiliated.

Cause 4: The hiring due diligence process did not include disclosure statements.

Effect 4: This action broke the MD State Public Ethics Law. If left unresolved it can erode public and internal trust and damage the board of education's reputation in the community that it is to serve.

Recommendation 4: The employee is no longer part of the organization. To prevent reoccurrence the PGCPs hiring process must include disclosure statements.

PGCPs Board of Education Response to finding 4: “BOARD RESPONSE - The Board in consultation with Human Resources does not agree with this recommendation. “It is not the position of Human Resources’ Operations & Staffing after hire to follow-up to determine if an employee terminated their previous position from their former employer after starting their employment with PGCPs.” With that stated, there are several administrative procedures to hold individual employees responsible for complying with the PGCPs Code of Conduct regarding integrity. These procedures include AP 2200, AP 4160, AND Board Policy 4116.”

Auditor Rebuttal 4: In response to the PGCPs board of education remarks on the performance audit issues (finding 4), we appreciate the information and efforts of the board, its members, and Human Resources, and would like to encourage the board to reinforce and implement the cited policies to prevent further issues.

Finding 5: Conflict of interest existed for the positions hired by the board reorganization committee.

One of the recommendations discussed during the reorganization committee meeting on 12/16/2020 was as follows:

“Recommendation #1: If you have people in mind for the aforementioned roles (or any of the other positions, please encourage them to apply! We want to have the best team possible supporting the work of the Board of Education.”

As a result of this recommendation, the board members recommended candidates for the open positions at the board office without disclosing the extent of their relationship with the recommended candidates.

Throughout our interviews, four board members confirmed that board members recommended their friends for the open positions.

On 03/10/2022 one former board member, also a member of the reorganization committee made the following statement: “Definitely there were folks on the board that were referring their friends to serve in those positions, but it is not like we can pick whoever we want. There is a process. The process was that we established committees of people to interview candidates and recommend those candidates through HR to be serving in these positions. So, HR actually put out the job posting no one had any influence on that, or I don’t know about the job descriptions themselves or how they were developed, but HR put it out there and HR screened to make sure these are the qualified candidates that you can look at and then the folks at the board voted on to be on these committees then were able to select the couple people they wanted to interview based on the qualified list. I can say, I saw names of folks that I knew and had referred to interview for positions that were unqualified. So that was the situation, there were folks that were recommending their friends and people they knew in communities to be interviewed, but the process still took place. I think it was pretty fair overall from my perspective, I definitely, know that they are some board members that know people more than others, the people that I know we hired that were concerning to folks were the former chief of staff Employee #3, he was a concern for some colleagues. I can say from my end that I have not had more than two conversations with Employee #3 before him being approved, and that is just because you are in the political space you run into people, and you just say hey who are you and what is going on. I think Employee #4 was another one that was very concerning, it was also concerning to me when I saw his name, but ultimately it became clear to me that looking at the resume he was the most qualified to be serving in that role, and I found out after the fact that he was also

considered in the past for that position and was also deemed the most qualified a couple of years ago. Those two are the folks that came to mind immediately, even Employee #5, I did not know at all even though she worked in one of my schools, but my colleague board member #1, had known Employee #5 in the community since she was young and then Employee #6 was hired after Employee #5. I only had two interactions with Employee #6 when she was organizing a church political forum. These folks from the communities were hired for community roles. I definitely think that they were candidates closer to board members than others, and Employee #7 known folks as well, but I would not say that it was unfair because they have gone through the process with multiple voices at the table. I can see the concern but at the same time we all vote and whichever way the vote goes it is what we are supposed to follow...”

Per discussion and documents reviewed, the relationships were not properly disclosed, and the related members did not refrain from participating in the hiring process which presented a clear conflict of interest.

Criteria 5: Prince George’s County Board of Education Policy No. 0108 - Code of Conduct for Board Members:

...The Board has also adopted the following Code of Ethics, as recommended by the National School Boards Association, and amended as needed: “As a member of the Prince George’s County Board of Education, I am committed to improving public education and, to that end, I will—

- 9) Support the employment of those persons best qualified to serve as school staff, and school officials and insist on a regular and impartial evaluation of all staff.
- 10) Avoid being placed in a position of conflict of interest, and refrain from using my Board position for personal or partisan gain.

Prince George’s County Board of Education Policy No. 0107 E. Conflicts of Interest:

1. Participation - a. Except as permitted by Board Policies or in the exercise of an administrative or ministerial duty that does not affect the disposition or decision in the matter, an official may not participate in: (i) Any matter in which, to the knowledge of the official, the official or qualified relative of the official has an interest.

2. Employment and Financial Interests - a. Except as permitted by Board Policies when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official may not: (i) Be employed by or have a financial interest in an entity that is: (A) Subject to the authority of the school system or Board of Education; or (B) Negotiating or has entered a contract with the school system or Board

of Education; or (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official.

Cause 5: The board may not have had proper counsel prior to the decision of establishing the committee and taking the hiring decisions.

Effect 5: Confidence and trust are eroded when the conduct of public body is subject to improper influence and even the appearance of improper influence.

Recommendation 5: Board members must refrain from participating in decisions in which they have personal or appearance of personal interest and/or biases.

PGCPS Board of Education Response to finding 5: "BOARD RESPONSE - The Board agrees with this recommendation. This recommendation is supported in paragraph E (5) of Board Policy 0108, "An official may not intentionally use the prestige of office or public position for the private gain of that official or the private gain of another." The use of the position on the Board and the position held by members of the Committee who may have had a relationship with any individuals considered for hire or hired should have removed or recused themselves from participating in the Committee as it related that that individual. It appears that that was not the case for some members of the Committee. Administration leadership has informed the Board that on several occasions, some of these Committee members were advised to refrain from participating in the decision due to the possibility of a personal or appearance of personal interests."

Auditor Rebuttal 5: In response to the PGCPS board of education remarks on the performance audit issues (finding 5), we would like to note that the board substantiated the finding. We appreciate the board's commitment to implementing the recommended actions.

Finding 6: Personnel files were missing for selected employees.

During the audit process, the HR department indicated that they could not locate documentation related to two of the employees selected for testing thus violating state policies COMAR 14.18.02 and PGCPS Administrative Procedure 2600.

Criteria 6: COMAR Sec. 14.18.02.05. Duties of Custodians, Public Officials, and Employees: A. It is the responsibility of all custodians, public officials, and employees to: (1) Retain and protect all records in their custody.

Administrative Procedure 2600 - Records and Documents Management Program: POLICY: The Board of Education recognizes the importance of maintaining a uniform,

system-wide Records and Documents Management Program to ensure that records and documents controlled by Prince George’s County Public Schools are maintained in a professional, efficient, and economical manner consistent with accepted standards and provisions of state and federal laws. (Board Policy 2600).

Cause 6: Employees may have mishandled the files.

Effect 6: This resulted in non-compliance with state law, and in the event of an employee lawsuit, PGCPs may not be able to prove that it complied with the applicable laws.

Recommendation 6: PGCPs should consider implementing controls to ensure compliance with state record-keeping requirements.

PGCPs Board of Education Response to finding 6: “BOARD RESPONSE - The Board in consultation with Human Resources agrees with this recommendation. The “Prince George’s County Public Schools should implement controls to ensure compliance with State record keeping requirements.” Current human resources processes development in the fall of 2020 electronically stores personnel files. The employee files mentioned in this Report were hired prior to the use of the current electronic filing system.”

Auditor Rebuttal 6: In response to the PGCPs board of education remarks on the performance audit issues (finding 6), we would like to note that the board substantiated the finding. We appreciate the board’s commitment to implementing the recommended actions.

2. PGCPs Board of Education Procurement Actions

Background

State laws under the Annotated Code of Maryland’s, Education Article, Section §5-112, Bids govern the procurement process for the boards of education in Maryland. Board Policy # 3323 governs the procurement of goods and services in the Prince George’s County Public Schools (PGCPs), and Administrative Procedure 3704 provides guidelines governing the execution of Board policy. The policy covers procurement for Business and Non-Instructional Operations. Execution of this policy standard is the responsibility of all staff that procures goods and services. Purchasing is responsible for support and guidance of policy requirements.

The Board of Education in the conduct of its business in the fiscal years 2020 and 2021 initiated procurement actions to procure legal and lobbyist services. As a result of the

procurement actions, allegations of issuing sole-source contracts outside of the standard procurement process were made against the Board of Education.

Based upon the documents reviewed, information collected, and interviews conducted during the course of the performance audit, PGS finds as follows:

Finding 7: Conflict of interest existed, and proposal processes were circumvented for certain procurements actions initiated by the board.

Certain board members had conflicts of interest with proposed contractors during FY 2020 and FY 2021 and did not follow state-established ethical policies and procedures. Also, the PGCPs proposal processes were circumvented and as a result, the procurement department canceled the solicitation before award.

Throughout our interviews, three board members confirmed that board members had a political affiliation with a proposed contractor and that proposal processes were not always followed.

On 03/04/2022 one of the board members interviewed made the following statement:

“I started in January of 2021, when I came in there was a contract for a lobbyist, agreed upon on December 20th, and according to the bylaws the Chair is the person that signs all contracts, then I looked at the contract and questioned the sponsor of the contract for the lobbyist, and I was told by a board member that the board had already voted on it and that I need to go ahead and sign it. Well, I was hesitant of signing because I was aware that the administration had up to 4 lobbyists. We all work for the same system so why do we need an additional \$125,000 in taxpayer-funded money to hire our own lobbyist. The rationale given to me was inappropriate and unacceptable. The first rationale given was that the board wanted to have their own lobbyist because they want somebody who will be loyal to them. The second thing was, and I quote “this is a friend you know her; she has been unemployed for two years and she is about to lose her house”. I was familiar with this person from a political arena, so I questioned all of that. A red flag went up for me because that sounded like contract steering and with that, I was reluctant to sign. However, according to the board policy, there was a board action that had been voted on and the chair had to sign it. Well, I did sign it and there were complaints coming through the hotline (see hotline # Hotline 21-01-0009, Hotline 21-02-0009, Hotline 21-03-0009, Hotline 21-03-0010, and Hotline 21-02-0016) about this company. When the complaint came in, I told the internal auditors to investigate. Internal auditors investigated and found out that the company was not in good standing with the state of Maryland. The second thing was that the address that they used was an address for a cleaner. Then it was referred to the ethics panel for review.

The ethics panel came back and said that the company was not legitimate at that time. Then I later found out the contract was not vetted by procurement. Then she cited the board members involved in the vote on the contract.

In January of 2021, two board members presented two contracts for services that were repetitive in our system. The contracts passed the finance committee, I challenged them, and other board members had similar concerns and it appears that there were political ties. The contracts were not in the best interest of the PGCPS. I conferred with the CEO, and she said, "we have what is needed, the board provides the governance, and we have budget oversight so why would we need to procure these contracts." That was another red flag. They said it passed the subcommittee and will come to the full board for a vote. I knew that they had the vote, which is when I receive a notice that six of the board members were not going to attend. It was primarily to abort that effort to push those contracts through. Neither of those contracts had been vetted by procurement.

There was a contract, again it got aborted, for legal services presented by the same board members. The majority of seven called for a special meeting and they appointed a board member chair Pro Tem, because I did not attend that meeting and that is when they voted to request legal counsel from Contractor #1, and the way we knew that they had been a contract was that Contractor #1 showed up at a meeting of the board as a panelist (meaning she was a part of the board panel) and she said that she was representing us. When we saw her, I knew who she was from prior interactions outside of school board but when the question was asked about who she was, she said, "I am Contractor #1 your attorney, your legal counsel". So, I asked Contractor #1 who signed off on it and she said board member #2 (all of this was recorded), they are not authorized to sign off on any contract. So, I politely invited her off the meeting because I the chair was not aware of any contract that was negotiated or approved by the board, and she will never provide me with a copy of the contract that she signed, and a board member #2 never presented a copy. That is where a lot of concern arose from me, in terms of integrity or lack thereof. All of it is documented because I had to send Contractor #1 a letter indicating that because her contract had not been vetted through procurement and that board member #2 was not authorized to sign any contract and our policy clearly states that the chair signs all contracts, which meant he violated a policy.

I asked former legal counsel #1, to send her an official letter in terms of the contract being void. He advised me to take it to the board to have the board vote on it. They refused to vote to void her contract. (Hotline 21-06-0013).

This group had the majority vote and would say for a contract that had not been vetted by procurement that they are legally sufficient, but legally sufficient is a different category.

Another example was for a legal representation contract. The committee consisting of the majority of seven and three of its members conducted an evaluation and there were some discrepancies in the way these board members evaluated the four companies that provided bids. It was questionable even to the degree that the procurement person asked us to go over the evaluation again. Again, the person that board member #2 and their majority voters voted for was a lawyer with a one-person law firm. He got the highest vote over experienced law firms with the complement of other lawyers and specialties and administrative support. The contract went to procurement and procurement indicated that they could not hire this person because they did not fulfill all of the procurement requirements. That is when we decided to sole source a temporary legal counsel.”

On 03/10/2022, we interviewed a procurement official, and he made the following statement:

“For legal Services contract number 025-21 I did not sign, and I did not believe that the evaluation was correct. I reached out to the CEO and indicated that I was not comfortable with signing it. In my personal opinion, the evaluation of the solicitation was not done thoroughly enough to make the selections. It did not live up to the evaluation criteria set forth in the solicitation.”

Criteria 7: Prince George’s County Board of Education Policy No. 9270 - Actions by Individual Board Members: Board members shall have no authority to compel action in the name of the Board of Education unless the action has been previously approved by a formal Board Resolution. Individual Board members do not have any administrative control or rights of command supervision over employees of the Board of Education. The Board shall not be bound in any way by any statement or action on the part of any individual Board member, except when such statement or action is in pursuance of specific instruction by the Board.

Prince George’s County Board of Education Policy No. 9210 - Chair: The Chair shall preside at all meetings, sign authorized or approved contracts and other documents on behalf of the Board and perform such duties as are prescribed by law or by the Board. The Chair, by direction from the Board, may appoint committees of Board and/or staff members to study specific projects.

Prince George’s County Board of Education Policy No. 0108 - Code of Conduct for Board Members: ...The Board has also adopted the following Code of Ethics, as recommended by the National School Boards Association, and amended as needed: “As a member of the Prince George’s County Board of Education, I am committed to improving public education and, to that end, I will–

- 10) Avoid being placed in a position of conflict of interest, and refrain from using my Board position for personal or partisan gain.”

COMAR §21.05.03.03 - Evaluation of Proposals, Negotiations, and Award

A. Evaluation: (1) The evaluation shall be based on the evaluation factors set forth in the request for proposals and developed from both the work statement and price. (2) Technical proposals and price proposals shall be evaluated independently of each other. (3) Economic Benefits Evaluation Factor. (a) This subsection applies only to proposals that the procurement officer reasonably expects to exceed \$50,000. When a point system is used in the evaluation of these proposals, up to 10 percent of the total allocable technical points may be awarded under an economic-benefits evaluation factor. If a point system is not used, an economic-benefits evaluation factor may be included in the technical evaluation factors and be ranked in its relative order of importance, as the procurement officer determines... (4) Numerical rating systems may be used but are not required. (5) Factors not specified in the request for proposals may not be considered. (6) Initial evaluations may be conducted and recommendation for award made by an evaluation committee. Final evaluations, including evaluation of the recommendation of the evaluation committee, if any, shall be performed by the procurement officer and the agency head or designee.

Cause 7: The board members may not have been aware of policies and procedures for procurement.

Effect 7: Confidence and trust are eroded when the conduct of public body is subject to improper influence and even the appearance of improper influence.

Recommendation 7: Board members must refrain from participating in decisions in which they have personal or appearance of personal interest and seek advice of legal counsel when they cannot come to an agreement on how to conduct business.

PGCPS Board of Education Response to finding 7: “BOARD RESPONSE - The Board agrees with this recommendation. This recommendation is supported in paragraph E (5) of Board Policy 0108, “An official may not intentionally use the prestige of office or public position for the private gain of that official or the private gain of another.” The

use of the position on the Board and the position held by members of the Committee who may have had a relationship with any individuals considered for hire or hired should have removed or recused themselves from participating in the Committee as it related that that individual. It appears that that was not the case for some members of the Committee. Administration leadership has informed the Board that on several occasions, some of these Committee members were advised to refrain from participating in the decision due to the possibility of a personal or appearance of personal interests. (Since this Recommendation is the same as Recommendation 5, the response has been repeated here for clarity.)

Additionally, two of the three procurement matters relate to the procurement of legal services. These services were needed after the resignation of permanent legal counsel services. It is well documented in the Board Meeting videos of the behavior of some members of the Board that led to the resignation of legal counsel on board at that time. On June 9, 2022, the Board passed a motion to hire permanent legal counsel (Attachment C) after completing a successful procurement process. “

Auditor Rebuttal 7: In response to the PGCPS board of education remarks on the performance audit issues (finding 7), we would like to note that the board substantiated the finding. We appreciate the board’s commitment to implementing the recommended actions.

Finding 8: An individual board member executed contracts on behalf of the board of education without board vote or approval.

An individual board member executed sole-source contracts on behalf of the board of education without board vote or approval. The contracts complied with PGCPS policies and procedures. However, the contracts were initiated by an individual board member rather than in pursuance of specific instruction by the board of education, therefore violating the board Bylaws.

On 1/11/2022 and on 03/10/2022 one former board member, also a member of the reorganization committee made the following statement:

February 2021 - The procurement process that resulted in executing a contract to retain legal counsel for the Board’s Ethics Panel. Board Policy 0107 states that if the PGCPS General Counsel has a conflict that prevents them from providing legal counsel to the Ethics Panel, then the Board of Education is responsible for appointing other legal counsel to provide services. Nevertheless, PGCPS executed a contract for legal counsel services to the Ethics Panel worth over \$70,000 without Board approval. In addition to the violation of Board Policy 0107, it is uncertain whether PGCPS

procurement rules were also violated by executing a professional services contract over \$25,000 without Board approval.

May 2021 - The procurement process that resulted in executing a contract for interim legal counsel services for the Board of Education. The board Chair unilaterally directed a PGCPS employee to execute a contract with the law firm of Contractor #2 without the Board of Education's approval or even knowledge. In addition, both State law (Md. Code Ann., Educ. § 4-104) and Board Bylaws (no. 9250) state that only the Board of Education, not any individual Board member, is authorized to retain legal counsel services for the Board. After several Board members alerted the CEO of this egregious violation of procurement protocols, the CEO reversed the action of her employee and voided the execution of this contract.

July 2021 - The procurement process that resulted in executing a contract with Contractor #3, Attorney-At-Law to provide parliamentary services for the Board of Education. Again, Board Chair unilaterally directed a PGCPS employee to execute a contract with Contractor #3, without the Board of Education's approval or even knowledge. Board Bylaw 9270 is clear that individual Board members do not have the authority to compel action in the name of the Board of Education, such as compelling the execution of a contract for parliamentary services.

On 03/4/2022 one of the implicated board members interviewed made the following statement:

"The legal services came about because we were without legal counsel for a moment, and that fit into the category of the \$25,000 limit to sole source, and we sought a referral from the Maryland association of board of education to see if we can piggyback on another organization contract. Then I sent a request to procurement for the name that was recommended, and that person was placed under a sole source contract for \$25,000 or less. Contractor #4 had served as our legal counsel some years ago, and there was a board member who was on the board when he provided legal counsel. So, it was a consensus of the board to bring him on board. His contract was approved unanimously and vetted by procurement.

For Contractor #3, I signed off on it and his fees never exceeded \$900 per invoice."

Criteria 8: Prince George's County Board of Education Policy No. 9270 - Actions by Individual Board Members: Board members shall have no authority to compel action in the name of the Board of Education unless the action has been previously approved by a formal Board Resolution. Individual Board members do not have any administrative control or rights of command supervision over employees of the Board

of Education. The Board shall not be bound in any way by any statement or action on the part of any individual Board member, except when such statement or action is in pursuance of specific instruction by the Board.

Prince George's County Board of Education Policy No. 9210 - Chair: The Chair shall preside at all meetings, sign authorized or approved contracts and other documents on behalf of the Board and perform such duties as are prescribed by law or by the Board. The Chair, by direction from the Board, may appoint committees of Board and/or staff members to study specific projects.

Cause 8: The board of education member may not have had proper counsel prior to the decision.

Effect 8: When leadership does not follow the established policies and procedures it may negatively affect the tone at the top and it opens the door for other instances of noncompliance.

Recommendation 8: The BOE must follow established board bylaws and PGCPs policies and procedures for procurement.

PGCPs Board of Education Response to finding 8: "BOARD RESPONSE - The Board agrees with this recommendation. However, in all three matters cited in Finding #8, the Board did follow policies and procedures for procuring these services. The first matter was approved at a Board meeting prior to November 2021 as indicated in an email from the General Counsel's office (Attachment E). The second matter was authorized when the previous legal counsel presented his request to be released from his contract. And the final matter resulted from Board members acting unprofessionally at several zoom Board meetings captured on video. In any rate, the services were procured using the proper support of the Procurement Office. However, in the case of matters 2 and 3, some Board members harassed and bullied the vendors, so they decided to remove themselves from the unprofessional situation."

Auditor Rebuttal 8: In response to the PGCPs board of education remarks on the performance audit issues (finding 8), we would like to note that the board substantiated the findings. The additional information, comments, and responses provided after the issuance of the draft report, only show the intent and history behind the decisions that led to the improper actions. While we appreciate the information and efforts of the board and its members, the responses are insufficient to remove the finding. We appreciate the board's commitment to implementing the recommended actions.

IV. PREMIER GROUP SERVICES' CONCLUDING REMARKS

We would like to thank MSDE, BOE, the individual current and former board members, and the staff of the PGCPS for making time in their busy schedules to provide testimonies and documentary evidence to support the objectives of this performance audit.

We received additional information, oral comments, and responses after the issuance of the draft report, however this information only showed the intent and history behind the decisions that led to the improper actions. While we appreciate the information and efforts of the board and its members, the responses were insufficient to remove any of the findings.

We appreciate the board's commitment to implementing the recommended actions.