

AUDITOR GENERAL REPLY TO DISTRICT RESPONSE

Rather than responding directly to the facts stated in the report, the District's administration has taken the highly unusual tactic of employing outside legal counsel to prepare its response. This response appears to have been written to divert attention from the evidence by attacking and attempting to discredit the Office of the Auditor General. This Office has nothing to be gained or lost in determining whether the employees of the nonprofit organizations actually were district employees and entitled to participate in the Arizona State Retirement System (ASRS). The Office of the Auditor General is an independent agency of the State Legislature and made its determinations after substantial and impartial examination of all relevant facts.

Further, despite the inflammatory rhetoric and numerous misstatements and misrepresentations in the District's response, the fact remains that although the District sought to create an appearance that these persons were district employees, it was the nonprofits that performed such actions as: recruiting and hiring these persons, negotiating with them on their salaries, assigning their job duties, evaluating their performance, and terminating employment. The District, despite being given multiple opportunities, could not present physical evidence to support its many claims about the District's role in these arrangements. Further, as described in the report, although the District is now emphatic that it legitimately hired these persons as district employees, it has already terminated its arrangements with two of the three nonprofits.

It is unfortunate that the District did not consult with the ASRS or the District's legal counsel when the issue of enrolling these persons in the ASRS first arose, and that neither the District nor the nonprofits sought to determine whether the nonprofits could qualify for membership in the ASRS on their own merits. Finally, as noted in our report, the District's actions have ultimately put the affected employees' retirement benefits at risk since the ASRS may now choose to remove them from the system and refund their contributions.

Most of the points raised in the District's response are already addressed in our report. However, we have addressed some of the most egregious misstatements directly within the District's response.



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VIA U.S. MAIL

April 10, 2009

Rufus Glasper
Chancellor

Debbie K. Davenport
Office of the Auditor General
2910 N. 44th Street, Suite 410
Phoenix, AZ 85018

Re: Maricopa Community College District / Arizona State Retirement System

Dear Ms. Davenport:

This letter responds to the Auditor General's Final Report issued to the Maricopa County Community College District (the "District") on March 10, 2009. Please see attached document.

Respectfully,

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Maricopa Community Colleges Response to ASRS Special Review: April 2009

Despite an opportunity to rectify the litany of errors in the Auditor General's first draft report issued on October 17, 2008,¹ your office once again has engaged in result-oriented auditing by drawing conclusions based on incomplete and erroneous information. By collecting evidence to support only one side of the issue, the Auditor General has violated its fundamental duty to provide a fair and balanced audit. Once again, the Auditor General has reached the wrong result.

Despite its expansive fifteen page attack on the District, the Auditor General initially directed the District to limit any response to just three pages. This effort to gag open discussion on important issues that affect many taxpayers is inappropriate and without basis. Further, your office has given the District just days to respond despite taking more than ten months to conduct the two audits. Our analysis of some of the numerous flaws in the March 10, 2009 Report is set forth below.

Summary of the District's Position

The audit addressed a simple issue: did the District employ the individuals who served the nonprofit organizations? The answer is clearly "yes." Under these facts, any competent court would find that the workers in question are employees of the District. Here, the District Governing Board hired these employees and provided them retirement benefits consistent with the Board's statutory powers. The District recruited and interviewed the employees. All hiring procedures such as employment paperwork was processed through the District. The District's policies applied to the employees and set forth their terms and conditions of work. Additionally, the District was engaged in setting salaries, awarding raises, and extending contracts for these employees.

District administrators informed your office that they considered the workers in question to be employees of the District. Moreover, the employees themselves looked to the District as their employer. They received benefits and pay from the District. They relied on the District's policies. They had supervisors who were District employees. The obvious conclusion is that the workers in question were employees of the District.

Yet, your Report again reaches the wrong result. Although the Auditor General is tasked with "investigat[ing] both sides of competing claims *rather than collecting only the evidence that supports*

¹ The Auditor General withdrew its October 17, 2008 Report. The Report was so fatally flawed that the Auditor General was required to interview additional witnesses, review new evidence, and take other affirmative actions. This Report suffers from similar fatal flaws.

AUDITOR GENERAL REPLY: *The Auditor General did not withdraw the preliminary draft report. The October 17 draft report was provided to the District as a courtesy so the District could communicate any questions or concerns about the review's findings prior to publication. To ensure that the District's many concerns were adequately addressed, auditors collected and examined additional evidence, although not required to do so. This additional investigation did not contradict or negate the findings of the preliminary draft. Rather, it provided additional supporting evidence, which was added to the report in order to address the District's concerns.*

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*or refutes one side of an issue,*² the Report subverts its duties to be impartial. Impartiality is crucial because:

Drawing conclusions with incomplete or erroneous information not only weakens credibility, but can actually harm the State, if the Legislature or an entity takes action based on flawed conclusions and recommendations.³

Despite its own principles, the Report repeatedly advances only one side of the issue – the side advocated by your office. The Report ignores crucial facts (*e.g.*, the Board *authorized* the hirings), overlooks relevant laws (*e.g.*, the Board’s statutory authority to hire employees and provide benefits), and omits crucial testimony (*e.g.*, the witnesses all stated the individuals were employees of the District). These omissions have the objectionable effect of misleading those readers who were deprived of the true facts.

As set forth below, the conclusions in the Report are the result of “incomplete and erroneous” information.

BACKGROUND⁴

The District serves more than 250,000 students annually and has more than 13,000 employees. Of those 13,000 employees, approximately two hundred are “externally funded” from outside sources such as private companies and local, state, and federal government.

The District is governed by the District Governing Board (the “Board”). Importantly, the Board has broad statutory authority to hire employees “it deems necessary” and to implement policies. *See* A.R.S. § 15-1444(A)(6) and 15-1444(B)(4). The Board also can provide retirement benefits to its employees. *See* A.R.S. § 15-1444(B)(7).

Under this statutory authority, the Board implemented the Specially Funded Program Policy (the “Policy”) regarding the employment of “externally funded” employees. Since the enactment of this Policy in 1982, the District has hired hundreds of employees and properly provided them with benefits. Other higher education institutions in Arizona engage in the same well-known practice.

Under the Policy, the Board *publicly* approved the employment of individuals who served three nonprofit organizations: Arizona Community College Association (ACCA), Arizona Business and Education Coalition (ABEC), and East Valley Partnership (EVP). Each of these organizations provides services to the public. For instance, ACCA, which serves the community college districts, responds to requests from the legislature for information regarding the community colleges. ABEC, an organization advocating education, promotes teacher preparation. EVP supports economic, governmental, and educational development.

² *See* Auditor General Performance Manual.

³ *Id.*

⁴ A complete recitation of the facts is provided in the District’s response to the October 17, 2008 Report and are incorporated herein by this reference.

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The missions of the organizations were closely aligned with those of the District and the organizations worked together closely. The District employed twenty-six individuals assigned to these non-profit organizations; each of the organizations fully reimbursed the District for the employees' salaries and all benefit costs.

The District plainly employed the workers in question. The District hired the employees and maintained employment files which contained applications, copies of identification cards, and acknowledgments of loyalty to the District. The District's employment policies, including benefits, applied to the employees. The District also managed contract renewals, salary increases, and absences – all consistent with its published, public policies.

Additionally, the District assigned supervisors who were District employees. Significantly, the employees who served the nonprofit agreements have employment agreements which specify that the District itself is the employer. The employment agreements state that the employees were hired “at-will” and, as such, the employee, the non-profit organization, or the District may terminate the employment relationship at any time.

ANALYSIS

A. Finding 1 Erroneously Concludes that the District Did Not Employ the Individuals Who Served the Nonprofits.

1. The Auditors Overlook Controlling Laws Relating to the Employment Relationships and, Thus, the Finding Is Incorrect.

In conducting an audit, the auditors were tasked with considering “key laws, regulations, and provisions or contracts.” (Auditor General Performance Manual) The rationale for this is clear: laws and contracts provide clarity to and govern relationships. As referenced above, the Board has broad authority to hire “employees it deems necessary.” See A.R.S. § 15-1444(A)(6). The Board also has broad authority to “adopt such policies as are deemed necessary” and can authorize benefits for District employees. See A.R.S. § 15-1444(B)(4), (7).

The Report, however, utterly disregards controlling “laws, regulations, and provisions or contracts.” These are crucial omissions because the laws and regulations *determine* the relationship between the District and the employees. The Board, under its statutory authority, approved the hirings of each of these employees in public meetings. The Report does not even mention that the Board approved the hirings.

The failure to provide any weight to this key law defies standard principles of auditing and is emblematic of the Auditor General's bias.

The failure to reference the Board's actions is curious. The Auditor General, which conducts ongoing, annual audits of the District, never before questioned or raised concerns with these Board-approved employees. For years, the auditors have reviewed the District's files and have had access to the Board's meeting minutes. Each year, a team from the Auditor General's office spends countless hours at the District combing through the District's files and records. The obvious

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conclusion is that the auditors always considered these individuals to be employees of the District. The Auditor General does not explain why it is now blowing hot and cold on this issue.

Another law which the auditors conveniently overlook is the Arizona State Retirement System's definition of employee. ASRS's administrative code explains that "individuals performing services under contract in the exercise of a government function" are employees for the purpose of ASRS benefits. See A.A.C. R-2-8-14. Here, the auditors have had access for many years to all of the employees' files and plainly know that they were "performing services under contract." These contracts specify that the individuals are employees of the District and will receive the District's benefits.

As for "exercise of a government function," the Report ignores this issue too. In fact, the Report shockingly concludes that the highly-regarded non-profits – despite exemplary records of service to the community colleges, teacher preparation, and workforce development – served "no public purpose." (Report at 14) To reach this ridiculous conclusion, the auditors have rejected the testimony of a number of well-respected District officials who testified as to the public purpose served by the non-profits. Ignoring this testimony is yet a further example of the auditors' desire to reach a specific outcome without regard to the truth.

AUDITOR GENERAL REPLY: *This is a mischaracterization of the report's statement that no public purpose of the loan arrangements was documented. The District has previously acknowledged that any benefits it received from the nonprofits' activities still would have been received had the District not made the loans, and the report thus concludes that the loan arrangements were designed primarily to benefit the nonprofit employees, not to serve a public purpose. The nonprofit employees' activities were defined by and performed on behalf of their respective nonprofits, which are not governmental entities.*

Another set of laws ignored by the auditors are the dual employer and loaned employee doctrines. It is well-settled that an employee may have two employers when, for example, the employee works in furtherance of both employers. See *Graziano v. 110 Sand Co.*, 855 N.Y.S.2d 203, 205 (N.Y. App. Div. 2008). Similarly, an organization may loan an employee to another organization. See 35 Am. Jur. (Master and Servant) § 541. When that happens, the worker is an employee of both the organization to which she is lent, as well as the organization who loaned the worker. The Report fails to address these well-known doctrines because they contradict the auditors' preordained conclusions.

The Report asserts that the District never sought permission from ASRS to enroll these employees for retirement benefits. (Report at 3) This assertion fails for several reasons. First, ASRS itself directed the District to enroll all employees who were Board-approved. Specifically, in 2002, ASRS audited the District and concluded that the District could qualify more employees for retirement benefits. ASRS then directed the District to be more inclusive in enrolling employees in ASRS. Without question, all of these employees were Board-approved and, thus, were properly enrolled in ASRS. Second, the District accepted applications, processed eligibility paperwork, and maintained these employees on the membership rolls for years. It would be plainly inconsistent for ASRS to argue that the employees were not members when ASRS has been providing the employees with membership benefits forms for years. It is incomprehensible that the auditors bypass these facts.

2. The District Hired the Employees in Accordance with the Policy.

The Report makes the cavalier assertion that the employees were “not hired in accordance with the [Specially Funded Program Policy].” (Report at 5) However, the Report only considers one side of the issue – namely, the side that supports the prejudged result. For example, the auditors ignore that the District only hired the nonprofit employees for one-year terms – as required by the Policy. The auditors also ignore that the District initiated the paperwork for annual increases and extensions of assignments. Moreover, the District also hired all individuals as “at-will” employees. The District’s actions on these points are all fully consistent with the Policy.

The Report asserts that the District did not comply with the Policy because it could not provide job applications for just seven of the twenty-six nonprofit employees. (Report at 5) Yet, the auditors acknowledge that a significant number of the employees who served the nonprofits had completed applications. Further, the auditors do not allow for the possibility that, over the course of many years, applications may have been lost or misplaced. Similarly, the audit fails to account for possible changes in practices over the twenty-seven years of the Policy (such that applications may not have been required at all times). It is incorrect to broadly conclude that the District did not comply with the Policy on employment applications when the auditors found so many in the employees’ files. Nitpicking some minor omissions does not support the Auditor General’s sweeping generalizations. An audit of any state agency would likely reflect similar findings.

The auditors also point to a single isolated instance where a job posting stated that a position reported to the Director of ACCA (rather than the District). Although this may be true, the auditors disregarded the testimony of a District Governing Board member who explained that she was a member of the board that directly supervised the Director of ACCA. Plainly, the District was involved in the supervision of ACCA and it is incorrect to conclude the District somehow sidestepped the Policy. Thus, the auditors, after combing through hundreds of documents, take language out of context to discredit the District’s position.

The auditors’ other flimsy conclusions are nonsensical. For instance, the Report claims that the District was limited to merely processing paperwork. (Report at 5) To reach this dubious conclusion, the auditors fail to mention that District supervisors met with the employees to set goals and strategy. The District and the employees who served the nonprofits worked collaboratively to pursue the District’s missions. District employees served on the boards of the nonprofits and supervised the employees’ work. The District also recruited and interviewed the employees and was actively engaged in extending employment contracts and awarding raises. These facts, like many others, are omitted from the Report.

The Report also complains that a district administrator stated that an individual who served the nonprofits would receive benefits through the District. (Report at 5) Again, the Report ignores the Board’s clear statutory authority. The Specially Funded Program Policy, as enacted by the Board, makes it perfectly appropriate for the District to provide benefits to its employees.

Finally, the Report asserts that the District did not sign some employment agreements for the employees who served the nonprofits. (Report at 5) Yet, the Policy does not require this. Moreover, the auditors ignored testimony that the agreements were reviewed and approved by the District’s legal counsel. The agreements plainly indicated that the individuals, who are subject to the District’s

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policies, received the District's benefits. The District also retained the right to terminate the employees' employment. The auditors have failed to consider all the evidence on the issue, rendering the conclusions erroneous.

3. The District Had the Authority to Terminate Employment.

Next, the Report concludes that the District did not "have the ability to terminate the nonprofit employees' employment." (Report at 5) This conclusion exemplifies the absurdity and one-sided nature of the Report.

Here, the employees who served the nonprofit organizations were all hired under the Specially Funded Program Policy which clearly states that "Maricopa Community Colleges may terminate employment without cause upon two (2) weeks notice." Furthermore, the employment agreements, which cite to the Policy, also state that the District had the right to terminate the workers' employment. The audit team's conclusion on this point is plainly incorrect and reflects the absurd lengths to which the auditors went to defy reality.

An alarming omission on this point is the auditors' conscious decision to ignore several witnesses' testimony that the District had the authority to terminate the employees' employment. Two highly-respected District administrators personally told auditors that they were involved in a termination of an employee from ABEC. One of those administrators specifically supervised the termination. The Report disregards this testimony.

But there is more. A long-time (but as of December 2008 former) District Governing Board member told the auditors that she personally was aware that the Board terminated one employee's employment. Another District administrator told auditors that the District had the authority to terminate employment. Thus, no less than four District witnesses corroborated that the District could and did terminate employees' employment. None of these witnesses have any reason to misstate the facts. The auditors' blatant disregard of this crucial evidence reflects a prejudged outcome.

In conclusion, the Report is plainly wrong regarding the District's ability to terminate employment. The inexcusable disregard of these policies and this testimony renders this finding erroneous.

4. The District Issued Benefits in Accordance with the Policy.

Next, the Report incorrectly concludes that the District did not administer benefits consistent with the Policy. (Report at 6) However, the audit team reaches conclusions without addressing all of the evidence on the issue. Importantly, the Report offers no evidence whatsoever that the workers in question received different medical benefits, workers' compensation, sick leave, bereavement leave, holidays, or leaves of absence compared to other District employees. Plainly, the employees who served the nonprofits were treated the same as other District employees with respect to nearly all benefits.

Although there are many forms of benefits provided by the District, the Report focuses on the limited issue of whether several workers in question received vacation benefits inconsistent with the Policy. (Report at 6) Because the Report does not specify the years in which these alleged inconsistencies occurred, it is difficult to ascertain whether employees received additional vacation time. An initial

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review suggests that the auditors have misinterpreted the Policy. In any event, even if the nonprofits had occasionally allowed extra vacation time, it was perfectly appropriate for them to do so because they were fully reimbursing the District for those vacation days and these were minor deviations from the Policy.

As usual, the auditors strain to find any minor inconsistency among the hundreds or thousands of actions taken under the Policy in order to condemn the entire process. The Report fails to consider all the evidence on the issue, rendering the conclusion erroneous.

5. The Workers in Question Are Employees of the District.

Next, the Report concludes that the workers in question are not employees under the “ASRS and IRS guidelines.” (Report at 7) As an initial matter, the Report only makes a passing reference to the ASRS test and does not offer any analysis or explanation for why the individuals are not employees under the ASRS test. This conclusory statement, while typical, is insufficient to support a finding that the District did not employ the employees who served the nonprofit organizations. Moreover, as presented above, the individuals are employees under the ASRS test. (*See* Page 4, above)

Similarly, the Report sets forth a limited analysis under the IRS test. (Report at 7-8) In cursory fashion, the Report incorrectly asserts that the “District does not recruit, hire, direct, supervise, evaluate, or terminate the nonprofit employees....” (Report at 10) Consistent with its practices, the auditors present a one-sided review of the facts.

If the auditors addressed all the evidence, the Report would reflect that the District was actively engaged in all aspects of the employment process. The Board hired the workers in question. The District recruited, reviewed resumes, and processed hiring paperwork. A number of District employees served on search committees. The Report overlooks all of these facts.

The Report also erroneously concludes that the District was not involved in the negotiation of salaries or awarding raises. District employees did evaluate whether funding existed for positions and worked with the nonprofit boards to extend contracts. Because District employees were on the boards of the nonprofits, they were aware of funding availability and reviewed raises and decided whether to implement them. It is incorrect to conclude that the District had no involvement in salaries, raises, and extensions of contract, when the evidence strongly suggests otherwise.

Notably, the Report ignores numerous other indicia of an employment relationship. For example, the Report fails to address that the employees received District handbooks. They used District electronic mail addresses. Employees had official District employee identification badges to enter the buildings. The Report addresses none of these indicia of employment, all of which were known to the auditors.

Rather than fairly consider this evidence, the Report blithely concludes that the workers in question were not employees because the District did not supervise them. The Report argues that “supervision” means authority over “day-to-day decisions.” (Report at 8) Yet, the auditors ignore the nature of externally funded employees who do not work directly at the District and, thus, are not subject to “day-to-day” supervision. Externally funded workers are individuals who work at external businesses and agencies. Day-to-day supervision is not required in the Policy nor would it be

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feasible given the nature of these employees' work. Thus, the Report's lack of sophistication on this point is fatal.

AUDITOR GENERAL REPLY: *This new definition of "externally funded workers" does not match the District's specially funded program policy, which defines "externally funded workers" as "those that are funded through a grant, contracts, or restricted donations." This new definition is offered in this district response without any documentation or explanation.*

Plainly, the auditors' narrow interpretation of supervision seeks to reach their prejudged results. In this matter, the District served on the boards of the nonprofits and directed the employees' work through those boards. Further, District employees testified that they met with the employees regarding goals of the organizations and how to meet those goals. The District was intimately involved in monitoring and approving the employees' absences, vacation, and sick leave. Yet, the Report ignores or discounts all of this evidence.

On a final note, the Report argues that the District could not "quantify" the benefits of the nonprofit employees. (Page 1) This is wrong. The missions of the nonprofits and the District were closely aligned. The District provided direction to the nonprofits so that the District's missions were met. Further, the nonprofits provided service to the District such as work for the Legislature and workforce development and teacher education.

In sum, the Report presents a one-sided, biased analysis of the IRS factors and wholly ignores the ASRS test. Because the Auditor General has disregarded scores of evidence, this conclusion is incomplete and erroneous.

B. Finding 2 Is Incorrect: The District Did Not Improperly Loan Public Monies Because the Money Served a Public Purpose and the District and State Received Consideration.

Finding 2 in the Report incorrectly concludes that the District made loans of public monies to the nonprofit organizations.

As with numerous other laws, the Report again ignores applicable legal standards. In Arizona, a loan or gift is not improper if it has an appropriate public purpose and consideration is received. *See Wistuber v. Paradise Valley Unified Sch. Dist.*, 141 Ariz. 346, 350, 687 P.2d 354, 358 (App. 1984). The auditors contend that the loans were only for the benefit of the employees who served the nonprofit organizations. (Report at 14) This ignores the testimony of credible witnesses including a former Board member and several District administrators who explained that the nonprofit organizations provided significant benefits to Maricopa County and the District through workforce development, services to the community college districts, and teacher education. The non-profits clearly pursue public purposes which are closely intertwined with the mission of the District.

Moreover, the District received proper consideration as required by the law. Again, witnesses testified as to the benefit of the services provided by the employees who served the nonprofits. Curiously, the Report acknowledges that the District was fully reimbursed by the nonprofits, but discounts this fact. (Report at 13) In other words, the State of Arizona bore absolutely no cost and, thus, the taxpayers paid nothing for this public benefit. The Report ignores the legal significance of all of these points. This finding is erroneous and must be reversed.

C. References to Other Audits and Delay Are Misplaced.

The Report reiterates the false allegation in the October 17, 2008 report that the District delayed in taking action. These issues have been refuted previously. Moreover, this claim is entirely without basis, especially considering that the Auditor General's own audit took ten months.

One baffling charge is that the District has not dissolved its relationship with ACCA, and has not provided "a definitive answer on when the District will end the arrangement with ACCA." (Report at 2). Yet, the Report, in its one-sided nature, fails to account for the fact that ACCA continues to provide services for the District and other community college districts in the State of Arizona. The District cannot simply shut off this relationship because of the void that would be created. Nevertheless, ACCA is in the process of winding down, as the Auditor General well knows. The District advised the auditors of this point and continuously apprised them of the wind down, yet it has been ignored. Further, the District previously terminated its relationships with ABEC and EVP.

Like the draft reports, the Report again refers to the findings of the March 2006 Auditor General report regarding Santa Cruz County and, for the first time, refers to the Maricopa County Regional School District No. 509 audit. (Report at 2, 14) These references improperly presume that the District had an obligation to review these audits or knew of and ignored the audits. It is indisputable that the Auditor General did not alert the District of these audits or ever suggest that there was any problem and yet now relies on the audits to imply wrongdoing. This is patently unfair.

Again, the Report neglects to mention that the District took action on its own regarding the nonprofit organizations. The Santa Cruz audit amounted to four cryptic paragraphs on several issues and offered no value in terms of guidance. Yet, the District – on its own – began to investigate, met with officials of the nonprofits, and initiated action to wind down the relationships with the nonprofits. Although the Board and District were within their legal authority to employ the employees, the District nonetheless began an orderly wind up of the relationships without any prodding by the Auditor General.

D. Use of Self-Serving Quotations Are Inappropriate.

The Auditor General's Performance Manual states that, "[i]t is expected that auditors use professional judgment." The Auditor General "serves as an independent source of impartial information." Consistent with these principles, it is expected that audits demonstrate professionalism and courtesy to the entities and subjects of the audit. Yet, the Report is riddled with self-serving quotations taken out of context to support the Report's result-oriented conclusions. (Report at 9-10)

For example, the Report quotes from a letter from one nonprofit that thanks the District for providing employees with insurance and retirement benefits. (Report at 9). Yet, the quote downplays language that shows the same nonprofit considered the individuals to be employees of the District. Without question, these quotations present an inaccurate and one-sided view of the issues. For those who are unaware of the facts, these cherry-picked quotes from letters and e-mails – with no context – are misleading and unfair. The quotations mischaracterize the employment relationships and the District's open and honest efforts to engage individuals who were serving a public purpose consistent with the District's mission.

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Like the flawed draft reports, the auditors are again implying that individuals intentionally bypassed rules and regulations for personal gain. However, the auditors themselves have belatedly acknowledged that no laws were broken and no intentional wrongdoing occurred. The record plainly reflects that the Board had the authority to hire the individuals at issue.

AUDITOR GENERAL REPLY: *While auditors have acknowledged from the beginning of this review that there is no evidence of criminal law violations, auditors have not addressed the issue of intentional wrongdoing.*

E. Conclusion

Like the draft reports, the Final Report presents incomplete and erroneous information on every issue, rendering the conclusions fatally flawed. As a result of the continuous one-sided, prejudged results, the issues that are the subject of the Report must be examined by independent, outside auditors without an agenda. The auditors cannot casually disregard applicable laws and relevant evidence. If the Auditor General submits the conclusions in the Report, there is a substantial risk that the Legislature or ASRS could act on flawed conclusions and recommendations and jeopardize the retirements of many innocent Arizonans.

AUDITOR GENERAL REPLY: *During a special review, the Auditor General's function is not merely to compile a list of data, but to analyze and interpret data and make sound determinations about the facts, and to present those results in a synopsis format that is useful to interested parties. As such, the public report does not detail all of the evidence examined by auditors. Rather, the public report's purpose is to summarize the most significant findings determined by auditors at the conclusion of their review. The Auditor General's quality control process ensures that the reported findings, conclusions, and recommendations are unbiased, adequately supported, and logical.*

Plainly, the conclusions in the Report must be re-examined. Until the Auditor General presents an impartial analysis of the laws, evidence, and testimony, the findings of the Auditor General are not agreed to by the District. Nevertheless, as the auditors are well aware, the District is in the process of winding down its relationship with ACCA, as it has previously done with ABEC and EVP. Further, the District intends to continue to work in good faith with ASRS to address the issues relating to those employees enrolled in the Arizona State Retirement System.