



**OFFICE OF AUDITOR OF STATE  
STATE OF IOWA**

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**NEWS RELEASE**

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FOR RELEASE \_\_\_\_\_ December 12, 2011, 6 P.M.

Auditor of State David A. Vaudt today released a reaudit report on the Johnston Community School District for the period July 1, 2009 through June 30, 2010. The reaudit also covered certain items to determine practices applicable to prior years and the year ended June 2011. The reaudit was performed as a result of a request by Johnston School Board Member John Dutcher pursuant to Chapter 11.6(4)(a)(2) of the Code of Iowa.

Vaudt reported evidence of Board approval of employment contracts was lacking for periods prior to fiscal year 2012. However, he also reported there was no apparent indication of intent by the Board or other District officials to avoid statutory requirements related to administrative and related employment contracts. Vaudt also noted the District had revised its procedures to document Board approval and related compliance matters with the District's fiscal year 2012 employment agreements.

Other findings and recommendations addressed Board minutes, use of consent agendas and compliance with Chapter 21 of the Code of Iowa, use of facsimile signature stamps and compliance with Chapter 291.1 of the Code of Iowa and taxable aspects of cell phones and commuting meals. The District responded favorably to the findings and recommendations. The District's responses are included with each finding and recommendation in the reaudit report.

A copy of this reaudit report has been filed with the Iowa Department of Education for its review and information. A copy of this reaudit report has also been filed with the Polk County Attorney for review and information.

A copy of the reaudit report is available for review in the District's Business Office, in the Office of Auditor of State and on the Auditor of State's web site at <http://auditor.iowa.gov/specials/1030-3231-T00Z.pdf>.

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**JOHNSTON COMMUNITY SCHOOL DISTRICT**  
**AUDITOR OF STATE'S REPORT ON REAUDIT**  
**FOR THE PERIOD**  
**JULY 1, 2009 THROUGH JUNE 30, 2010**

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**Johnston Community School District**

**Officials**

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
<b>Board of Education (Before September 2009 Election)</b>		
Christopher Sonner	President	2009
Mike Farrell	Vice-President	2011
Tyler Buller	Board Member	2009
Ralph Young	Board Member	2009
Jackie Heiser	Board Member	2011
Jill Morrill	Board Member	2011
Tracey Orman	Board Member	2011
<b>(After September 2009 Election)</b>		
Tracey Orman	President	2011
JackieHeiser	Vice President	2011
Mike Farrell	Board Member	2011
Jill Morrill	Board Member	2011
Marci Cordaro	Board Member	2013
John Dutcher	Board Member	2013
Julie Walter	Board Member	2013
<b>District Officials</b>		
Clay Guthmiller	Superintendent	2012
Jan Miller-Hook	Executive Director of Financial Services	2011
Bev Lyons	District Secretary	2010
Ronald L. Peeler	Attorney	Indefinite

**Johnston Community School District**



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Auditor of State's Report on Reaudit

To the Board of Education of the  
Johnston Community School District:

We received a request to perform a reaudit of the Johnston Community School District under Chapter 11.6(4)(a)(2) of the Code of Iowa. We determined a partial reaudit was necessary to further investigate specific issues identified in the request for reaudit and through our review of the preliminary information available. Accordingly, we have applied certain tests and procedures to selected accounting records and related information of the Johnston Community School District for the period July 1, 2009 through June 30, 2010. We also inquired and performed procedures for certain items to determine practices applicable to prior years, as noted, and the year ended June 30, 2011. The procedures we performed are summarized as follows:

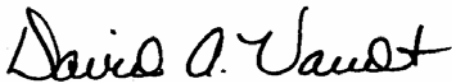
- 1) We reviewed the District's minutes record for compliance with certain statutory requirements, including closed sessions pursuant to Chapter 21 of the Code of Iowa and salary publications pursuant to Chapter 279.35 of the Code of Iowa.
- 2) We reviewed the District's minutes record for actions taken, if any, pertaining to review and approval of administrative contracts, including the Superintendent's contract.
- 3) We reviewed the District's minutes record and District policy and inquired about the District's annual performance evaluation reviews.
- 4) We reviewed the District's records and inquired about, obtained and reviewed District policy and compliance with Chapter 279.23A of the Code of Iowa in regard to background checks pertaining to the Superintendent.
- 5) We reviewed the District's minutes record and District policy pertaining to the Board's use of consent agendas.
- 6) We reviewed the agreement with G. Tyron & Associates pertaining to the District's fiscal year 2006 Superintendent search for compliance with selected criteria related to procurement of services, authorization and payment for services.
- 7) We obtained and tested selected administrative contracts, including the Superintendent's contract, for compliance with Chapters 279 and 291.1 of the Code of Iowa.

- 8) We interviewed certain current and prior Board Members to obtain their understanding of Board procedures in determining the terms and conditions included in administrative contracts, including the Superintendent's contract.
- 9) We interviewed certain current administrators and administrative staff to obtain their understanding of administrative procedures in determining and documenting the terms and conditions included in administrative contracts, including the Superintendent's contract.
- 10) We inquired about District policy and internal control practices pertaining to the use of facsimile signature stamps and compliance with Chapter 291.1 of the Code of Iowa.
- 11) We obtained and reviewed District policies regarding early retirement for compliance with Chapter 279.46 of the Code of Iowa and consistency in administrative contracts.
- 12) We inquired about and reviewed the District's policy and practices pertaining to the taxable aspects of cell phone reimbursements and travel allowances to District employees.

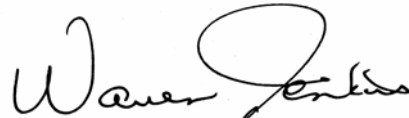
Based on the performance of the procedures described above, we have various recommendations for the District. Our recommendations and the instances of non-compliance are described in the Detailed Findings of this report. Unless reported in the Detailed Findings, no items of non-compliance were noted during the performance of the specific procedures listed above.

The procedures described above are substantially less in scope than an audit of financial statements made in accordance with U.S. generally accepted auditing standards, the objective of which is the expression of an opinion on financial statements. Accordingly, we do not express an opinion. Had we performed additional procedures or selected additional administrative contracts or had we performed an audit of the Johnston Community School District, additional matters might have come to our attention that would have been reported to you. A copy of this reaudit report has been filed with the Iowa Department of Education for its review and information. A copy of this reaudit report has also been filed with the Polk County Attorney for review and information.

We would like to acknowledge the assistance extended to us by personnel of the Johnston Community School District. Should you have any questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience.



DAVID A. VAUDT, CPA  
Auditor of State



WARREN G. JENKINS, CPA  
Chief Deputy Auditor of State

October 11, 2011



## **Detailed Findings**

Johnston Community School District

Detailed Findings

July 1, 2009 through June 30, 2010

- (A) Administrative Contracts – Applicable statutory references and District policy pertaining to administrative contracts are included in **Exhibit 1**.

**BACKGROUND**

The following information was determined through discussions with selected District officials and employees. Except for one former Board President who declined to be interviewed, we interviewed certain current and former members and Presidents of the Johnston Community School District Board of Education. We also interviewed certain current administrators and administrative staff. In addition, we reviewed selected Board minutes and supporting documentation, including selected employment contracts.

The Superintendent, with assistance from the Superintendent's cabinet, is responsible for preparing budget information, including recommendations for employee salaries and benefits. The Superintendent's cabinet includes the Executive Director of Financial Services, the Associate Superintendent of Human Resource Services and the Executive Director of Academic Affairs.

Once union agreements with the Johnston Education Association (JEA) and the Johnston Educational Support Personnel Association (JESPA) are approved, the Superintendent's cabinet begins the process of preparing salary and benefit information for non-union employees. Non-union employees include administrators, directors, coordinators, deans and other professional staff. In developing this information, the District uses marketplace analyses for comparison with other local school districts to ensure the District remains competitive.

After this information is compiled, it is presented to the Board's Finance Committee for review and development of a recommendation for the Board of Education. Some of the individuals interviewed indicated salary and benefit information was, or would have been, discussed by the Board's Finance Committee. However, since the Board's Finance Committee did not take or retain minutes of its meetings, we were unable to determine the specific information discussed or recommended, including whether the Board's Finance Committee discussed the specific terms and conditions of administrative contracts.

Certain individuals interviewed represented the Board's Finance Committee typically provided its recommendations to the Board of Education for the Board's review and discussion in closed sessions. However, the Board of Education's minutes did not document, and we were unable to determine, whether this information was discussed and, if so, whether it was discussed in closed session, exempt session (collective bargaining under Chapter 20 of the Code of Iowa) or open session.

Pursuant to Chapter 21.5(4) of the Code of Iowa, the District keeps detailed minutes of all discussion, persons present and action occurring at a closed session and tape records closed sessions. The detailed minutes and tape recordings of closed sessions are sealed and, as such, are not public records open to public inspection. The District keeps the detailed minutes and tape recordings of closed sessions for a period of one year from the date of the meeting.

While certain individuals represented actions were not taken in closed session, the Board minutes did not document any actions taken in open session regarding specific terms and conditions of administrative contracts. Accordingly, we were unable to determine the extent or whether salaries, benefits and/or terms and conditions of administrative contracts were reviewed, discussed or approved by the Board of Education or whether the Board of Education reviewed, considered or approved generic contracts for employee groups.

Certain individuals interviewed represented the Superintendent's salary was discussed separately from other administrative contracts by both the Board's Finance Committee and the Board of Education. Chapter 279.23 of the Code of Iowa permits continuing contracts for administrators and states, in part, "Superintendents may be employed under section 279.20 for a term not to exceed three years." The Superintendent's contract was revised each year to extend the contract to cover a three year period. The Board minutes did not document, and we were unable to determine, the specific information discussed in regard to the Superintendent's contracts and whether any discussions took place in closed session, exempt session or open session. We were also unable to determine whether salaries, benefits and/or terms and conditions, including the period of the contracts with the Superintendent, were discussed by the Board of Education or whether the Board of Education reviewed, considered and/or acted on the contracts with the Superintendent.

Employment contracts are drafted and initially reviewed by Human Resources staff for accuracy and completeness based on a listing of salary information for non-union employees. The employment contracts are then reviewed by the Accounting Supervisor. Based on discussions, salary information was summarized in a listing for all non-union employees and communicated to Human Resources staff. The Superintendent represented the Board President typically communicated his salary, benefits and the terms of his contract to Human Resources for inclusion in his contract.

While the Board's Finance Committee and the Board of Education apparently discussed administrative contracts, we were unable to definitively determine the specific contract terms and conditions recommended by the Board's Finance Committee and/or approved by the Board of Education. It was also unclear how the terms and conditions of the Superintendent's contract were derived. As noted, the Superintendent's contract was reportedly discussed separately and the salary and certain benefits included in the Superintendent's contract were included or modified from year to year without evidence of Board discussion or approval.

Of the six administrative contracts tested for fiscal years 2007 through 2012, certain changes in benefits were noted from year to year without supporting documentation or evidence of Board approval. Except for the Superintendent's contract, the changes in benefits noted in the administrative contracts were consistent. However, the Superintendent's subsequent annual contracts included changes in benefits compared to the initial contract for fiscal year 2007 for term life insurance, tax sheltered annuity, travel allowance and retirement. For example:

Term Life Insurance: The District included term life insurance benefits of \$100,000 paid in full by the District in the Superintendent's fiscal year 2007 and 2008 contracts. However, the life insurance coverage paid in full by the District increased to total coverage of two times the annual salary in the fiscal year 2009 and 2010 contracts. Coverage paid in full by the District changed to total coverage of two times the annual salary with a limitation of \$350,000 added to the fiscal year 2011 contract and continued in the fiscal year 2012 contract.

Tax Sheltered Annuity (TSA): The District did not include a benefit for a TSA in the Superintendent's fiscal year 2007 contract. However, for fiscal years 2008 through 2012, the Superintendent's contract included a provision for a TSA at 10% of the total annual gross salary with no provision for an employee contribution. Other administrative contracts for the same periods included a provision for a TSA at 3% of the total annual gross salary contingent upon a 2% employee contribution.

Travel Allowance: The District included a travel allowance of \$6,600 in the Superintendent's fiscal year 2007 contract. No travel allowance was included in the fiscal year 2008 contract, but a travel allowance of \$2,660 was included in the Superintendent's fiscal year 2009 contract. Travel allowances were not included in the Superintendent's contracts for fiscal years 2010, 2011 or 2012.

According to the May 18, 2009 Board minutes, the consent agenda items included a listing of fiscal year 2010 salaries and a note stating, "Superintendent's salary represents no increase for the 2009-2010 year per his request." However, in fiscal year 2010, the Superintendent's salary was increased from \$174,896 to \$177,556, an increase of \$2,660. Based on discussions following an IPERS determination regarding travel allowances and on the advice of District legal counsel, the amount previously provided as a travel allowance was eliminated as a travel allowance and instead was added to the Superintendent's wages, effectively increasing the Superintendent's IPERS wages by the amount of the previous travel allowance of \$2,660.

Retirement: The District offered early retirement benefits consistent with Board Policy (with age exceptions) in the Superintendent's fiscal year 2007 contract, but no early retirement benefits were offered in the fiscal year 2008 contract. In the fiscal year 2009, 2010 and 2011 contracts, provisions were included requiring the District to continue to provide insurance to the Superintendent upon eligible IPERS retirement or permanent disability until the Superintendent qualifies for Medicare. The fiscal year 2012 contract included similar retirement provisions except "qualifies for Medicare" was changed to provide benefits until the Superintendent "reaches age 65."

These retirement provisions vary from the District's Employee Retirement policies which require applicants (employees) to have ten years of full time service in the District within the twelve consecutive years prior to the retirement year. We did not find evidence of Board approval to waive the years of service provision for the Superintendent.

Several current and former members and Presidents of the Board of Education we interviewed represented no approval or actions were conducted in closed session. However, since the Board minutes did not always include documentation of discussion and Board action, we were unable to determine whether the benefits added and/or modified were discussed or approved by the Board of Education. Prior to the employment contracts approved in 2011 for fiscal year 2012, employment contracts were primarily signed using the Board President's facsimile signature stamp.

Of the six administrative contracts and two administrative support staff contracts tested for fiscal years 2007 through 2012, several contracts for fiscal years 2007 through 2011 were signed by the employee after the date required to be signed as established in the Board contract and some contracts were signed after the effective date of the contract. No exceptions were noted for fiscal year 2012 contracts tested.

Board of Education discussion and related actions taken, if any, pertaining to the Superintendent's and other administrative contracts were not documented in the Board

minutes prior to June 13, 2011. At the June 13, 2011 Board meeting, the Board acted to extend contracts to current staff and approve the Superintendent's contract, as well as administrative and non-union contracts and benefits.

Recommendation – While we did not find any indication of intent by the Board or other District officials to avoid statutory requirements, documentation of the Board's discussion and approval of administrative contracts, including the Superintendent's contract, was lacking. Based on the number of District official and employee representations, the lack of documentation of Board approval appeared to be a long-standing practice of the current and prior administrations, although there appeared to have been Board discussion of the administrative contracts, including the Superintendent's contracts.

Based on the number of District official and employee representations, there appears to have been Board discussion and apparent agreement to arrive at the consistent terms and conditions included in other administrative contracts. However, due to the lack of documentation, it remains unclear whether the Board reached agreement to arrive at the terms and conditions, including the period of the contracts, included in the Superintendent's contract, especially in years when changes were made to the benefits included in the Superintendent's contract.

As noted, the District revised procedures for fiscal year 2012 contracts. In the future, the District should ensure all employment contracts for employee groups and/or individuals, including the Superintendent and other administrators, are approved by the Board of Education, including the specific salary, benefits and terms of the employment agreements, and those provisions are appropriately documented in the Board minutes. Contracts should be signed in a timely manner within the parameters specified in the contract. Pursuant to Chapter 291.1 of the Code of Iowa, the Board President should sign all contracts made for the Board. However, the Board may specifically permit and delegate the responsibility to sign teaching contracts and support personnel contracts to the Superintendent by Board resolution in accordance with Chapter 279.13(1)(c) and Chapter 279.20(2) of the Code of Iowa, respectively.

Response – As noted in the audit recommendation, the District did revise procedures for the fiscal year 2012 contracts. The revised procedures include all employee groups and/or individuals, including the Superintendent, being taken to the Board for approval, including specific salary benefits and terms of the employment approval, including specific salary, benefits and terms of the employment agreements with those provisions being appropriately documented in the Board minutes. The revised procedures also include the Board President signing all employment contracts until the District either revises policy to allow the Superintendent by Board resolution to sign teaching contracts and support personnel contracts, or there is a legislative change in the requirement. Contracts will be signed in a timely manager within the parameters specified in the contract.

Conclusion – Response accepted.

- (B) G. Tryon & Associates Contract – According to the Board minutes dated February 13, 2006, the Board unanimously approved the selection of G. Tryon and Associates to conduct a Superintendent search. The District was unable to produce the original signed contract. However, the District had a copy of the contract with G. Tryon & Associates, which we obtained and reviewed, in conjunction with the District's search for a new Superintendent during fiscal year 2006.

The Board minutes did not include documentation of the Board's review, discussion or approval of the terms and conditions of the contract with G. Tryon & Associates. In addition, the signed contract copy was dated February 6, 2006 but was not approved by

the Board until February 13, 2006. The contract copy was signed by the Board President and Board Secretary with what appeared to be original signatures.

Recommendation – As previously noted, the Board should approve, and the Board minutes should document the Board's approval of, the terms and conditions of contractual obligations. The original contract should be signed and retained. Except as expressly permitted or authorized, contracts should not be signed prior to Board approval.

Response – Our current practice (and practice for the last four years) does require all contracts to be approved by the Board with the Board minutes documenting the approval as well as terms and conditions of the contractual obligations. Original contracts are signed by the Board President or presiding officer if the Board President is absent at the Board meeting.

Conclusion – Response accepted.

- (C) Board Minutes – Applicable statutory references pertaining to Board Minutes are included in **Exhibit 2**.

We reviewed selected Board minutes for the period July 1, 2009 through June 30, 2010 and selected Board minutes for prior and subsequent periods, as noted, to determine compliance with Chapter 21 of the Code of Iowa, including closed session requirements and whether minutes were signed to authenticate the record. We noted the following:

- Nine instances of closed sessions pursuant to Chapter 21.5(1)(i) of the Code of Iowa did not document who was evaluated and the minutes record did not document the individual's request for a closed session.
- Although the Board minutes stated "Motion carried," the Board minutes for April 22, 2008 did not document the vote, as required by Chapter 21.5(2) of the Code of Iowa, to go into closed session pursuant to Chapter 21.5(1)(i) of the Code of Iowa.
- Minutes were not available for the Board meeting on April 11, 2006 at which the Board interviewed the candidates for Superintendent. The Superintendent represented he was interviewed by the full Board.
- Minutes were not available for the Board meeting on May 12, 2011 when the Board met in closed session with legal counsel to discuss administrative contracts. We were unable to determine the propriety of the closed session since the applicable section of the Code of Iowa was not documented in the Board minutes as required.
- Although agendas were prepared, minutes of meetings of the Board's Finance Committee were not taken or retained and we found no evidence the District posted notice of meetings of the Board's Finance Committee as required by Chapter 21.4 of the Code of Iowa.
- The Board minutes for the meetings of October 25, 2010 and January 10, 2011 were not signed to authenticate the record.

Recommendation – The District should comply with the requirements of Chapter 21 of the Code of Iowa and minutes should be maintained and retained for all meetings of the Board. Additionally, while not required by statute, the Board Secretary and Board President should ensure all minutes are signed to authenticate the record.

While the District is not specifically required by statute to identify the individual evaluated by name or position in the Board minutes, the District should document in the minutes and/or obtain and retain a written request from individuals to be evaluated in closed session pursuant to Chapter 21.5(1)(i) of the Code of Iowa.

The Board's Finance Committee appears to meet the definition of a governmental body pursuant to Chapter 21.2 of the Code of Iowa. Accordingly, the Board's Finance Committee should post agendas and notice of meetings and "keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting" as required by Chapter 21.3 of the Code of Iowa.

Response – In compliance with Chapter 21 of the Code of Iowa, minutes will be maintained and retained for all meetings of the Board. Minutes are signed by the Board President and Secretary when they are approved as part of the consent agenda. The two sets of minutes mentioned in the audit were accidentally missed, but these are now checked for signatures before being filed.

The District will require a written request from the individual to be evaluated in future closed sessions pursuant to Chapter 21.5(1)(i) of the Code of Iowa, and the request will become part of the documentation of the minutes for the closed sessions. A roll call vote will be taken before going into closed sessions and will be recorded in the minutes.

All committee meetings, including Finance Committee, have agendas and meeting notices posted on eboards. Arrangements have now been made for minutes to be taken at all committee meetings.

Conclusion – Response accepted.

- (D) Facsimile Signature Stamps – Chapter 291.1 of the Code of Iowa requires the Board President to sign all contracts. In regard to warrants, Chapter 291.1 of the Code of Iowa provides, "The president or the president's designee shall sign, using an original or facsimile signature, all school district warrants drawn as provided by law. The board of directors, by resolution, may designate an individual, who shall not be the secretary, to sign warrants on behalf of the president."

Chapter 291.8 of the Code of Iowa requires the District Secretary to "countersign (warrants) using an original or facsimile signature."

The use of facsimile signature stamps is permitted to sign warrants but not contracts.

The District does not have a policy addressing or permitting the use of facsimile signature stamps. As previously noted, prior to the employment contracts approved in 2011 for fiscal year 2012, employment contracts were primarily signed using the Board President's facsimile signature stamp.

The only individual with a facsimile signature stamp is the Board President. The District has three Board President facsimile signature stamps. The fiscal year 2011 Board President was only aware of the signature stamp used to sign employee contracts and the electronic signature used for payroll and other checks (warrants) and diplomas. According to District officials and staff representations, the stamps are in the possession of three different employees and are used as follows:

- Administrative Assistant to the Associate Superintendent: used to sign employee contracts.
- Assistant to the Superintendent: used (rarely) in case of emergency as directed by the Board President when the Board President is not available.

- Executive Secretary to the Associate Principal of Youth Homes and Director of Special Education: used to sign inter-agency agreements for the Special Education Instructional Program.

Recommendation – Pursuant to Chapter 291.1 of the Code of Iowa, the Board President shall sign all contracts made for the Board. While the use of facsimile signature stamps to sign contracts appears to be a common practice in Iowa school districts, the statutory requirement is for an original signature.

The District should review its use of facsimile signature stamps for compliance with Chapter 291.1 of the Code of Iowa. The District should implement a policy regarding the use of electronic signatures and facsimile signature stamps, including the number of facsimile signature stamps used. Procedures should be implemented to ensure proper controls are in place over the custody and use of the facsimile signature stamp(s) and to ensure compliance with the policy, including periodic monitoring to ensure the policy and established procedures are being followed as prescribed.

Response – Since the statutory requirement calls for an original signature by the Board President on all contracts made by the Board, this is now the District’s procedure.

The District will review its use of facsimile signature stamps for compliance with Chapter 291.1 of the Code of Iowa, and will implement a policy regarding use of electronic signatures and facsimile signature stamps, including the number of stamps used and proper controls over such use and custody. Development of this policy will be referred to the Policy Committee in December 2011.

Conclusion – Response accepted.

- (E) Consent Agendas – District Policy 204.15 titled “Consent Agendas” dated January 10, 2011 states, in part:

"Very often the board must consider agenda items which are noncontroversial or similar in content. Such agenda items might include ministerial tasks such as, but not limited to, the approval of the agenda, approval of previous minutes, approval of bills, approval of reports, etc. These items might also include similar groups of decisions such as, but not limited to, approval of staff contracts, approval of maintenance details for the school buildings and grounds, open enrollment requests or approval of various schedules. Approval of annual master contracts with JESPA, JEA and non-union groups will not be included in consent agenda."

Prior to the District’s implementation of District Policy 204.15, the District approved several contractual obligations through a consent agenda, including approval of salaries, but not benefits, for non-union and administrative staff and the Superintendent at the Board meeting on May 18, 2009. In addition, other consent agenda items noted included a grant agreement with the State of Iowa for \$692,000 to fund preschool, an amendment to a 28E agreement to establish and operate an Alternative School Program approved at the Board meeting on November 23, 2009 and early retirement for certain staff approved at the Board meeting on March 8, 2010. Various capital improvement contracts, including a building addition and renovation construction contract totaling \$4,417,558 approved at the Board meeting on August 23, 2010, were included in a consent agenda. Items approved through the consent agenda did not always appear to be routine in nature.

Recommendation – Although there are no specific statutory requirements, items approved through the consent agenda should be limited to noncontroversial, routine items not expected to require discussion or explanation, regardless of dollar amount.



Nonroutine contracts and agreements obligating the Board appear to be items warranting further discussion prior to approval and, therefore, should be approved through the discussion and action agenda. The District should review its practices pertaining to consent agenda items for consistency with Board policy 204.15 to allow only routine and noncontroversial items, regardless of dollar amount. The District should implement procedures to ensure compliance with the approved policy.

Response – Nonroutine contracts and agreements have been moved from the consent agenda, and are now part of the discussion and action agenda items.

Conclusion – Response accepted.

- (F) Mentoring Program Contract – Chapter 279.23 of the Code of Iowa pertaining to continuing contracts for administrators states, in part, "Contracts with administrators shall be in writing... (and include) such other matters as may be agreed upon."

In reviewing administrative contracts, we noted a variance between the employment contract and the actual amount paid to the District's Associate Superintendent for Human Services for fiscal year 2010. The variance of \$2,000 was represented to be payment for training performed for the District's Mentor Program pursuant to Chapter 284A.8 of the Code of Iowa. This was not included in the employment contract and the District did not have a separate contract with the Associate Superintendent for Human Services for fiscal year 2010 to perform Mentor Program training. We were unable to determine whether the Board approved this arrangement or the \$2,000 paid to the Associate Superintendent for Human Services.

Recommendation – The District should review and implement procedures to ensure compliance with Chapter 279.23 of the Code of Iowa and ensure contracts exist for all employment agreements. In addition, the District should adhere to the requirement for Board approval and the Board President's signature on contracts, as previously noted.

Response – All mentoring payments will be included in future contracts to ensure contracts exist for all employment arrangements, and as such, will be approved by the Board with the Board President's signature on said contracts.

Conclusion – Response accepted.

- (G) Evaluations – Chapter 279.23A of the Code of Iowa pertaining to evaluation criteria and procedures states, "The board shall establish written evaluation criteria and shall establish and annually implement evaluation procedures. The board shall also establish written job descriptions for all supervisory positions."

District policy 301.4 titled "Superintendent of Schools Evaluation" was adopted July 13, 1998 and was last revised as of April 25, 2011. This policy states, in part, "The board will conduct an ongoing evaluation of the superintendent's skills, abilities, and competence. At a minimum, the board will formally evaluate the superintendent on an annual basis."

Except for 2009, we obtained and reviewed original or copies of evaluations of the Superintendent, which were signed by the Superintendent on July 27, 2007, May 2008, August 25, 2010 and May 9, 2011. However, the evaluations were not signed by the reviewer(s) and the identity of the reviewer or reviewers was not apparent. Because the District does not document the identity of individuals reviewed in closed session, we were unable to determine whether evaluations of the Superintendent were conducted by the Board pursuant to District policy 301.4 in closed session or whether evaluations were performed under other circumstances.

Recommendation - The District should review and implement procedures to ensure compliance with Chapter 279.23A of the Code of Iowa and to ensure annual evaluations are performed. Original copies of the evaluations should be signed by both the reviewer(s) and the individual reviewed and should be retained. In addition, the District should obtain and retain a written request for closed session from individuals evaluated in closed session pursuant to Chapter 21.5(1)(i) of the Code of Iowa.

Response - In accordance with Chapter 279.23A of the Code of Iowa, annual evaluations will be performed. Original copies of the evaluations will be signed by both the reviewer(s) and the individual reviewed, and the evaluations will be retained. As mentioned in response C, the District will require a written request from the individual to be evaluated in future closed sessions pursuant to Chapter 21.5(1)(i) of the Code of Iowa, and the request will become part of the documentation of the minutes for the closed sessions.

Conclusion - Response accepted.

- (H) Taxable Aspects of Commuting Meals and Cell Phones - Certain District employees receive annual travel stipends ranging from \$600 to \$2,000 for travel within Polk County. In addition, certain District employees receive cell phone stipends of \$40 per month.

The cell phone stipends were not taxed prior to January 1, 2011. However, effective January 1, 2011, the District has appropriately included the cell phone stipends in the employee's taxable income as required by IRS regulations.

The travel stipends are appropriately included in the employee's taxable income. In addition to the travel stipend, employees are reimbursed for expenses incurred for travel outside of Polk County. Reimbursements for meals when employees are in commuting status are not taxed as required by IRS regulations.

According to IRS commuting guidelines, in order for reimbursement of an expense for business travel, including meals and lodging, to be excludable from income, a taxpayer must travel "away from home" in the pursuit of business on a temporary basis. The statutory phrase "away from home" has been interpreted by the U.S. Supreme Court to require a taxpayer to travel overnight, or long enough to require substantial "sleep or rest." Merely working overtime or at a great distance from the taxpayer's residence does not create excludable reimbursements for travel expenses if the taxpayer returns home without spending the night or stopping for substantial "sleep or rest."

Recommendation - The District should implement procedures to include the value of reimbursements for meals when employees are in commuting status in the employee's taxable income as required by IRS regulations.

Response - Meals when employees are in commuting status will no longer be reimbursed by the District. This clarification to the Employee Travel Compensation policy will be reviewed by the Policy Committee in December 2011.

Conclusion - Response accepted.

Johnston Community School District

Selected Statutory References and District Policy Regarding Administrative Contracts

July 1, 2009 through June 30, 2010

Chapter 291.1 of the Code of Iowa pertaining to the duties of the Board President states, in part:

"The president of the board of directors shall preside at all of its meetings, sign all contracts made by the board, and appear in behalf of the corporation in all actions brought by or against it, unless individually a party, in which case this duty shall be performed by the secretary. The president or the president's designee shall sign, using an original or facsimile signature, all school district warrants drawn as provided by law. The board of directors, by resolution, may designate an individual, who shall not be the secretary, to sign warrants on behalf of the president."

Chapter 279.20 of the Code of Iowa pertaining to the Superintendent, term and employment of support personnel states:

1. The board of directors of a school district may employ a superintendent of schools for a term of not to exceed three years. However, the board's initial contract with a superintendent shall not exceed one year if the board is obligated to pay a former superintendent under an unexpired contract. The superintendent shall be the executive officer of the board and have such powers and duties as may be prescribed by rules adopted by the board or by law. Boards of directors may jointly exercise the powers conferred by this section.
2. The board of directors of a school district may delegate the authority to hire support personnel and sign the support personnel employment contracts, if applicable, if the board adopts a policy authorizing the superintendent to perform such duties and specifying the positions the superintendent is authorized to fill. For purposes of this subsection, the term "*support personnel*" includes, but is not limited to, bus drivers, custodians, educational associates, and clerical and food service employees.

Chapter 279.23 of the Code of Iowa pertaining to continuing contracts for administrators states, in part:

1. Contracts with administrators shall be in writing and shall contain all of the following:
  - a. The term of employment which for all administrators, except for superintendents may be a term of up to two years. Superintendents may be employed under section 279.20 for a term not to exceed three years.
  - b. The length of time during the school year services are to be performed.
  - c. The compensation per week of five consecutive days or month of four consecutive weeks.

## Exhibit 1

- d. A statement that the contract is invalid if the administrator is under contract with another board of directors in this state covering the same period of time, until such contract shall have been released or terminated by its provisions.
  - e. Such other matters as may be agreed upon.
2. The contract shall be signed by the president and the administrator and shall be filed with the secretary of the board before the administrator enters upon performance of the contract. A contract shall not be tendered by an employing board to an administrator under its jurisdiction prior to March 15. A contract shall not be required to be signed by the administrator and returned to the board in less than twenty-one days after being tendered.
  3. Except as otherwise specifically provided, an administrator's contract shall be governed by the provisions of this section and sections 279.23A, 279.24, and 279.25, and not by section 279.13.
  4. For purposes of this section and sections 279.23A, 279.24, and 279.25, the term "*administrator*" includes school superintendents, assistant superintendents, educational directors employed by school districts for grades kindergarten through twelve, educational directors employed by area education agencies under chapter 273, principals, assistant principals, other certified school supervisors employed by school districts for grades kindergarten through twelve as defined under section 20.4, and other certified school supervisors employed by area education agencies under chapter 273. For purposes of this section and sections 279.23A, 279.24, and 279.25, with regard to community college employees, "*administrator*" includes the administrator of an instructional division or an area of instructional responsibility, and the administrator of an instructional unit, department, or section."

District Policy "Administrative Personnel Employment - Individual Contracts" 312.1 in effect prior to April 25, 2011 stated:

"Contracts with administrators shall be in writing and shall state the number of contract days, the annual compensation to be paid, the compensation per month of four consecutive weeks and any other matters as may be mutually agreed upon.

Such contracts shall be approved by the Board of Directors, signed by the President and filed with the Secretary.

The contract shall automatically continue in force for one year following expiration unless mutually modified or terminated by the parties. Contracts for all certificated personnel will automatically continue for equivalent periods unless the contract is terminated or modified by mutual agreement between the Board of Directors and the staff member or is otherwise terminated by the Board of Directors."

Johnston Community School District

Selected Statutory References Regarding Board Minutes

July 1, 2009 through June 30, 2010

Chapter 21.2 of the Code of Iowa pertaining to definitions, states, in part:

1. “*Governmental body*” means:
  - a) A board, council, commission, or other governing body expressly created by the statutes of this state or by executive order.
  - b) A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.
  - c) A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs “a” and “b” of this section.
  - d) An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.
2. “*Meeting*” means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.
3. “*Open session*” means a meeting to which all members of the public have access.

Chapter 21.3 of the Code of Iowa states, in part: “Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting.”

Chapter 21.4 of the Code of Iowa pertaining to public notice states, in part:

1. A governmental body, except township trustees, shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.
2. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities."

## Exhibit 2

Chapter 21.5(1) of the Code of Iowa states, in part, "A governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary..." and lists 12 specific reasons a governmental body may hold a closed session. Selected reasons pursuant to Chapter 21.5 of the Code of Iowa include:

- (i) To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session."

Chapter 21.5(2) of the Code of Iowa requires, "The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes."

Chapter 291.6 of the Code of Iowa pertaining to duties of the (Board) Secretary, states, in part:

"The secretary shall:

1. *Preservation of records.* File and preserve copies of all reports made and all papers transmitted pertaining to the business of the corporation.
2. *Minutes.* Keep a complete record of all the proceedings of the meetings of the board and of all regular or special elections in the corporation in separate books."

Johnston Community School District  
Staff

This reaudit was performed by:

Susan D. Battani, CPA, Director  
Marlys K. Gaston, CPA, Manager  
James R. Wittenwyler, Senior Auditor

A handwritten signature in black ink that reads "Andrew E. Nielsen". The signature is written in a cursive style with a large, prominent "A" and "N".

Andrew E. Nielsen, CPA  
Deputy Auditor of State

## Appendix A

**Separately Provided Information:** Board Member John Dutcher submitted the following document separately from the official responses submitted by the District and incorporated into findings A-G of this reaudit report. The Auditor of State accepts no responsibility and makes no assertions as to the accuracy or propriety of the following statement submitted by Board Member, John Dutcher:

**Requester's Response to Preliminary Report of the Re-Audit of the Johnston Community School District by the Office of the Auditor, State of Iowa**  
*John Dutcher, APR, November 10, 2011*

In my May 24, 2011, request for a re-audit of the Johnston Community School District by the Office of the Iowa Auditor to determine the propriety and procedures surrounding district employment contracts, my statement of concern focused on a single question: **“Whether or not the district’s board of directors and its presidents (current and past) have complied with the Code of Iowa and have exercised (individually and collectively) adequate fiduciary oversight of District employment contracts, which comprise more than 80 percent of the District’s annual budget.** I requested a review of all Board actions related to these contracts to determine the extent to which district-employed administrators complied with Iowa Code, the board’s policies and district administrative procedures in the negotiations, development, approval and execution of contracts with all people employed by the district.

I read the Iowa Auditor’s findings, outlined in the re-audit report on this matter, as a resounding **“NO”** answer to my question of concern (above). But with the benefit of hindsight and additional information I have obtained and shared with the Auditor’s office, I realize now that I should have rightly posed additional questions, which likely would have precipitated a more comprehensive re-audit.

I appreciate that the re-audit’s applications of “certain tests of selected accounting records and related information” related to the employment of **eight (8) district employees** (all administrators or administrative support personnel) yielded findings of **eight (8) statutory violations, not to mention numerous board policy violations.** Yet, I am extremely disappointed that matters pertaining to the District’s collectively bargained (master) contracts, which make up the lion’s share of its personnel budget, were not explored primarily for evidence of Iowa Code compliance and fraud.

In reading the Auditor’s report, I empathize heavily with the task the audit team faced in conducting this re-audit. In many respects, based on the findings and my own personal experiences, the district’s employment contractual practices are more akin to what one would expect in a “banana republic,” not one of Iowa’s largest public school corporations. And certainly not those expected in a public school district in what is widely advertised as “A Community of Character.” It is a very painful report to read.

And in believing, as I do, that this re-audit report touches just the tip of an iceberg, my heart breaks for the students this district’s administrators and board members exist to serve. They have not been well served, and indeed short-changed, by many current and past administrators and board members for whom they should be able to look to as positive examples of integrity and good character.

As a publicly elected director of the corporation, I likely have had even less access to our incomplete and sometimes highly mobile records than the Auditor’s office was afforded. Slipshod record keeping and retention, inadequate administrative and personnel policies and administrative procedures, failure to abide by the Code of Iowa and existing board policies, and a general lack of transparency with the board have left the trail of “administrative



documentation” on its recommendations and resulting board actions for nearly a decade to be based largely on “he said/she said” recollections of current and former board members. That is simply unacceptable for a public corporation with an annual budget approaching \$80 million.

### ***Disappearing and Reappearing Files***

How strange are things, really? Not since the Clinton’s famous Whitewater files miraculously appeared on a hall table overnight at the White House have documents come and gone with such stealth precision. Case in point: On May 19, 2011 from 9 – 11:45 a.m. I reviewed the personnel file of District Superintendent Clay Guthmiller to review the past execution of his employment contracts prior to submitting the request for a re-audit. At that time, I noted to the human resources department secretary Maurine Bjornson that the file that was labeled to contain Mr. Guthmiller’s annual performance reviews was empty. Ms. Bjornson stated: “We (the Human Resources Department) had never been able to get them from Mr. Guthmiller,” whom she said she assumed retained them himself. Following review of the re-audit report on Oct. 11, 2011, in which auditors noted (to my surprise) that the 2009 performance review of Mr. Guthmiller by the Board was missing from his personnel file, I wondered how they had suddenly “reappeared.”

I returned to the District’s Human Resources Department on Oct. 20, 2011 to review several personnel files, Mr. Guthmiller’s among them. In that file I did find performance appraisals for all years, except – as the auditor’s report noted -- the 2009 appraisal. In reviewing the appraisals, I also noted that the 2010 appraisal summary had a handwritten note on it which read “Added to file by Julie Walter, 8-25-2010.” Ms. Walter was then vice president of the board and, together with then president Tracey Orman, would have summarized the board’s input on Mr. Guthmiller’s performance and conducted the meeting at which its findings were discussed. Per Iowa Code, at the conclusion of that review, both Mr. Guthmiller and Ms. Orman should have signed the review document and had it placed in his personnel file. By phone conversation, I confirmed that Ms. Walter said she did personally take the review document to Ms. Bjornson to be filed in late August 2010. So why was the file empty when I reviewed it on May 19, 2011?

If school district personnel files are considered “sacrosanct,” it rather begged the question, “How complete or “permanent” are other human resource personnel files?” To that question, I applied another test. I requested and reviewed the personnel file on Associate Superintendent and Human Resources Director Dr. Jim Casey. Like Mr. Guthmiller’s contracts, Dr. Casey’s employment contracts going back to 1994 (when he was hired to serve as a High School Principal) sometimes were executed after the statutory deadline of June 30, with a date range of an early best of May 10, to as late as July 25 (1997). Note: Of employment contracts he signed in the 1990s most were executed after the statutory deadline (July 24, 1994, July 10, 1995, July 22, 1996, July 25, 1997, July 10, 1998.) Again, most bore rubber stamps of whomever was the board president at the time.

Dr. Casey’s personnel file also was missing annual performance appraisals for the employment years 1996, 1999, 2000, 2002, 2003, and 2005 or 2006. (Dr. Casey became Associate Superintendent and Human Resources Director in July 2004 following the resignation of Dr. Scott. So he would have had primary responsibility for the department from then on.) 1995’s evaluation was in the file but was unsigned. I was curious upon reading his performance review for 2006 to see that it was signed by then Superintendent Dick Sunblad in June 2005. So it is unclear to me whether the aforementioned document covered 2005, 2006 or both years’ performance.

When I returned to her office and questioned Ms. Bjornson as to why an administrator’s file would be missing six or seven years of performance appraisals, Dr. Casey entered the room and

## Appendix A

asked, “Whose file is missing performance appraisals?” To which I replied “Yours, Jim.” He left the room and returned to his office. I got no answer to my question from Ms. Bjornson and returned to the conference room to finish my review of another file.

Meanwhile, Ms. Bjornson entered Dr. Casey’s office, closed the door and I could hear file drawers opening and closing. After about 20 minutes had passed, she exited the office with a sheaf of papers and headed down the hall. She returned a few minutes later with copies of two of the more recent years’ missing performance appraisals, and said that “Dick, (former superintendent Sunblad) probably just kept the others on his computer. “

But by Iowa Code, I believe they are to be signed by both the reviewer and the individual whose performance is being evaluated. Wouldn’t it be at least a matter of personal pride – at a minimum – that one would expect the Human Resources Director’s personnel file to be in order? And is there something in those missing reviews, as in the missing 2009 Guthmiller review, that is being intentionally shielded from current district directors? Or are the parties involved just really bad at fulfilling their work review responsibilities?

### Summary

In conclusion, the re-audit has partially fulfilled its needed function by exposing the statutory shortcomings of the Johnston Community School District board of directors who – for the better part of a decade – at best placed too much trust in district officials to operate the district within the letter of the law. Or, at worst, colluded with them -- in some cases for personal benefit -- to enrich administrators without proper disclosure to the full board and the public it serves.

The re-audit report provides a very helpful reminder of the statutory requirements of board members and the administrators who serve them. That being said, there are three questions that I believe remain unanswered and which I believe would be appropriately investigated by (as per jurisdiction) the offices of Polk County Attorney, the Iowa Attorney General and Iowa Campaign Ethics and Disclosure. They are:

- 1) **Whether or not a long-running fraud was perpetuated against the Johnston Community School District Board of Directors (at large) and the citizens of the school district by the superintendent, associate superintendent, other administrators and certain officers and members of the Board, whereby large (double-digit) salary adjustments, and benefits changes were made to certain administrators without full disclosure to the board and public.** The audit report clearly indicates that practices and procedures set forth in Iowa Code to prevent such abuses were not followed regarding these matters and certainly created the “opportunity” for such fraud to be perpetrated.
- 2) **The extent to which the Superintendent, the Associate Superintendent and other administrators colluded with the district teachers’ union (the Johnston Education Association) to shield the board from full details of union contracts (and their financial ramifications) during negotiations and at the point of settlement approval.** These would include such items as: Leaving “lane changes” out of the total board reported contract settlements; Leaking (in an article published in *The Des Moines Register* in early 2011) the maximum settlement package possible under district finances to the union while contract negotiations were still underway; Failure (under board policy) to seek board approval of the district negotiating team prior to commencement of negotiations; Failure to allow the board full and timely review of the final negotiated master contract before its board approval; Failure to execute the union contracts with the Board President’s original signature; And a general “quid pro quo” relationship between senior administration and JEA chief negotiators and presidents (in

evidence by board rooms packed with union members uproariously supportive of administrators when administrators' contracts or health benefits were under discussion). The district's relationship with JESPA, its union of school associates, also should be explored. But given the highly disparaging treatment JESPA has received from administration, I doubt that is as fertile a field for inquiry as that of the teacher's union.

- 3) **Whether or not the district administrators and the Johnston teacher's union (Johnston Education Association) has violated Iowa campaign ethics and Iowa Code in its utilization of district equipment and information technology assets intended for education to influence the outcome of school director elections during 2011 and in prior years.** (To favor board candidates who have "looked the other way," rather than exercised their oath-bound duties to exercise proper fiduciary oversight of the school district.) And, further, the exploration of such candidates who were the beneficial recipients of such assistance.

It is well past time for The State of Iowa, Polk County and the citizens of Johnston make a determination as to whether or not the Johnston Community School District's administration and its board of directors is simply grossly incompetent, or corrupt. I urge the Auditor of State to refer this matter on to the appropriate agencies for further investigation to make that determination. That would allow the board to may make the necessary changes in administration and afford the public the opportunity to make the necessary changes in the board.

Iowa school districts have a proud history of effective local control. But to allow the situation in the Johnston Community School District to continue any longer not only negatively impacts each and every student we serve, but diminishes the perceived validity of a locally elected board of directors as an effective form of citizen oversight of taxpayer investment in public schools.