



OHIO AUDITOR OF STATE
KEITH FABER



LIBERTY LOCAL SCHOOL DISTRICT
TRUMBULL COUNTY

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OHIO AUDITOR OF STATE KEITH FABER



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Liberty Local School District
Trumbull County
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To Liberty Local School District Board of Education; Dr. Andrew Tommelleo, Superintendent; Maureen Lloyd, Treasurer/CFO:

Background

The Auditor of State, Special Investigations Unit (SIU) conducted a criminal investigation and special audit of the Liberty Local School District (the District) predicated on allegations the former Superintendent directed staff to submit knowingly false data to the Ohio Department of Education (ODE).

The investigation began on December 18, 2018, after SIU received a complaint through the fraud hotline alleging the District Superintendent, Joseph Nohra, instructed support staff to submit inflated data to ODE for a new Career-Based Intervention (CBI) Program in order for the District to receive additional ODE funds.

While investigating the allegation, we were advised of the existence of a hidden camera placed in a private office at the transportation building, and the information was used to effectuate the resignation of the Transportation Secretary. It was further uncovered the camera captured both video and audio of conversations that occurred in the office. The Trumbull County Sheriff's Office assisted with the hidden camera portion of the investigation.

Search Warrants to obtain records regarding both the CBI program and the audio and video files from the hidden camera were granted by the Trumbull County Court of Common Pleas, and on March 4, 2019, the warrants were executed at the District buildings and Board of Education offices. After the information obtained from interviews, search warrants, and preliminary examination of District CBI Program records and the audio/video files were considered, a special audit was declared by the Auditor of State.

This engagement was conducted in accordance with the [Auditor of State Special Investigations Unit, Quality Standards](#).

Suspect

Mr. Nohra became the Superintendent of Schools for the District effective August 1, 2017 (serving in an interim capacity beginning in April), with a five-year contract expiring July 31, 2022. Mr. Nohra resigned from his position with the District effective August 2, 2020. Prior to this appointment, Mr. Nohra had been Superintendent of Struthers City Schools from 2012 to 2016, and the Chief Operating Officer of Youngstown City Schools from January to March of 2017.

Schemes

CBI Enrollment Data

For the 2018-2019 school year (the Period), the District implemented a CBI program for the seventh and eighth grades. A CBI program is an ODE Career-Technical Education program designed for students ages 12 to 21 and in grades seven through 12, who are identified as disadvantaged (either academically, economically, or both) and/or students with disabilities, who have barriers to achieving academic and career success. The program is designed to help students improve academic competency, develop professional skills, and implement a career plan that will serve them on the path to graduation and beyond.

To qualify for CBI funds, ODE required the District to submit data to ODE via the Education Management Information System (EMIS). Eligible students participating in the CBI program must have the disadvantaged/disability status indicated on the student demographics screen in EMIS as outlined in section 2.5 of the EMIS manual. Additionally, eligible students must then be enrolled in a CBI “anchor” course¹ and receive at least 120 hours of classroom instruction during the school year.

At the beginning of the Period, less than 10 students were enrolled in the District’s CBI program. Since the CBI course was offered during the same class period as music (choir and band) courses, music teachers were contacted to inquire if any music students would like to move to the CBI program. In response, only a few additional students moved to the CBI program, without regard to their eligibility status.

On October 31, 2018 (first EMIS data submission)², Mr. Nohra instructed the seventh and eighth grade principal to have staff enroll all music students into the CBI program as full-time participants even though: they would only be participating one day per week; had not followed the application process; nor had the students been vetted for eligibility. District records showed there were 100 students enrolled in the music program. The addition of the music students into the CBI course created an error in EMIS since the students were simultaneously enrolled as full-time students in two classes during the same class period. In order to circumvent the class period error, staff created “CBI courses” and assigned each music student to a phantom class period. This created additional EMIS errors, as all students were not identified as being disadvantaged and/or disabled, which is a CBI program eligibility requirement. Mr. Nohra then directed staff to ensure all music students were coded as disadvantaged in EMIS to make them eligible for the program, without confirming they met the disadvantaged requirements.

Incidentally, on December 5, 2018, two days after SIU received the fraud complaint and the day after the complainant alerted the building principals of the issue, District personnel discovered nearly all the students previously enrolled in the fictitious music CBI courses were no longer listed as enrolled.

The CBI data was manipulated contrary to Ohio Rev. Code § 5705.391, which notes in part, ODE may limit, suspend, or revoke a license as defined under § 3319.31 of the Revised Code that has been issued to any school employee found to have willfully contributed erroneous, inaccurate, or incomplete data required for the submission of the five-year projection required by this section³. However, due to EMIS system limitations with data submissions being additive and over-ridden with each subsequent submission, we were unable to obtain the District’s CBI data submissions from ODE to identify the inflated data and subsequent correction. We did obtain confirmation from ODE that the District submitted data to ODE on December 5, 2018 and December 6, 2018. By January 2019, only 11 students were enrolled in the seventh and eighth grade CBI programs instead of the 100 students submitted when the music students were improperly reported. Additionally, ODE reconciled funding calculations based on the final data submission; therefore, the District did not receive additional funding based on the inflated data, since the correction occurred prior to year end⁴.

Hidden Camera

Mr. Nohra directed the District’s IT Support and Maintenance Supervisor (IT Supervisor) to purchase a “spy camera”, emphasizing a requirement that the camera must have the capability to record audio. Mr. Nohra claimed the Transportation Secretary was performing private real estate work while on District time, and the camera was needed in order to obtain enough evidence for termination.

The IT Supervisor was instructed by Mr. Nohra to install the camera directly above the Transportation Secretary’s desk without her knowledge. In order to avoid suspicion, the Transportation Secretary was advised the fire department required the placement of a carbon monoxide detector in her office and that’s where the camera was placed. The camera was installed during the District’s spring break, and recorded data from April 9, 2018 through April 24, 2018.

¹ ODE CBI Manual of Operations, August 2018, page 11.

² The first three to four months of a school year are funded based upon previous year’s data.

³ FY19 ODE EMIS Manual Section 1.1.1.

⁴ CBI funding is based on a complex calculation, and we were unable to determine the potential amount of inflated revenue.

The camera was motion-activated and automatically saved video files approximately every minute to a SD card located inside the camera. In addition, the IT Supervisor installed an application on Mr. Nohra's personal cell phone that allowed for the audio and video footage to be monitored in real-time. The first part of the recordings captured on April 9, 2018, did not contain audio, and Mr. Nohra instructed the IT Supervisor to correct the issue so audio would be captured.

On April 23, 2018, the Transportation Secretary went to the District's Board of Education office to deliver mail and was asked to attend a meeting with Mr. Nohra and her union representative. During that meeting, she was accused of conducting personal business on District time and was placed on paid administrative leave. Several weeks later, a meeting was conducted at the District between the Transportation Secretary's union attorney, Mr. Nohra, and attorneys representing the District. Several videos with audio were played during the meeting and the District advised the Transportation Secretary's union attorney they would not press criminal charges against her for theft of time if she resigned⁵. The Transportation Secretary signed the District's separation agreement, with her resignation effective May 31, 2018.

On April 24, 2018, Mr. Nohra directed the IT Supervisor to dismantle the camera and to save all of the camera's files. A few weeks later, the physical camera was removed from the carbon monoxide detector and placed on a shelf in the technology office.

During the March 4, 2019 search warrant execution, SIU obtained 3,690 video files. We noted the following:

- The first 56 video files did not contain audio, but the subsequent videos contained both video and audio.
- The camera gave a clear view of the Transportation Secretary at her desk.
- Other individuals were also captured on the recordings, although due to the camera placement, their bodies were not seen; only their voices were heard.
- There were a significant number of personal/confidential conversations captured on the recordings including medical conditions, sensitive relationship issues, and union business.
- 1,505 video files captured the Transportation Secretary alone or an empty office.
- 2,185 video files contained the Transportation Secretary and at least one other person.

In partnership with the Trumbull County Sheriff's Office, SIU conducted interviews resulting in the identification of 27 individuals in the recordings. An additional three people were observed on the videos, but we were unable to determine their identities. Of the 30 individuals in the videos, 22 were District personnel and 8 were vendors and/or family and friends of the Transportation Secretary.

The audio and video recordings were taken contrary to Ohio Rev. Code § 2933.52(A)(1), which notes in part, no person purposely shall do any of the following: Intercept, attempt to intercept, or procure another person to intercept or attempt to intercept a wire, oral, or electronic communication, and Ohio Rev. Code § 2933.51(B), which states in part, "oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying that expectation. Thus, no person shall intercept an oral communication in which the party has a reasonable expectation of privacy. These oral communications were intercepted in a private transportation office. We interviewed 24 of the individuals identified in the videos and noted the following:

- All parties interviewed were able to identify their voice in the audio and all stated they felt they had an expectation of privacy in the Transportation Secretary's office.
- None of the individuals knew they were being recorded while taking part in the conversations.
- None of the District employees captured in the videos felt the District's surveillance policy applied to audio recordings in private offices, but referred to the security cameras on busses and in busy areas of the schools, such as cafeterias and public portions of the school offices. There were signs posted in these areas notifying people of the cameras and they were under the impression cameras would only be present in areas where signs were posted.

⁵ SIU investigated the theft of time matter, but based on flaws in the recording system, Mr. Nohra setting up fake real estate calls, and the entirety of the Transportation Secretary's work time not conducted solely in the transportation office, we were unable to ascertain if the Transportation Secretary had or had not performed the daily required work hours for the District.

- All individuals we spoke with felt the Transportation Secretary's office constituted a private office with many noting people had to be buzzed-in to enter through the public door. Others could come in the other entrance via the bus garage, but those people could be seen or heard before entering so individuals could pause their conversation if needed.
- Multiple employees claimed they felt so secure in the Transportation Secretary's office they changed their clothing, with one such event captured by the hidden camera, although out of clear view from the video.

The communications qualified as protected oral communications since the individuals uttering them had a reasonable expectation of privacy. Additionally, Ohio Rev. Code § 2933.52(B) which lists exceptions to the interception of oral communications notes, in part, this section does not apply to any of the following: (4) A person who is not a law enforcement officer and who intercepts a wire, oral, or electronic communication, if the person is a party to the communication or if one of the parties to the communication has given the person prior consent to the interception. Mr. Nohra and/or the Board were not parties to the communication and the Transportation Secretary did not give prior consent to the interception. Additionally, while the Transportation Secretary was the individual suspected of conducting private business during the school day, she was not the only individual whose protected oral communications were intercepted. 29 additional individuals had their protected oral communications intercepted who were not suspected of wrongdoing.

The District had a policy allowing for video surveillance, District policy 7440.01 titled Video Surveillance and Electronic Monitoring⁶, which contained details for when the District can use video surveillance. However, the following noncompliance was noted:

- A report was not provided explaining the necessity of having surveillance in the private office of the Transportation Secretary, nor was there any indication the District considered other less intrusive/invasive means.
- The policy acknowledges private offices are places with a reasonable expectation of privacy where appropriate confidential or private activities/functions are routinely carried out.
- While the policy contains the caveat "absent extraordinary circumstances", a definition is not provided. We did not consider a potential theft of time by one employee as an "extraordinary circumstance". Additionally, Mr. Nohra instructed staff to document any discussions about him or the District, neither of which would have qualified as an "extraordinary circumstance".
- The privacy interest of other persons likely to be observed must be weighed against the District's need for the recording. There is no indication the District performed such an evaluation.
- There was no written authorization from Mr. Nohra permitting the recording of sound in connection with the surveillance/electronic monitoring system, and the transportation office did not contain any signs notifying individuals of potential recording.
- The former Liberty Police Chief was consulted regarding the Transportation Secretary's alleged theft of time. The Chief advised Mr. Nohra the issue was an administrative matter, and the Liberty Police Department would not be getting involved. Thus, Mr. Nohra was informed he was not investigating criminal conduct, which was an exception for the notice requirement.
- Once the Transportation Secretary was removed from her office on April 23, 2018, the video remained active and protected oral communications were intercepted for an additional day.

The District recognized the seriousness of protecting the privacy interests of those being recorded, as it was emphasized multiple times throughout the policy. The use of video recording in the private transportation office was not supported by District policy and there was a complete disregard for the privacy interests of those being recorded. We did not interpret the Transportation Secretary's alleged theft of time as an infraction justifying the violation of her right to privacy or the violation of rights of the 21 other District employees and eight non-District employees, who were not under internal investigation.

⁶ SIU was provided two versions of policy 7440.01 by the Board's legal representatives: one with an adoption date of July 14, 2009, and one with an adoption date of April 1, 2013. The April 1, 2013 version was the policy in effect during the period of our investigation and is referenced herein.

Findings

Based on the special audit procedures and investigation, the Auditor of State confirmed the allegation that Joseph Nohra directed District staff to enter inflated data into EMIS which was then transmitted to ODE. However, the inflated data was removed prior to the foundation settlement payments being finalized and the District did not receive any improper CBI funding. Therefore, criminal charges were not pursued and a finding for recovery will not be issued.

Additionally, the Auditor of State confirmed the allegation that Mr. Nohra directed the installation of a device to intercept protected oral communications of 30 individuals in violation of Ohio Rev. Code § 2933.52 and interfered with the civil rights of the individuals surreptitiously recorded per Ohio Rev. Code § 2921.45. However, the District did not suffer a monetary loss and therefore, no finding for recovery will be issued.

Prosecution

At the conclusion of the special audit and investigation, a prosecution packet was presented to the Trumbull County Prosecutor.

On May 3, 2021, Joseph Nohra was indicted by the Trumbull County grand jury on 11 counts in Trumbull County Common Pleas Court case no. 2021CR368, including:

- Five counts of Interception of Wire, Oral or Electronic Communications, in violation of Ohio Rev. Code §§ 2933.52(A)(1) and (C), felonies of the fourth degree;
- One count of Interception of Wire, Oral or Electronic Communications, in violation of Ohio Rev. Code §§ 2933.52(A)(3) and (C), a felony of the fourth degree; and
- Five counts of Interfering with Civil Rights, in violation of Ohio Rev. Code § 2921.45(A)&(B), misdemeanors of the first degree.

On February 8, 2023, a bench trial was presided over by Honorable Judge Ronald J. Rice. Mr. Nohra was found not guilty on all counts and the case was dismissed. However, civil complaint no. 2021CV776 (also related to the hidden camera), filed with the Trumbull County Common Pleas Court, is pending.

The special audit report was provided to the Board and Management. The District was given five business days to respond to the special audit report and to request an exit conference. A response was not received from the District.



Keith Faber
Auditor of State
Columbus, Ohio

April 21, 2023

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OHIO AUDITOR OF STATE KEITH FABER



LIBERTY LOCAL SCHOOL DISTRICT SPECIAL AUDIT

TRUMBULL COUNTY

AUDITOR OF STATE OF OHIO CERTIFICATION

This is a true and correct copy of the report, which is required to be filed pursuant to Section 117.26, Revised Code, and which is filed in the Office of the Ohio Auditor of State in Columbus, Ohio.



Certified for Release 6/13/2023

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