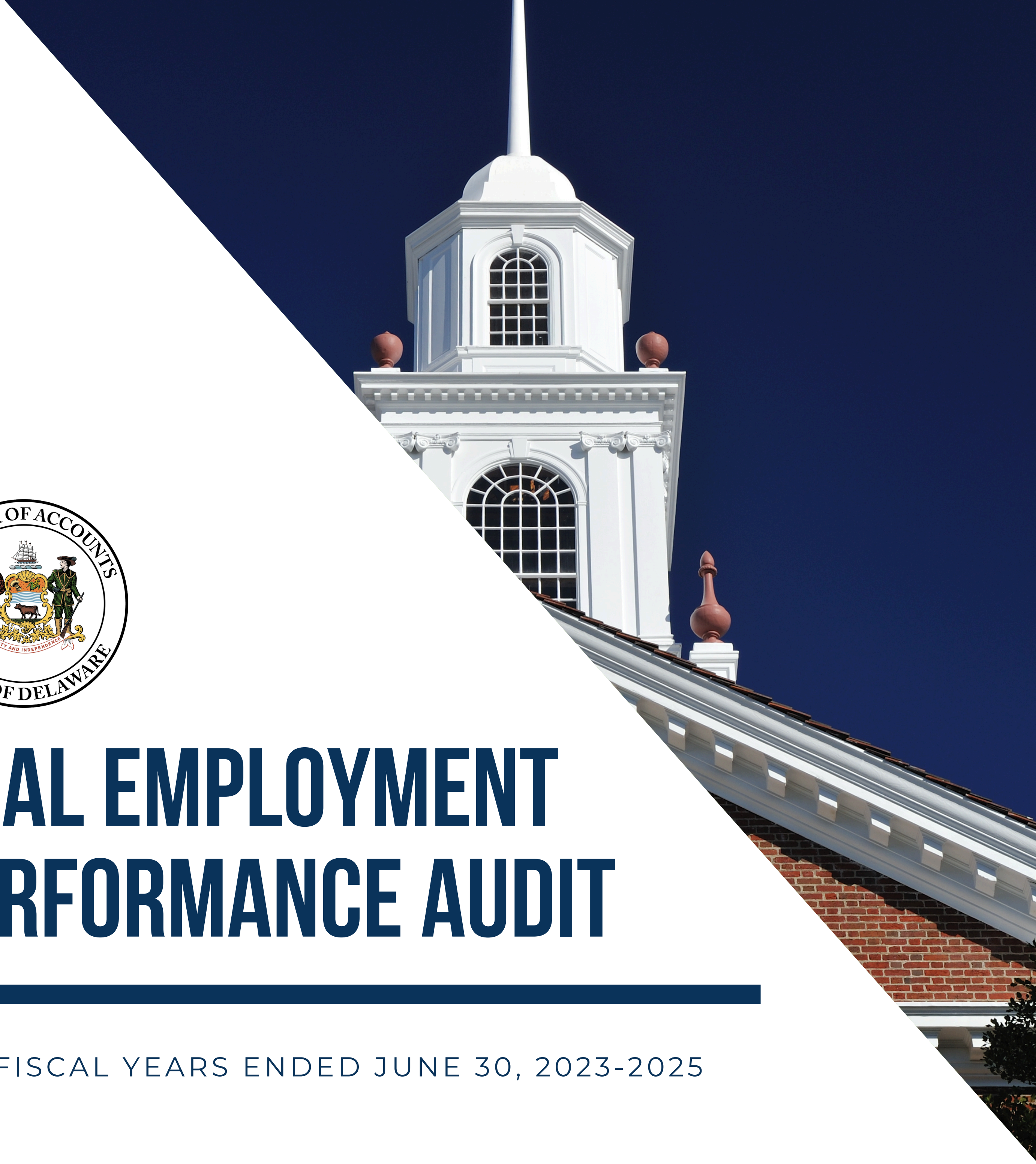

DUAL EMPLOYMENT PERFORMANCE AUDIT

FOR FISCAL YEARS ENDED JUNE 30, 2023-2025

DUAL EMPLOYMENT

REPORT SUMMARY FOR FISCAL YEARS ENDED JUNE 30, 2023-2025

BACKGROUND

The Dual Employment Law (the Law) (29 Del. C. Ch. 58, Subchapter III), enacted in 1986, is intended to ensure that public employees are not compensated by multiple taxpayer-funded employers for coincident hours worked. The Law requires Covered Organizations to maintain accurate time records for dually employed officials, verify work hours through supervisory review at least once each pay period, and reduce or prorate compensation when employees are "absent" from their primary employment to perform elected or appointed duties.

The Office of Auditor of Accounts (AOA) conducted this performance audit to determine whether State agencies and political subdivisions complied with the Law for the fiscal years ended June 30, 2023, 2024, and 2025. The audit was conducted pursuant to AOA's authority under 29 Del. C. § 2906 and the statutory requirement that the Law be audited annually.

KEY INFORMATION AND FINDINGS

AOA was unable to fully assess whether State agencies and political subdivisions complied with the Law. This condition existed because the State continues to lack a comprehensive process for classifying, identifying, and monitoring dual employment relationships and activities. AOA could not successfully develop a complete and accurate population of dually employed individuals by combining information from the Payroll Human Resources Statewide Technology (PHRST) system, Public Integrity Commission (PIC) disclosure documents, and Legislative Hall records.

AOA continued to face longstanding challenges previously identified in prior audit cycles. Significant weaknesses in both statewide oversight and Covered Organizations level compliance are outlined below:

KEY INFORMATION AND FINDINGS CONTINUED

- At the statewide level, the PIC, the entity responsible for administering the State's dual employment requirements, lacks sufficient staffing, technological resources, and centralized data collection processes to effectively carry out its oversight responsibilities. The PIC currently relies primarily on annual self-disclosure filings and has no automated system capable of identifying individuals employed concurrently by multiple public entities.

- At the statewide Enterprise Resource Planning (ERP) system level, the absence of standardized, enterprise-wide reporting of individuals with dual employment relationships materially limits the State's ability to consistently monitor compliance, detect potential instances of noncompliance, and provide complete and reliable audit evidence.

- At the Covered Organizations level, AOA found inconsistent implementation of statutory requirements. Many organizations did not maintain the separate verified time records required by the Law, had not incorporated dual employment requirements into their internal control processes, and lacked formal procedures to ensure supervisory verification of work hours or appropriate payroll adjustments for coincidence hours.

- AOA encountered significant scope limitations affecting the engagement. Most notably, the University of Delaware declined to provide certain requested personnel, payroll, and scheduling records, limiting AOA’s ability to independently verify compliance for employees may have been subjected to State appropriations.

Overall, the audit concludes that Delaware's current dual employment oversight framework is fragmented and largely dependent on manual processes and employee self-reporting. The absence of centralized oversight, monitoring, automated detection capabilities, and clearly defined accountability significantly increases the risk that coincident hours worked by dually employed individuals will not be identified or corrected.

KEY INFORMATION AND FINDINGS CONTINUED

To strengthen compliance and improve accountability, AOA recommends that the PIC and responsible oversight entities consider statutory and administrative improvements that will achieve the following:

- Define, clearly, the responsibilities of employment in Covered Organizations, PIC and dually employed individuals.
- Establish a centralized, automated statewide process and reporting for classifying, flagging, tracking and monitoring dual employment relationships, both historical and current dual employment status and associations.
- Strengthen agency accountability for maintaining required time records, supervisory certifications, and payroll adjustments.
- Add PIC staff to improve statewide coordination and oversight to ensure consistent compliance with the requirements of the Law.

These improvements would enhance transparency, strengthen internal controls, and reduce the risk of improper compensation from multiple taxpayer-funded sources during coincidence work hours.

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Abbreviations:

AOA	Delaware Office of Auditor of Accounts
BAM	State of Delaware Budget and Accounting Policy Manual
BLS	Belfint Lyons & Shuman
CAP	Corrective Action Plan
COBIT	Control Objectives for Information and Related Technologies
COSO	Committee of Sponsoring Organizations of the Treadway Commission
DHR	Delaware Human Resources
DLC	Delaware Learning Center
DSU	Delaware State University
DTCC	Delaware Technical Community College
ECS	Eastside Charter School
GAAP	Generally Accepted Accounting Principles
PHRST	Payroll and Human Resource Statewide Technology
PIC	Public Integrity Commission
PIRS	Public Integrity Reporting

State of Delaware
Office of Auditor of Accounts

Lydia E. York
State Auditor

INDEPENDENT AUDITOR'S REPORT

Ronald H. Chaney, Chairperson
Benjamin Warshaw, Commission Counsel
State of Delaware Public Integrity Commission
410 Federal Street
Margaret O'Neil Building, Suite 3
Dover, DE 19901

Ruth Ann Miller, Controller General
Richard Puffer, Chief Clerk
Ryan Dunphy, Secretary of the State
State of Delaware General Assembly
411 Legislative Avenue
Dover, DE 19901

Dear Gentlemen and Madam:

We conducted a performance audit over the Delaware Public Integrity Commission (PIC) and certain Covered Organizations as authorized under 29 Del. C., §58 Laws Regulating the Conduct of Officers and Employees of the State for fiscal years ended June 30, 2023, 2024 and 2025. In addition, 29 Del. C., §2906 authorizes the Office of the Auditor of Accounts (AOA) to audit financial transactions and state agencies as necessary to carry out its statutory responsibilities.

The objectives of this audit were to determine whether the PIC and Covered Organizations complied with applicable provisions of 29 Del. C. Chapter 58 governing dual employment, including requirements related to governance, oversight, payroll processing, timekeeping, documentation, monitoring and internal controls designed to ensure compliance with Dual Employment Law.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides reasonable basis for our findings and conclusion based on the audit objectives, except for the effects of the scope limitation described in the report.

Government Auditing Standards recognize that performance audits are not designed to detect all instances of fraud, waste, abuse, or noncompliance. Accordingly, the possibility exists that material instances of fraud, waste, abuse, or noncompliance may not be detected during the course of the audit.

During the audit, we encountered significant limitations in the availability, completeness, retention, and accessibility of records maintained by multiple State agencies and Covered Organizations. In numerous instances, records necessary to address the audit objectives were unavailable, incomplete, or had not been maintained in accordance with applicable record retention requirements. When sufficient, appropriate audit evidence could not be obtained, we performed alternative audit procedures where practicable.

Based on the audit work performed, we concluded that significant deficiencies exist in the State's governance structure to support administration and compliance with the Dual Employment Law, such as:

- oversight processes,
- internal controls,
- record retention practices, and
- information systems supporting administration and compliance with the Dual Employment Law.

The absence of reliable records prevented us from obtaining sufficient, appropriate evidence to fully assess compliance and resulted in scope limitations. In accordance with GAGAS, these scope limitations and their effect on our findings and conclusions are described throughout this report.

This report is intended solely for the information and use of the Covered Organizations, the Delaware State Public Integrity Commission, and the Office of the Auditor of Accounts, and is not intended to be, and should not be, used by anyone other than these specified parties. Under 29 Del. C., §10002(o), this report is a matter of public record, and its distribution is not limited. This report, as required by statute, will be provided to the Office of the Governor, General Assembly, Office of the Controller General, Office of the Attorney General, and Office of Management and Budget

Respectfully,

Lydia E. York
State Auditor
Office of Auditor of Accounts
Dover, Delaware
June 30th , 2026

PERFORMANCE AUDIT OVERVIEW

The Government Accountability Office (GAO) issues Generally Accepted Government Auditing Standards (GAGAS), commonly referred to as the *Yellow Book*. These standards establish the professional framework for conducting government audits with competence, integrity, objectivity, and independence. GAGAS requires auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives.

Performance audits provide objective analysis, findings, and conclusions to assist oversight bodies and management in improving program performance, accountability, and compliance with applicable laws, regulations, policies, and internal controls. In conducting a performance audit, auditors identify the legal and regulatory provisions significant to the audit objectives, assess the risks of noncompliance, and design audit procedures responsive to those risks. Audit evidence is evaluated against established criteria to determine whether the audited entities complied with applicable requirements and whether internal controls were designed and implemented to support compliance.

Where sufficient, appropriate evidence cannot be obtained because records are unavailable, incomplete, or otherwise inaccessible, GAGAS requires auditors to disclose the resulting scope limitations and their effect on the audit findings and conclusions.

Overall Conclusion

AOA conducted this performance audit to evaluate compliance with the Delaware Dual Employment Law (29 Del. C. Chapter 58) and the effectiveness of governance, oversight, payroll processing, timekeeping, and documentation supporting compliance.

During the audit, AOA encountered significant limitations in the availability, completeness, retention, and accessibility of records maintained by multiple State agencies and Covered Organizations. In addition, neither the PIC nor any centralized State entity maintained a complete and reliable population of individuals subject to the Dual Employment Law. As a result, AOA was required to perform alternative audit procedures to identify potentially dually employed individuals and assess compliance.

The audit further determined that the State does not have an integrated information system with corresponding coincidence time / hours worked. The lack of such a report limited AOA from consistently identifying individuals holding concurrent taxpayer-funded positions or monitoring overlapping work schedules and compensation across multiple agencies and Covered Organizations. This limitation significantly impairs the State's ability to effectively administer and monitor compliance with the statutory requirements of 29 Del. C. Chapter 58.

Based on the audit work performed, AOA concluded that significant deficiencies exist in the State's governance structure, oversight processes, internal controls, record retention practices, and information systems supporting compliance with the Dual Employment Law. These deficiencies limited the availability of sufficient, appropriate audit evidence for certain audit objectives and resulted in scope limitations, as discussed throughout this report.

Looking Forward

Until the State establishes fully integrated reporting mechanisms, clearly assigns oversight responsibilities, implements standardized record-retention requirements, and develops reliable statewide processes for identifying and monitoring dual employment relationships, the risk that statutory violations, improper concurrent compensation, and other instances of noncompliance will occur and remain undetected will continue. The findings and recommendations presented in this report are intended to strengthen accountability, improve oversight, and enhance compliance with the requirements of 29 Del. C. Chapter 58.

BACKGROUND

Public Integrity Commission

The PIC was established, under 29 Del. C. Chapter 58, Laws Regulating the Conduct of Officers and Employees of the State, to administer and enforce Delaware's Code of Conduct for State officers and employees. The Commission's statutory responsibilities include administering and enforcing provisions related to standards of ethical conduct, financial disclosure requirements, lobbyist registration and reporting, and other provisions established under Chapter 58.

In addition to its responsibilities for State government, the Commission administers the Code of Conduct for political subdivisions that have not adopted their own ethics codes pursuant to Chapter 58. During the audit period, the Commission administered the State Code of Conduct for 48 political subdivisions. Nine political subdivisions had adopted their own ethics codes and therefore administered their own local ethics programs.

Dual Employment Overview

The Delaware Dual Employment Law, codified in 29 Del. C. Chapter 58, establishes requirements governing individuals who concurrently hold employment with a covered organization while serving in an elected or compensated appointed public office.

The law generally prohibits an individual from receiving compensation from tax-funded sources for the same hours worked. Covered Organizations are responsible for ensuring that compensation is not paid for coincidence work hours and that appropriate payroll adjustments are made when an employee performs duties associated with an elected or compensated appointed office during scheduled work hours. The law also requires Covered Organizations to maintain sufficient records supporting employee work schedules, time worked, leave usage, payroll adjustments, and other documentation necessary to demonstrate compliance with statutory requirements.

Covered Organizations and Officials

For purposes of this audit, the term “Covered Organizations” refers to the State of Delaware, its agencies, political subdivisions, state-funded educational institutions and other entities subject to the requirements of 29 Del. C. Chapter 58. Political subdivisions include counties, cities, municipalities, and other entities meeting the statutory definition provided in the Delaware Code.

The term “Officials” refers to individuals who concurrently held employment with a covered organization while serving in an elected or compensated appointed public office during the audit period.

Throughout this report, “Coincident Time” refers to overlapping work hours during which an individual performs duties associated with more than one taxpayer-funded position during the same scheduled work period.

The jurisdictional scope of "Covered Organizations" and the corresponding enforcement of the Dual Employment Law are governed by the statutory definitions of "State," "State agency," "State employee," and "political subdivision" pursuant to 29 Del. C. Ch. 58 (*Laws Regulating Conduct of Officers and Employees of the State*).

Identification of Dually Employed Officials and Covered Organizations

To identify individuals potentially subject to the Delaware Dual Employment Law, AOA obtained and analyzed information from multiple sources, including the State's Payroll Human Resource Statewide Technology (PHRST) system, Public Integrity Reporting System (PIRS) financial disclosure records, legislative records, and information provided by State agencies and other Covered Organizations. Additionally, the States has multiple payroll systems that are not integrated, making dual employment verification a challenge.

Audit procedures included analyzing PHRST concurrent employment reports, payroll records, personnel information, and Public Officer Financial Disclosure filings for fiscal years 2023 through 2025. AOA also requested information from the General Assembly, the Governor's Office, the Department of Human Resources (DHR), and selected Covered Organizations to identify individuals serving in elected or compensated appointed positions while concurrently employed by Covered Organizations.

During the audit, AOA determined that no standardized and integrated statewide process and information system exists to identify all individuals subject to the Delaware Dual Employment Law. In addition, no single State entity maintains a complete population of dually employed individuals or comprehensive records necessary to monitor statewide compliance. Additionally, the States has multiple payroll systems that are not integrated, making dual employment verification a challenge. Consequently, AOA performed alternative audit procedures to identify the audit population and obtain sufficient, appropriate evidence to address the audit objectives. The limitations associated with the availability and completeness of these records are discussed in the Findings and Recommendations section of this report.

AUDIT RESULTS

AOA is statutorily charged with providing independent assurance regarding compliance with the Delaware Dual Employment Law (29 Del. C. Ch. 58). However, AOA was unable to conduct a fully effective performance audit in accordance with GAGAS due to pervasive deficiencies in availability, retention, and accessibility of audit evidence across multiple State entities resulted in significant scope limitations. These limitations prevented AOA from obtaining sufficient, appropriate evidence to perform key audit procedures and provide reasonable assurance regarding statewide compliance.

The scope limitations identified during the audit resulted from two distinct yet interconnected systemic deficiencies:

I. Deficient System Infrastructure and Internal Controls Environment

The State lacks the foundational systems, reporting capabilities, administrative controls, and dedicated resources necessary to effectively administer and monitor compliance with the Delaware Dual Employment Law. The existing statewide ERP system does not adequately classify, track, or report individuals engaged in historical dual employment relationships in a timely, effective, and relevant manner.

Oversight responsibilities assigned to the PIC are further constrained by limitations within the Time Keeping and PHRST systems. Specifically, current PHRST reporting is not developed to allow for timely, assessable reporting of historical employment relationship activities, requiring agencies to rely on inefficient and high-risk manual data extraction processes that limit effective oversight and auditability. Furthermore, these two systems are not integrated and therefore reporting will remain less optimal. Additionally, there are multiple payroll systems utilized in the State, and they have not been fully integrated with PHRST.

Absence of Operational Policies and Transparencies

Numerous Covered Organizations, including the General Assembly and the PIC, were unable to provide sufficient timekeeping records, approval documentation, payroll calculations, and other supporting records necessary to verify compliance with statutory restrictions governing coincidence hours of employment. These deficiencies were compounded by:

- the absence of standardized onboarding disclosures regarding dual employment obligations;
- inconsistent implementation of statutory reporting requirements applicable to elected and judicial officials;
- inconsistent documentation and record-retention practices across Covered Organizations; and
- the absence of designated personnel responsible for monitoring and enforcing compliance.

Overall Conclusion

AOA concludes that the current compliance framework is inadequate to support effective oversight of dual employment activities. The absence of reliable historical records and overlapping work time reporting, coupled with inconsistent agency-level policies and documentation practices, creates a significant barrier to transparency and accountability. As a result, the State cannot reliably identify individuals engaged in dual employment or effectively determine whether statutory requirements have been met.

This operational deficiency creates a substantial risk that statutory violations, potential improper concurrent compensation, and unauthorized taxpayer-funded payments may occur without timely detection. The auditor's ability to access compliance was further impaired by significant scope limitations encountered at specific Covered Organizations, most notably at the University of Delaware.

- **University of Delaware's Scope Limitation**

  The University of Delaware (University) maintained its historical position that its governance structure exempted it from providing requested payroll and personnel records. However, the governing legal authority applicable to this audit was established by a formal opinion of the Delaware Attorney General dated February 21, 2008, which expressly concluded that State-funded salaries paid by the University are subject to audit pursuant to 29 Del. C. §5822. Furthermore, compliance with lawful audit request pursuant to statutory authority is mandatory and is not subject to unilateral interpretation by the audited entity.

  By withholding requested records based upon a self-determined exemption, University management materially restricted the AOA's ability to fulfill its statutory responsibility to examine the expenditure of public funds. Consequently, AOA was unable to obtain sufficient, appropriate audit evidence regarding dual employment activities involving University personnel during the audit period, resulting in an unresolved scope limitation.

- **Evaluation of Corrective Actions**

  The Auditor acknowledges and appreciates the University's commitment to comply fully with the clarified statutory requirements beginning May 2026, prospectively. This commitment represents an important step toward improving transparency, accountability, and future compliance. However, prospective corrective actions do not remedy historical noncompliance or eliminate the audit limitations affecting prior periods.

  Because the University did not provide the records necessary to support audit testing, AOA was unable to obtain reasonable assurance regarding the propriety of State-funded compensation associated with dual employment arrangements prior to May 2026. Accordingly, AOA cannot provide assurance regarding compliance with statutory requirements or the appropriate use of State funds for the affected period covering fiscal years 2023, 2024 and 2025.

Meaningful compliance with the Delaware Dual Employment Law, and the broader objectives of public transparency, accountability, and stewardship of taxpayer resources, cannot be achieved under the current framework.

To address the systemic deficiencies identified during this audit, the State and all Covered Organizations should:

- establish centralized systems capable of identifying, tracking and reporting dual employment activities;
- integrate multiple payroll systems to one centralized system and fully integrate with ERP;
- strengthen statewide internal controls and reporting capabilities;
- implement standardized onboarding disclosures and compliance procedures;
- assign clear responsibility for monitoring and enforcing compliance; and
- maintain consistent documentation and record-retention practices sufficient to support oversight and independent audit.

Until these corrective actions are fully implemented, significant risks to statutory compliance, fiscal accountability, and the effective stewardship of public resources will remain.

FINDINGS and MANAGEMENT'S RESPONSE

Finding 23-25/1: PIC's Inadequate Controls Over Identification and Oversight of Dually Employed Individuals

Criteria

- The Delaware Dual Employment Law (29 Del. C. Ch. 58, Laws Regulating the Conduct of Officers and Employees of the State)
- Standards for Internal Control in the Federal Government (GAO Green Book)
- Budget and Accounting Manual (BAM) Chapters 2 and 14.2.1, Internal Controls and Provisions on Controls, respectively
- Public Integrity Commission Ethics Bulletin No. 009

Condition

AOA determined that the State has not established an effective internal control framework to identify, monitor and oversee individuals subject to the Delaware Dual Employment law. Specifically:

- PIC oversight responsibilities have not been supported by formally documented policies, procedures or consistent communication protocols.
- Identification of potentially dually employed individuals requires manual extraction and review of large, unfiltered datasets, resulting in inefficient processes and an increased risk that dual employment relationships may not be identified in a timely and complete manner.
- Formal statewide procedures for implementing and enforcing dual employment requirements have not been established or consistently applied across Covered Organizations.
- Standard onboarding process for Executive Branch agencies and General Assembly do not consistently include required information regarding dual employment reporting requirements or documented employee acknowledgment of those requirements.
- Statutory reporting requirements applicable to elected officials, appointed officials, magistrates, and members of the judiciary have not been consistently implemented or incorporated into statewide compliance processes.

Cause

These deficiencies resulted from multiple interrelated factors including:

- The absence of comprehensive policies and procedures established by the PIC to administer and oversee the requirements of 29 Del.C. Ch.58.
- Limitations within the PHRST system, which was not designed to capture, retain or report historical dual employment relationships (refer to Finding 23-25/3).
- The absence of centralized processes within DHR to identify and monitor concurrent employment across Covered Organizations (refer to Finding 23-25/3).
- Undefined roles, responsibilities, and communication protocols supporting the PIC's statutory oversight function.
- Limited staffing and administrative resources dedicated to developing, implementing, and monitoring statewide dual employment compliance.
- The lack of an integrated statewide technological solution capable of identifying concurrent employment across agencies, resulting in reliance on inconsistent manual reporting and employee self-disclosure.

Effect

Because the State lacks adequate internal controls, including automated identification, standardized procedures, and centralized monitoring, it cannot reliably identify individuals engaged in dual employment or effectively monitor compliance with Delaware law. These control deficiencies directly resulted in significant scope limitation, leaving required records unavailable, incomplete, or unmaintained. Consequently, AOA was prevented from performing necessary audit procedures to verify compliance.

This absence of oversight significantly increases the risk that statutory violations, improper concurrent compensation, and unauthorized taxpayer-funded payments will occur and continue without timely detection or corrective action.

Recommendation

AOA recommends that the State, in coordination with the PIC, DHR, and other Covered Organizations:

1. Evaluate and enhance PHRST system functionality to support automated identification, tracking, historical retention and reporting of dually employment relationships.

2. Develop, formally document, and implement comprehensive statewide policies and procedures governing compliance with the Delaware Dual Employment Law.

3. Establish standardized onboarding requirements that include dual employment disclosures, reporting obligations, and documented employee acknowledgement of statutory responsibilities.
4. Clearly define and document the PIC's oversight responsibilities, monitoring activities, reporting requirements and communication protocols.
5. Develop and publish comprehensive guidance regarding dual employment requirements and distribute formal communications to all Covered Organizations to promote consistent implementation and compliance.
6. Evaluate opportunities to leverage existing statewide systems, including the Delaware Learning Center (DLC) or other appropriate technology solutions, to facilitate periodic identification, reporting, training, and monitoring of individuals engaged in dual employment.
7. Designate responsibility for ongoing statewide monitoring and compliance oversight, including periodic reviews of dual employment activity and timely follow-up of identified exceptions.

Finding 23-25/2: PIC's Scope Limitation Due to Insufficient Documentation and Records

Criteria

Effective internal control also requires entities to maintain complete, accurate, and accessible documentation, including policies, procedures, payroll records, timekeeping records, and other supporting information necessary to demonstrate compliance with applicable laws and regulations. Specifically:

- Dual Employment Performance Audit FY20-FY22 Report
- Agency and organizations policy, procedure, process, payroll, and timekeeping records
- Standards for Internal Control in the Federal Government (GAO Green Book)
- COSO Internal Control—Integrated Framework, where applicable to evaluating the design and implementation of internal controls.
- DHR Manual including Payroll Internal Controls
- Delaware Attorney General Opinion Letter dated February 21, 2008

Condition

AOA encountered significant limitations in obtaining sufficient documentation and supporting information from the PIC, the General Assembly, and other Covered Organizations necessary to conduct the performance audit. Specifically, requested policies, procedures, payroll records, timekeeping records, reports, and other documentation were unavailable, incomplete, inconsistent, or not maintained.

AOA was unable to obtain sufficient, appropriate audit evidence to fully assess compliance with statutory dual employment requirements and related internal controls for all individuals selected for audit testing.

Cause

The scope limitation resulted from several systemic deficiencies, including:

- The State's PHRST and related human resource systems do not identify or classify dually employed individuals in a manner that supports monitoring or audit activities (refer to Finding 23-25/3).
- State entities, the General Assembly, PIC and certain Covered Organizations have not established or documented formal policies, procedures, and processes governing dual employment.
- Payroll and timekeeping records were not consistently maintained, retained, reviewed, approved, or available for audit. Refer additional comments in Findings 23-25/4 to 6.

- Multiple Payroll Systems in the State are not fully integrated with ERP system.
- Historical reports and supporting documentation necessary to demonstrate compliance were not consistently retained.

Effect

Because sufficient, appropriate audit evidence was not available, AOA was unable to complete all planned audit procedures or determine compliance with applicable provisions of 29 Del. C., Chapter 58, *Laws Regulating the Conduct of Officers and Employees of the State*, related statutory requirements, and applicable GAGAS.

Accordingly, AOA was unable to reach audit conclusions regarding dual employment compliance for the following individuals. Also refer to separate list under Finding 23-25/4.

- Nicole Alston-Jackson (Justice of the Peace Court / DTCC)
- Peter Burcat (Justice of the Peace Court / DTCC)
- Sherae'a (Rae) Moore (General Assembly / Appoquinimink School District)

The lack of documentation also limited AOA's ability to evaluate the effectiveness of internal controls designed to prevent, detect, and monitor potential violations of dual employment requirements.

Recommendation

AOA recommends that the State, the General Assembly, the PIC, agencies, and Covered Organizations strengthen governance, internal controls, and recordkeeping related to dual employment by:

1. Designing and implementing internal control activities to ensure compliance with applicable laws, regulations, and dual employment requirements.
2. Developing, documenting, and implementing formal policies and procedures governing dual employment, including employee reporting requirements, supervisory responsibilities, work schedule documentation, and defined workday expectations.
3. Communicating statutory requirements, reporting obligations, and compliance expectations to employees and management in a timely and consistent manner.
4. Clearly defining roles, responsibilities, oversight, and accountability among the State, the General Assembly, the PIC, agencies, and Covered Organizations for monitoring and enforcing dual employment requirements.
5. Establishing records retention practices that ensure payroll, timekeeping, approvals, certifications, and other supporting documentation are maintained in accordance with applicable records retention requirements and are readily available for compliance monitoring and audit purposes.

PIC's MANAGEMENT RESPONSE

STATE OF DELAWARE
DELAWARE STATE PUBLIC INTEGRITY COMMISSION
MARGARET O'NEILL BUILDING
410 FEDERAL STREET, SUITE 3
DOVER, DELAWARE 19901
TELEPHONE: (302) 739-2399

To: Delaware Office of Auditor of Accounts
From: Ben Warshaw – Public Integrity Commission Counsel
Date: July 15, 2026
Subject: Commission Response to Dual Employment Findings

To Whom It May Concern:

The Public Integrity Commission (the "PIC") is working to set up a reporting system for elected or appointed officials to disclose their dual employment as defined by 29 *Del. C.* § 5821(d)(3) and mandated by 29 *Del. C.* § 5824. The plan is to establish an easily accessible form that will allow any elected or appointed official to disclose the information required by law. That information can then be provided to the State Auditor to aid them in fulfilling its responsibilities should the PIC request an audit pursuant to 29 *Del. C.* § 5824(d). Once this reporting system is set up, the PIC will endeavor to communicate that to both the State and political subdivisions of the State, so they can advise their employees of their individualized duty to report dual employment. Any delay in this process is due to constrained resources available for implementation at this time.

The PIC's role as defined in 29 *Del. C.* §§ 5821-5825 is limited. It must create a mechanism for elected and appointed officials to report the required information. *29 Del. C.* § 5824(b). The elected or appointed officials are those "elected or appointed to a paid office of this State or a political subdivision of this State". 29 *Del. C.* § 5821(d)(4). Because the definition of both 'political subdivision of this State' and 'State agency' are defined to specifically exclude institutions of higher education, 29 *Del. C.* § 5821(d)(7), (d)(9), the PIC's role with regards to those institutions themselves is limited to receipt of a penalty notice under 29 *Del. C.* § 5825(e)(2). The PIC may also request an audit by the State Auditor if it believes an elected or appointed official is receiving dual compensation. 29 *Del. C.* § 5824(d). Finally, it can investigate any discrepancy reported by the State Auditor. 29 *Del. C.* § 5823(b).

Sincerely,

Ben Warshaw, Commission Counsel

AUDITOR'S REJOINDER TO MANAGEMENT'S COMMENTS

In accordance with established audit procedures, AOA submitted the final draft report to the agency to obtain management's feedback. The agency's response indicated a disagreement with a specific recommendation. Pursuant to GAGAS auditing standards, the audit team evaluated this disagreement to determine if the report required revision. If modifications are deemed unwarranted, standards dictate that auditors explain their reasoning. Consequently, this section outlines the agency's primary objection and provides AOA's formal justification for maintaining the report as written.

AOA acknowledges PIC's comments regarding the exclusion of institutions of higher education from certain definitions contained in 29 Del. C. § 5821. However, those comments do not alter the audit's conclusions.

AOA does not dispute that the University occupies a unique legal status as a privately governed, state-aided institution or that certain provisions of Title 29 exclude institutions of higher education from statutory definitions applicable to specific administrative programs. Those statutory exclusions are limited in scope and do not control the issue presented by this audit.

The issue before the Auditor is not whether the University constitutes a "State agency" for purposes of procurement, personnel administration, or other provisions of Title 29. Rather, the issue is whether compensation funded, in whole or in part, through State appropriations was administered in accordance with Delaware law governing dual employment and the expenditure of public funds.

During the audit period, the individuals identified in the audit simultaneously held compensated positions with the University and State entities while receiving compensation supported, in whole or in part, by State appropriations. The source of the funding—not the organizational status of the employing entity—is the relevant consideration for purposes of accountability and oversight. State appropriations retain their public character regardless of whether they are administered directly by a state agency or through a state-aided institution.

Accordingly, the statutory exclusions referenced in 29 Del. C. § 58 do not diminish the State's interest in ensuring that State-funded compensation is administered in compliance with Delaware law. Nor do those exclusions affect the Auditor's authority to examine the expenditure of public funds or the PIC's responsibilities under 29 Del. C. §58 with respect to statutory disclosures, audit referrals, and related oversight responsibilities within its jurisdiction.

AOA further notes that *Delaware Attorney General Opinion No. 08-IB04 (February 21, 2008)* recognized that the purpose of Delaware's dual employment provisions is to prevent the improper receipt of multiple State-funded salaries for overlapping periods of compensated work and to ensure accountability for the expenditure of public resources. The audit findings are consistent with that purpose.

To strengthen statewide compliance and oversight, the Auditor continues to recommend that the PIC establish and implement formal procedures to support its statutory responsibilities, including:

- Establishing a standardized disclosure and reporting process for all officials subject to 29 Del. C. § 58, including procedures for identifying individuals whose compensation is supported by State appropriations, regardless of the employing entity.
- Developing procedures to obtain and maintain documentation identifying dual employment relationships, including the employing entities, effective dates of employment, supervisory approvals required by law or policy, and evidence that required notifications or approvals were submitted to the appropriate payroll or personnel authority.
- Coordinating with the Office of Management and Budget (OMB) and other responsible State entities to establish consistent reporting requirements, data-sharing protocols, and internal controls that facilitate statewide monitoring of dual employment and support the Auditor's responsibilities under 29 Del. C. §58
- Implementing procedures to ensure that information received pursuant to 29 Del. C. § 58 is maintained in a manner that supports audit requests, compliance monitoring, and enforcement activities authorized by statute.

The audit findings and recommendations remain unchanged.

Finding 23-25/3: Office of Management and Budget's (OMB) Inadequate ERP System Design and Functionality

Criteria

OMB is responsible for maintaining information systems and internal controls that support compliance with applicable laws and enable effective oversight of personnel activities, including dual employment relationships.

Relevant criteria include:

- COBIT (Control Objectives for Information and Related Technologies):

  Provides a framework for information technology governance and management, requiring information systems to support organizational objectives, facilitate effective monitoring, and manage compliance risks associated with applicable laws, including 29 Del. C., Chapter 58, Subchapter III – Compensation Policy.

- GAO Standards for Internal Control in the Federal (and State) Government (Green Book)
- COSO Internal Control Framework
- Delaware Code, Title 29, Chapter 58, Laws Regulating the Conduct of Officers and Employees of the State
- Budget and Accounting Manual (BAM) Chapters 2 and 14

  GAGAS require auditors to evaluate whether management has designed and implemented effective internal controls to achieve operational, reporting, and compliance objectives. Information systems should provide reliable, timely, and complete information to support monitoring and oversight activities.

Condition

OMB's Enterprise Resource Planning (ERP) system, PHRST, does not provide functionality necessary to effectively identify, monitor, or report dual employment relationships. Specifically:

- PHRST lacks automated functionality to identify, flag, track, or generate comprehensive reports of individuals with concurrent employment relationships.
- PHRST current report does not allow for historical records of dual employment relationships, limiting oversight to a current snapshot and preventing efficient historical analysis or trend monitoring.
- Decentralized and multiple Payroll Systems utilized by Covered Organizations that are not fully integrated with ERP system.
- PHRST and related reporting systems are not integrated and therefore do not identify dually employed individuals with overlapping work hours in a manner that supports ongoing monitoring, compliance, or audit activities.

- Identifying potentially dually employed individuals requires manual extraction and review of large, unfiltered datasets, resulting in inefficient processes and increasing the risk that dual employment relationships may not be identified completely or in a timely manner.
    - OMB is responsive to audit feedback and is currently working on designing a report that may minimize some of the reporting gaps. A final review and production of the report is pending further testing and enhancements.

Cause

These deficiencies resulted from:

- Limitations within the PHRST system, which was not designed to capture, retain, monitor, or report historical dual employment relationships.
- The absence of centralized and integrated multiple-payroll systems across state agencies to identify, monitor, and report concurrent employment across Covered Organizations.

Effect

As a result:

- PIC cannot effectively monitor or oversee dual employment relationships across Covered Organizations.
- Manual processes increase the risk that dual employment relationships may not be identified, monitored, or evaluated for compliance with applicable laws and policies.
- Historical information necessary to support management oversight, compliance monitoring, and audit activities is not readily available.
- Because sufficient, appropriate audit evidence was not available, AOA was unable to complete all planned audit procedures or determine compliance with applicable provisions of 29 Del. C., Chapter 58, related statutory requirements, and applicable GAGAS.

Recommendations

AOA recommends that the OMB strengthen governance, internal controls, and system capabilities related to dual employment by:

1. Enhancing PHRST functionality to support the automated identification, tracking, monitoring, historical retention, and reporting of dual employment relationships.
2. Developing and implementing standardized dual employment reports that identify individuals with concurrent employment during specified reporting periods and retain historical reporting information sufficient to support oversight and audit requirements.
3. Establishing centralized and integrated processes and information systems, or enhancing existing systems, to accurately identify, monitor, and report dual employment relationships across Covered Organizations while maintaining historical records necessary to support compliance, management oversight, and future audit activities.

As noted above, OMB is currently developing enhanced reporting capabilities to support the automated identification and tracking and historical retention and reporting of dual employment relationships. These enhancements represent a meaningful advancement over the current capabilities and has the potential to provide valuable support for future oversight and dual employment audits.

OMB's MANAGEMENT RESPONSE

OFFICE OF
management
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TO: Office of Auditor of Accounts

FROM: Kevin M. Sclesky, Director, PHRST

DATE: July 23, 2026

SUBJECT: Response to Finding 22-25/3 – Dual Employment Reporting

Introduction

The Office of Management and Budget (OMB) has reviewed Finding 22-25/3 related to the PeopleSoft Human Resource Statewide Technology (PHRST) system. This response considers the current capabilities of PHRST together with the statutory requirements governing dual employment in the State of Delaware. Delaware law assigns responsibilities to employees, supervisors, agencies, the Public Integrity Commission, and the State Auditor. PHRST supports those responsibilities by maintaining employee, position, payroll, and reporting information that agencies use to administer and monitor dual employment.

Legal and Administrative Framework

The administration of dual employment is established through Delaware law, Merit Rules, and State personnel policies. The following statutory provisions establish the State's governance framework:

• 29 Del. C. § 5822, Governmental compensation policy on dual employment – Requires the immediate supervisor to verify the employee's time record at least once each pay period and retain the verified time record for audit.
• 29 Del. C. § 5823, Audits; penalty – Requires the State Auditor to conduct an annual audit of the records maintained under § 5822.
• 29 Del. C. § 5824, Disclosure of dual employment; audit – Requires elected and appointed officials holding dual employment to disclose that employment to the Public Integrity Commission and authorizes the Commission to request an audit by the State Auditor.

PHRST supports these statutory responsibilities by providing employee, position, payroll, and reporting information that agencies use in carrying out these legal and administrative responsibilities.

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Finding 1

OMB Position: Disagrees

PHRST currently provides several standard reports, including DHR018 (Active Concurrent Jobs), POS003 (LAP), and Mobius reporting, that assist agencies in identifying employees with concurrent employment. These reports support agencies in administering dual employment consistent with the responsibilities established under 29 Del. C. §§ 5822–5824.

Finding 2

OMB Position: Partially Disagrees

PHRST maintains historical employment information. Although there is not a single on-demand historical dual employment report, historical information is available through established PHRST data request processes. These processes support agency operations, management review, and audit activities under 29 Del. C. § 5823.

Finding 3

OMB Position: Partially Disagrees

Under 29 Del. C. § 5822, responsibility for verifying employee time records rests with the immediate supervisor. PHRST supports that responsibility by maintaining employee and position information and interfacing with approved timekeeping solutions where implemented. Agencies continue to administer dual employment through established business processes supported by PHRST.

Finding 4

OMB Position: Disagrees

PHRST provides standard reporting and supports requests for additional historical or customized information when needed. OMB believes the current reporting environment supports agencies in carrying out their responsibilities under 29 Del. C. §§ 5822–5824, together with applicable Merit Rules and State personnel policies.

Cause 1

OMB Position: Disagrees

OMB believes PHRST is functioning as intended and supports the statutory framework established in 29 Del. C. §§ 5822–5824 through employee records, reporting capabilities, and established business processes.

Cause 2

OMB Position: Partially Disagrees

The primary challenge is the decentralized nature of agency business processes and the use of multiple approved timekeeping solutions across State government rather than a limitation of the core PHRST application. The OneDelaware ERP Modernization Program provides an opportunity to evaluate additional statewide standardization.

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Current Compliance

OMB believes the current PHRST environment provides agencies with the information, reporting, and business processes necessary to support administration of dual employment responsibilities established under 29 Del. C. §§ 5822, 5823, and 5824, together with applicable Merit Rules and State personnel policies.

Future Opportunities

As part of the OneDelaware ERP Modernization Program, OMB will evaluate opportunities to enhance enterprise reporting, analytics, workflow, and standardized business processes while continuing to support the statutory responsibilities established under Delaware law.

Appendix A – Delaware Code References

29 Del. C. § 5822 – Governmental compensation policy on dual employment

29 Del. C. § 5823 – Audits; penalty

29 Del. C. § 5824 – Disclosure of dual employment; audit

STATE OF DELAWARE OFFICE OF MANAGEMENT AND BUDGET

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AUDITOR'S REJOINDER TO MANAGEMENT'S COMMENTS

In accordance with established audit procedures, AOA submitted the final draft report to the agency to obtain management's feedback. The agency's response indicated a disagreement with a specific recommendation. Pursuant to GAGAS auditing standards, the audit team evaluated this disagreement to determine if the report required revision. If modifications are deemed unwarranted, standards dictate that auditors explain their reasoning. Consequently, this section outlines the agency's primary objection and provides AOA's formal justification for maintaining the report as written.

AOA has reviewed management's response and acknowledges the description of the statutory responsibilities established under 29 Del. C. §58. However, management's response does not address the underlying audit findings regarding the adequacy of system functionality and internal controls necessary to effectively administer, monitor, and audit dual employment statewide.

The audit did not conclude that PHRST is inconsistent with Delaware law. Rather, the audit concluded that the as currently designed, PHRST reporting lacks certain reporting functionality necessary to efficiently identify, monitor, and provide complete audit evidence related to dual employment activities across State agencies. Statutory assignment of responsibilities to supervisors, agencies, the PIC, and the Auditor does not relieve management of its responsibility to ensure that the State's enterprise PHRST and Time Reporting systems reports provide reliable audit trails to support compliance with those statutory responsibilities.

During the audit period, the existence of a specific standard report, DHR018, does not have a historical look-back on dual employment relationships nor allow users to filter on departments in scope. Upon running the DHR018 reports, which only reported data on current run date, resulted in 4200 pages in a pdf format. It does not fully address the audit findings where those tools do not provide comprehensive, timely, or readily accessible information necessary for statewide monitoring and independent audit. Reliance on manual processes, decentralized agency procedures, or ad hoc reporting increases administrative burden, limits oversight and may reduce the effectiveness of internal controls.

Finding 1

Auditor's Rebuttal: Management's disagreement does not refute the finding. While PHRST provides reports such as DHR018, POS003, and Mobius reporting, the audit determined that these reports do not provide a comprehensive statewide mechanism for identifying and monitoring dual employment in a manner that supports effective oversight. The availability of multiple reports does not demonstrate that agencies or oversight entities can efficiently identify all instances of dual employment relationships or assess compliance with statutory requirements. Accordingly, the finding remains valid.

Finding 2

Auditor's Rebuttal: Management acknowledges that no single historical dual employment report exists and states that historical information is available through data request processes. This response supports, rather than contradicts, the audit findings. Reliance on manual or customized data requests is not equivalent to maintaining readily available historical reporting capabilities necessary for efficient oversight, monitoring, and audit. Such limitations reduce the effectiveness and timeliness of statewide compliance monitoring required under 29 Del. C. § 58.

Finding 3

Auditor's Rebuttal: The audit recognizes that 29 Del. C. § 58 assigns responsibility for verifying employee time records to immediate supervisors. However, supervisory responsibility does not eliminate the need for enterprise system functionality that supports compliance and oversight. Effective internal controls require systems that facilitate monitoring, identification of concurrent employment risks, and documentation supporting audit activities. The finding addresses limitations in system support and monitoring capabilities, not the statutory responsibilities assigned to supervisors.

Finding 4

Auditor's Rebuttal: Management's assertion that existing reporting supports agency responsibilities does not address the audit's conclusion that reporting capabilities are insufficient to provide efficient, complete, and consistent statewide oversight of dual employment. The ability to produce customized reports upon request is not a substitute for standardized enterprise reporting designed to support ongoing monitoring and audit.

Cause 1

Auditor's Rebuttal: The audit does not question whether PHRST operates as designed. Rather, it concludes that existing system functionality does not adequately support statewide oversight and monitoring objectives related to dual employment. A system may function as designed while still lacking capabilities necessary to strengthen internal controls, improve transparency, and support efficient compliance monitoring.

Cause 2

Auditor's Rebuttal: Management's acknowledgement that decentralized business processes and multiple timekeeping systems create challenges is consistent with the audit's assessment. Regardless of whether the limitation originates from the core PHRST application or from the broader statewide operating environment, the effect is the same: the State lacks standardized enterprise capabilities necessary to consistently monitor dual employment across agencies. The planned Delaware ERP Modernization Program represents a future opportunity but does not remediate the conditions identified during the audit period.

Summary

The audit findings remain unchanged. While management appropriately references the statutory framework governing dual employment under 29 Del. C. §58**,** its response does not address the underlying deficiencies identified during the audit. The findings are directed at whether the State's ERP system and related business processes provide the functionality, reporting capabilities, and internal controls necessary to support statutory compliance, statewide oversight, and the AOA’s independent audit responsibilities.

As of the date of this report, the enterprise reporting capabilities necessary to effectively identify and monitor dual employment relationships, including comprehensive current and historical reporting, have not been fully implemented. The required statewide dual employment reporting remains under development and has not been validated or deployed into production for operational use.

Consequently, agencies and oversight entities continue to rely on decentralized processes and payroll systems, manual requests, or incomplete reporting to identify and monitor dual employment activity.

The absence of said centralized, standardized, enterprise-wide reporting of individuals with dual employment relationships materially limits the State's ability to consistently monitor compliance, detect potential instances of noncompliance, and provide complete and reliable audit evidence. Until these reporting capabilities are fully implemented and operational, the conditions identified during the audit remain unresolved, and the audit findings continue to be valid.

Accordingly, AOA reaffirms the recommendations to strengthen enterprise reporting, enhance monitoring and historical reporting capabilities, and implement standardized statewide internal controls over dual employment. These improvements are necessary to promote accountability, safeguard the expenditure of public funds, and support compliance with the requirements of 29 Del. C. §58**.** The Delaware ERP Modernization Program presents an opportunity to implement these corrective actions and address the deficiencies identified in this audit.

Finding 23-25/4: University of Delaware Scope Limitation Resulting from Unavailable Audit Evidence

Criteria

- 29 Del. C. § 2906, Duties of the Auditor of Accounts (AOA)
- 29 Del. C. Chapter 58, Laws Regulating the Conduct of Officers and Employees of the State, establishes requirements governing dual employment and dual compensation for covered entities and individuals.
- The Delaware Attorney General Opinion Letter dated February 21, 2008, regarding the applicability of the Dual Employment Law to University of Delaware employees, provides legal guidance concerning the University's obligations under Chapter 58.
- The Office of the Auditor of Accounts' Fiscal Years 2020–2022 Dual Employment Performance Audit recommended that Covered Organizations provide sufficient records to demonstrate compliance with the Dual Employment Law.

Condition

The University of Delaware receives State appropriations to support its educational mission and operations. AOA has a fiduciary obligation to the public and independent third parties to verify that public funds are administered and expended in strict compliance with state laws, including requirements governing dual employment and dual compensation. As part of this performance audit, AOA requested personnel, payroll, timekeeping, scheduling, and related records for selected individuals to determine compliance with the Delaware Dual Employment Law.

The University did not provide the requested records for the individuals selected for testing. Consequently, AOA was unable to verify whether these individuals simultaneously received compensation from multiple taxpayer-funded positions during co-incident work hours or whether the University complied with applicable statutory requirements governing dual employment.

Cause

University management stated that, based on its interpretation of the Delaware Code and the University's statutory governance structure, it was not required to provide the requested records for purposes of this audit. As a result, AOA and the University differed regarding the applicability of the statutory audit authority and the requested access to records during the audit period.

Effect

Because the requested records were not provided, AOA was unable to obtain sufficient, appropriate audit evidence to determine compliance with applicable provisions of 29 Del. C. Chapter 58 for the selected individuals. This constituted a scope limitation affecting the audit objectives related to payroll, timekeeping, governance, and compliance with the Delaware Dual Employment Law.

The scope limitation affected testing for the following individuals:

- Sherry Dorsey-Walker (General Assembly Representative – House)
- Melissa Minor-Brown (General Assembly Representative – House)
- Madinah Wilson-Anton (General Assembly Representative – House)
- Sophie Phillips (General Assembly Representative – House)
- Michael Smith (General Assembly Representative – House)
- Sarah ("Tizzy") Lockman (General Assembly Representative – Senate)
- Marie Pinkney (General Assembly Representative – Senate)
- Martin O'Connor (Superior Court)
- Sheldon Rennie (Superior Court)
- Monica Horton (Court of Common Police)
- Janell Ostroski (Family Court)
- Peter Burcat (Justice of Peace)
- Bethany Hall-Long (Office of the Governor)
- Cora Scott (Office of the Secretary)
- Evan Park (General Assembly Representative – House)

Accordingly, AOA was unable to determine whether the University complied with applicable dual employment requirements for these individuals during the audit period.

Recommendation

AOA recommends that the University of Delaware provide AOA timely access to personnel, payroll, timekeeping, and other records necessary to perform audits authorized under 29 Del. C. § 2906 and to verify compliance with applicable provisions of 29 Del. C. Chapter 58**.**

AOA further recommends that the University establish formal procedures for coordinating with the State and AOA to facilitate the exchange of information necessary to support future audits of dual employment compliance.

UNIVERSITY of DELAWARE MANAGEMENT'S RESPONSE

UNIVERSITY OF DELAWARE | Office of General Counsel

Wendy S. Buckingham
Associate Vice President and
Deputy General Counsel

University of Delaware
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July 21, 2026

The Honorable Lydia E. York
State Auditor of Accounts
Office of Auditor of Accounts
Townsend Building, Suite 1
Dover, Delaware 19901

Re: Dual Employment Audit Request – Fiscal Years 2023–2025

Dear Auditor York:

I write on behalf of the University of Delaware ("UD" or "the University") regarding the State Auditor of Accounts' ("AOA") Fiscal Years 2023-2025 Dual Employment Audit. Thank you for providing a draft copy of the Report of Audit ("Report") on July 15, 2026, and meeting with University representatives in advance of sending the Report to discuss the same. This letter in its entirety constitutes the University's Response and should be included in full in the final report.

EXECUTIVE SUMMARY

The Dual Employment Law, 29 Del. C. Ch. 58, Subchapter III ("Dual Employment Law"), did not apply to the University of Delaware, for fiscal years 2023-2025. At that time, the law applied only to persons "employed by the State, or by any political subdivision of the State." *See generally* 29 Del. C. § 5822. The University is neither a "State agency" nor a "political subdivision of the State," and was not a covered entity under the statute because its employees are not State employees. Based on the express terms of the statute, it does not apply to the University.

With the passage of House Bill 38 (codified at 29 Del. C. § 5825), the General Assembly established a clear, prospective framework specifically extending dual employment reporting to institutions of higher education. The University fully recognizes its go-forward obligations under this new statute and is committed to working constructively with the AOA. However, because the audit period precedes the effective date of § 5825, the University is not in a position to participate in an audit or release confidential employee records for FY2023–2025 where no statutory obligation existed.

ANALYSIS

The AOA's Report states that, "29 Del. C. Chapter 58, . . . , establishes requirements governing dual employment and dual compensation for covered entities." The statutory framework

Wendy Buckingham, Esquire
July 21, 2026
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confirms the University was not a covered entity during the audit period. Several provisions of Delaware law confirm this conclusion.

Statutory "Agency" Definitions Exclude UD. Throughout Title 29, wherever the General Assembly has defined "agency" or "state agency," it has consistently excluded the University of Delaware. Section 6902(1) of the State Procurement chapter explicitly provides that the term "Agency" "shall not include … the University of Delaware." The Administrative Procedures Act, 29 Del. C. § 10102(1), likewise provides that "Agency does not include … the University of Delaware." The Merit System of Personnel Administration, 29 Del. C. § 5903(13), excludes "[a]ll employees of the University of Delaware" from the classified service. These exclusions reflect a consistent legislative judgment that UD is not a state agency for purposes of Title 29.

The University's Charter Confirms Its Autonomy. The University's Charter, codified at 14 Del. C. § 5106(b)(1), vests "entire control and management" of UD's affairs in its Board of Trustees. In the area of fiscal and revenue matters, this includes "all authority with respect to salaries and compensatory payments or benefits, as well as other terms of employment, of any and all University personnel," and provides that "individual salaries or salary increases or other benefits do not have to be reported or justified to any official or agency of the State." The audit that the AOA sought to conduct during the audit period falls within the domain of UD's Board of Trustees.

The AOA Has Previously Acknowledged UD's Status. The Report cites a February 21, 2008 Delaware Attorney General opinion addressing, in part, the applicability of Chapter 58 to the University. More recently, however, the AOA has acknowledged, both in a 2020 written memorandum of understanding and in subsequent discussions with the University, that UD is not a State agency. That acknowledgment is significant because, if the University is not a State agency, its employees cannot be employees of the State. And, as discussed above, the University is also not a political subdivision of the State. The AOA's prior acknowledgment is therefore difficult to reconcile with the Report's conclusion that Chapter 58 applied to the University during a period when the statute covered only persons employed by the State or by a political subdivision of the State.

House Bill 38 Confirms the Law Did Not Previously Apply to the University. On May 22, 2025, Governor Meyer signed House Bill 38 into law (85 Del. Laws, c. 21). HB 38 enacted a new provision, codified as 29 Del. C. § 5825, that for the first time requires "institutions of higher education" that receive State funds to keep dual employment records and provide them to the AOA on request. Significantly, the General Assembly concurrently passed HB 9 (85 Del. Laws, c. 20), which amended the definitions in § 5821 to expressly provide: "'State agency' does not include an institution of higher education." The passage of HB 38 is itself a legislative acknowledgment that the prior Dual Employment Law did not reach institutions of higher education, including UD. If the existing statutory framework had already covered the University, HB 38 would have been unnecessary. The General Assembly understood this, which is why the bill was described in public session as ensuring that higher education institutions "are included" in dual

Wendy Buckingham, Esquire
July 21, 2026
Page 3

employment reporting requirements going forward. HB 38 took effect on May 22, 2026, and it operates prospectively. The audit period at issue predates HB 38's effective date.

The statutory framework simply did not extend to UD for the fiscal years in question. Because the Dual Employment Law did not apply to the University during the audit period, the University will not disclose the confidential employment records the Report requests absent a legal basis to do so.

CONCLUSION

The University appreciates the opportunity to respond to the Report and values its working relationship with the State and AOA. The University recognizes its obligations under 29 Del. C. § 5825 and is committed to working constructively with the AOA regarding records required to be maintained on and after May 22, 2026.

For FY 2023-2025, however, the Dual Employment statute did not apply to the University, and therefore, the University is not in a position to participate in an audit conducted under that authority, including releasing confidential employment records where not statutorily required.

Respectfully submitted,

Wendy Buckingham

Wendy Buckingham

AUDITOR'S REJOINDER TO MANAGEMENT'S COMMENTS

In accordance with established audit procedures, AOA submitted the final draft report to the agency to obtain management's feedback. The agency's response indicated a disagreement with a specific recommendation. Pursuant to GAGAS auditing standards, the audit team evaluated this disagreement to determine if the report required revision. If modifications are deemed unwarranted, standards dictate that auditors explain their reasoning. Consequently, this section outlines the agency's primary objection and provides AOA's formal justification for maintaining the report as written.

I. Statutory Definitions of "Agency" Excluding the University of Delaware

The University asserts that various provisions of Title 29 exclude the University from the definition of "agency" or "state agency," citing, among other provisions, 29 Del. C. §§ 6902(1), 10102(1), and 5903(13). According to the University, these exclusions demonstrate a consistent legislative determination that the University is not a state agency for purposes of Title 29.

AOA does not dispute that the University occupies a unique legal status as a privately governed, state-aided institution and that certain provisions of Title 29 expressly exclude the University from statutory definitions applicable to specific administrative programs. Those exclusions, however, do not limit or negate the constitutional and statutory authority of AOA to examine the expenditure of public funds.

The legal issue presented by this audit is not whether the University is a "State agency" for purposes of procurement, administrative procedure, or merit system laws. Rather, the issue is whether state-appropriated funds were expended in compliance with Delaware law.

During the audit period, the individuals at issue simultaneously held employment with both the University and covered State agencies while receiving compensation supported, in whole or in part, by State appropriations. **Public funds do not lose their character as State funds merely because they are disbursed through a state-aided institution rather than directly through a state agency.**

Accordingly, the University's exclusion from selected statutory definitions cannot be construed to divest the AOA of its independent constitutional and statutory responsibility to ensure that taxpayer funds were lawfully expended. AOA's jurisdiction extends to the expenditure of State funds, regardless of the governmental or institutional vehicle through which those funds are administered.

II. The University's Charter and Institutional Autonomy

The University further relies upon 14 Del. C. § 5106(b)(1), arguing that its Charter vests "entire control and management" of the University in its Board of Trustees, including exclusive authority over salaries, compensation, and employment matters.

AOA does not challenge the University Board's statutory authority to establish compensation, determine employment terms, or otherwise manage University personnel. Nothing in this audit seeks to regulate, approve, modify, or question personnel decisions lawfully entrusted to the Board of Trustees. Institutional autonomy, however, does not exempt expenditures of State appropriations from public accountability.

The General Assembly annually appropriates substantial public funds to support the University's operations. Those appropriations remain public funds subject to constitutional safeguards and legislative oversight. AOA's audit authority concerns only whether State funds were expended in accordance with applicable law—not whether the Board exercised appropriate discretion in setting salaries or employment conditions.

Acceptance of the University's position would create a significant gap in Delaware's fiscal oversight framework by preventing verification of whether State-funded compensation was simultaneously received for overlapping periods of employment with another covered State employer. Neither the University's Charter nor any provision of Delaware law evidence legislative intent to create such an exception to public financial accountability.

III. Prior Recognition of the University's Legal Status

The University further contends that AOA has previously acknowledged that the University is not a state agency, including through a 2020 memorandum of understanding, and argues that this acknowledgment is inconsistent with the audit's conclusions.

This argument conflates two distinct legal questions.

- The first concerns the University's institutional classification for purposes of specific statutory schemes.
- The second concerns AOA's authority to examine the expenditure of State funds.

AOA's prior recognition that the University is not a state agency for purposes of certain administrative statutes has never constituted a concession that State appropriations transferred to the University become insulated from audit or fiscal review. Institutional status does not determine AOA's jurisdiction over public expenditure.

Moreover, the audit concerns individuals simultaneously employed by the University and covered State agencies subject to Chapter 58. The covered State employer remains fully subject to the Dual Employment Law and to AOA's oversight authority. Consequently, AOA possesses authority to determine whether those individuals received overlapping State-supported compensation in violation of applicable law.

The University's analysis improperly focuses on institutional status while overlooking the State-funded employment relationship of the individuals under review.

February 21, 2008, Attorney General Opinion recognized that the fundamental purpose of Delaware's dual employment framework is to prevent the improper receipt of multiple State-funded salaries for overlapping hours worked. Nothing in AOA's prior administrative acknowledgments alters that statutory purpose or diminishes AOA's responsibility to investigate potential misuse of taxpayer funds.

Accordingly, the audit does not seek to regulate the University as a State agency. Rather, it seeks to determine whether State funds appropriated to support University payroll were expended consistently with Delaware law when paid to individuals simultaneously employed by covered State entities.

IV. House Bill 38

The University argues that the enactment of House Bill 38 demonstrates that the prior version of Chapter 58 did not apply to institutions of higher education and that the legislation created entirely new obligations applicable only prospectively.

AOA disagrees.

HB 38 established specific statutory procedures governing future reporting obligations for institutions of higher education receiving State funds. The legislation streamlined and clarified the administrative process by which such institutions must maintain and provide dual-employment records upon request.

Clarifying reporting obligations, however, is not synonymous with creating AOA's underlying authority to examine State expenditures as it relates to dual employment. AOA's constitutional and statutory authority to audit the expenditure of State appropriations existed independently of HB 38. Nothing within the legislation expressly repeals, limits, or narrows that preexisting authority.

Furthermore, during the audit period, the individuals under review simultaneously served as employees of covered State agencies. Those agencies were fully subject to Chapter 58 and remained subject to retrospective audit.

In conducting audits of those agencies, AOA necessarily possesses authority to examine external financial records reasonably required to determine whether State-funded compensation was improperly duplicated through concurrent employment. AOA's authority to verify the lawful expenditure of State appropriations cannot be defeated merely because a portion of those appropriations passed through a state-aided institution.

HB 38 therefore represents a legislative clarification and enhancement of administrative reporting requirements for institutions of higher education. It should not be construed as creating, for the first time, AOA's authority to investigate the expenditure of State funds or to examine records necessary to verify compliance with Delaware's dual employment laws.

To conclude otherwise would permit public funds to escape audit solely because they were administered through an institution outside the ordinary definition of a state agency—an interpretation inconsistent with the constitutional responsibility of AOA to safeguard taxpayer resources and ensure accountability for all State expenditures.

PRIOR AUDIT FINDINGS FOLLOW UP

Finding 23-25/5: Repeat Finding for University of Delaware (UD):

The University of Delaware Personnel Policies and Internal Control Policies over Payroll Did Not Comply with the Requirements of the Dual Employment Law refer to Prior Audit Findings 20-22/3 & 4).

- UD did not take any action to address prior audit findings; therefore, prior audit findings remain open.

Finding 23-25/6: Repeat Finding for The City of Dover:

Personnel Policies and Internal Control Policies over Payroll Did Not Comply with the Requirements of the Dual Employment Law (refer to Prior Audit Finding 20-22/5).

- The City of Dover provided a policy document that has been drafted and submitted to the City Council for approval. As of the date of this audit, the policy is pending approval, and the finding remains open until an approved policy document is received.

The City of Dover concurs with the assessment and prior Management Comments remains valid.

Finding 23-25/7: Resolved – Prior Finding for Delaware State University (DSU):

Personnel Policies and Internal Controls over Payroll Did Not Comply with the Requirements of the Dual Employment Law (refer to Prior Audit Finding 20-22/6).

- DSU provided documentation demonstrating adoption of Policy 4-12, Conflict of Interest, which addresses compliance with the Dual Employment Law. The policy was approved on May 5, 2026, after the audit period.

Finding 23-25/8: Resolved - Prior Finding for Eastside Charter School (ECS):

Eastside Charter School Policies Do Not Comply with Dual Employment law and Recordkeeping, Approvals, and Potentially Coincident Time (Refer to Prior Audit Finding 20-22/7).

- ECS provided documentation demonstrating the implementation of its Dual Employment policy, which was approved by the Board on October 21, 2024. Additionally, ECS implemented Verkada, an electronic sign-in/sign-out system to improve employee timekeeping and monitoring.

Finding 23-25/9: Resolved – Prior Finding for Delaware Technical Community College (DTCC):

Payroll Was Not Properly Documented, Verified, or Reduced for Hours Officials Spent Serving in an Elected Position Coincident with their Workday (refer to Prior Audit Finding 20-22/8).

- DTCC provided documentation demonstrating the implementation of policies addressing dual employment and personnel practices.

APPENDIX I

AUDIT OBJECTIVE, SCOPE, METHODOLOGY and CRITERIA

OBJECTIVES

The objectives of this performance audit were to determine whether State agencies and Covered Organizations complied with applicable requirements governing dual employment during the period July 1, 2022, through June 30, 2025. Specifically, we sought to:

Objective 1

Determine whether agencies and Covered Organizations established and implemented policies and procedures that comply with the requirements of 29 Del. C. § 5821(a), (b), and (c) by ensuring that individuals subject to the dual employment provisions:

- Receive compensation from only one tax-funded position for the same hours worked;
- Maintain work schedules that comply with statutory requirements; and
- Properly document work hours for each position held.

Objective 2

Determine whether agencies and Covered Organizations designed and implemented effective internal controls over payroll processing to ensure compliance with 29 Del. C. § 5822(a), (e), and (f), including controls to detect, prevent, and correct improper payroll payments and dual employment violations.

Objective 3

Assess the effectiveness of governance, oversight, and internal controls over timekeeping and attendance reporting to determine compliance with 29 Del. C. § 5822(b), (c), and (d), including supervisory review and approval of employee time records.

Objective 4

Determine whether agencies and Covered Organizations maintained sufficient books, records, payroll documentation, timekeeping records, personnel files, financial records, and other supporting documentation to demonstrate compliance with applicable provisions of 29 Del. C. Chapter 58 and related State requirements.

SCOPE

This performance audit covered the period beginning July 1st, 2022, through period ending June 30th, 2025.

The audit included State agencies, the General Assembly, the Judicial Branch, and other Covered Organizations that employed individuals concurrently serving in positions subject to the dual employment provisions of 29 Del. C. Chapter 58. The audit procedures included an assessment of governance processes, payroll administration, timekeeping practices, supervisory oversight, supporting documentation and compliance with applicable laws, regulations, policies and administrative requirements related to dual employment.

As part of our audit, we obtained an understanding of internal controls that were significant to the audit objectives to design audit procedures appropriate to the circumstances. We did not evaluate the effectiveness of all internal controls of the audited entities, and accordingly, we do not express an opinion on the effectiveness of internal control.

We also considered the risk of fraud and abuse that could significantly affect the audit objectives and designed audit procedures to address those assessed risks. While our procedures were not designed to provide assurance on the detection of all instances of fraud or abuse, they were sufficient to provide a reasonable basis for our findings and conclusions.

AUDIT METHODOLOGY

To accomplish the audit objectives, we performed the following procedures:

I. Planning

We obtained an understanding of the legal, regulatory, and operations framework governing dual employment. Specifically, we:

- Reviewed applicable provisions of the Delaware Code, Delaware Administrative Code, Merit Rules, Budget and Accounting Manual (BAM), Human Resources procedures, Public Integrity Commission Ethics Bulletins, Attorney General opinions, and other relevant authorities.
- Reviewed prior audit reports, investigations, and other oversight reports relevant to dual employment.
- Interviewed officials from PIC, DHR, the General Assembly, and selected Covered Organizations to obtain an understanding of their responsibilities, oversight activities, and internal control processes.
- Performed risk assessment procedures to identify areas presenting an increased risk of noncompliance, improper payments, or inadequate oversight.
- Considered the potential for fraud, abuse, and management override of controls.

II. Data Reliability

Because the audit relied extensively on computerized payroll and personnel information, we assessed the reliability of data obtained from the PHRST system, PIRS, and other information systems used during the audit.

We evaluated the completeness and reasonableness of these data through interviews with system officials, reconciliation to supporting documentation, testing of selected records, and other procedures we considered appropriate. We determined the data were sufficiently reliable for purposes of addressing the audit objectives.

III. Sampling

We used statistical random sampling to select employee records and Covered Organizations for detailed testing.

A statewide random sample of Covered Organizations was selected for compliance testing. In addition, organizations with prior audit findings, known risks, or other elevated risk factors were judgmentally selected to provide additional audit coverage and follow-up on previously reported deficiencies.

Sampling results were used to support conclusions regarding compliance within the scope of the audit objectives.

IV. Fieldwork

We performed the following procedures:

- Evaluated governance and oversight processes related to dual employment.
- Analyzed payroll and timekeeping information to identify potential overlapping work hours, duplicate compensation, and other indicators of noncompliance.
- Reviewed payroll records, personnel files, timekeeping records, work schedules, approvals, certifications, and supporting documentation.
- Evaluated the design and implementation of internal controls over payroll processing, supervisory review, attendance reporting, and monitoring of dual employment.
- Compared actual practices to applicable statutory and administrative requirements.
- Evaluated whether organizations maintained sufficient documentation to demonstrate compliance with Delaware Code Chapter 58.

Because neither PIC nor the General Assembly maintained a complete statewide population of dually employed individuals, we performed alternative audit procedures to identify the audit population. These procedures included obtaining appointment records from the Governor's Office, requesting reports from DHR and PIRS, generating concurrent employment reports from PHRST, reviewing legislative records, and obtaining survey responses from elected and appointed officials.

Where sufficient, appropriate audit evidence was unavailable because requested documentation was incomplete, unavailable, or not maintained, we reported the resulting scope limitations, where applicable.

V. Follow-up of Prior Audit Findings

We evaluated the status of selected prior audit findings and recommendations related to dual employment and assessed whether corrective actions had been implemented.

For organizations not included in the current audit sample, follow-up procedures were performed for previously reported findings involving the City of Dover and East Side Charter School.

AUDIT CRITERIA

The audit criteria consisted of applicable laws, regulations, policies, standards, and internal control frameworks, including:

- Delaware Code, Title 29, Chapter 58, Laws Regulating the Conduct of Officers and Employees of the State
- Applicable provisions of Delaware Code Title 14 (Education)
  - Chapter 5 – Charter Schools (ECS)
  - Chapter 51 – Charter (UD)
  - Chapter 65 – Organization, Administration and Functions (DSU)
  - Chapter 91 – Administrative Provisions (DTCC)
- Delaware Administrative Code
- State of Delaware Budget and Accounting Manual (BAM)
- State of Delaware Human Resources and Payroll Internal Controls Manual
- State of Delaware Merit Rules
- Public Integrity Commission Ethics Bulletin No. 009
- Delaware Attorney General Opinion dated February 21, 2008
- House Resolution No. 3 and Senate Resolution No. 2 governing the General Assembly
- Policies and procedures established by participating agencies and Covered Organizations
- Standards for Internal Control in the Federal Government (GAO Green Book)
- COSO Internal Control—Integrated Framework, where applicable to evaluating the design and implementation of internal controls.
- COBIT – Control Objectives for Information and Related Technologies