



**CHESTER UPLAND SCHOOL DISTRICT
RECEIVER'S UPDATE REPORT**

**Dr. Juan Baughn, Receiver
August 31, 2021**

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1. EXECUTIVE SUMMARY

The CUSD has made significant progress since the appointment as Receiver in May 2020 and the coinciding Court approval to execute the December 2019 Financial Recovery Plan. The priority finance initiatives in the Plan included potential outsourcing of functional areas, potential outsourcing of management or operations of the schools, facilities planning, and assessment of special education delivery models.

The District had no visibility as to its current financial performance or cash position in May 2020. Independent financial audits could not be completed because the information within the CUSD financial system was inadequate and not credible. The Business Office lacked leadership and did not have the needed competency to get the finances up to speed. Human Resources, Special Education, IT, Child Accounting, and Federal Programs all had similar issues.

Through a combination of outsourcing several of these functional areas to CCIU, rehiring certain District employees, outsourcing to Marcum, and now outsourcing to MCIU, the District is now better positioned to understand its financial condition, performance, and cash position for 2019, 2020, 2021, and budgeted 2022. While no outsourcing solution has been perfect, each has contributed to moving the District forward and in a better position than May 2020.

Change has been steady as constant efforts have been made to break down longstanding paradigms and search for better solutions for the District. A new Receiver will be in place September 1, 2021 to continue these efforts, and a new superintendent to lead the education and operations, along with MCIU to further steady the business office and finances. The bond refinancing and restructure will generate almost \$2.5M in fiscal 2021 savings and an additional \$3.3M in cash flow benefit over the next four years. The outsourcing of schools' concept was considered and rejected as not in the best interests of the District.

The estimated fund balance at June 30, 2021 is positive and the 2021-2022 budget is balanced. In addition, thoughtful deployment of over \$30M of ESSER funding has been allocated over the next 24 months. However, operating cash flows remain tight, especially due to \$2.0M of unrecovered funds from the cyber-attack and \$6.9M of unrecovered overpayments to a local charter school. Other challenges remain, including COVID risks, educational performance, facilities' needs, and the scheduled 2025 sunset of the settlement agreement with the brick-and-mortar charter schools.

2. NEW COURT-APPOINTED INTERIM RECEIVER

The Honorable Judge Barry Dozor issued an August 16, 2021 Administrative Order appointing Nafis J. Nichols as the Interim Receiver for the Chester Upland School District, effective September 1, 2021.

3. NEW SUPERINTENDENT

Dr. Craig Parkinson was named the new Superintendent for the CUSD for the 2021-2022 school year.

4. OUTSOURCING OF FUNCTIONAL AREAS TO MCIU

CUSD has retained the MCIU to provide leadership and operational support for the following offices: Superintendent, Academics, Accountability, Business Services, Operations, and Special Education. The proposed budget for the 2021-2022 school year is approximately \$3.1M, inclusive of benefits, contracted services, other expenses, and indirect costs. Compared to the cost of CUSD staff plus benefits, the cost of the MCIU staff plus benefits is slightly less expensive than CUSD, but importantly with a more competent and efficient workforce than CUSD has experienced in the past. Moreover, MCIU has committed to reduce its proposed budget in the event any positions are unfilled or unneeded. The MCIU contract has been posted on the CUSD website.

Functional Area Staff & Benefits	CUSD	MCIU
Office of the Superintendent	\$260,000	\$350,000
Office of Academics	256,000	425,000
Business and Operations Offices and Office of Accountability	904,000	998,000
Special Education	723,000	405,000
Benefits	997,000	927,000
Total Staff plus Benefits	\$3,140,000	\$3,105,000

5. BUSINESS OFFICE UPDATE

The business office and other functional areas were outsourced initially to the Chester County Intermediate Unit in August 2020 and ongoing outsourcing has evolved thereafter. The outsourcing was transitioned to Marcum LLP on an interim basis effective May 1, 2021 and now have been outsourced to the Montgomery County Intermediate Unit on a longer-term basis effective July 1, 2021.

CCIU Transition Completed

CCIU partially updated the accounting and finances, cash flow reports, and budget to actual reporting for 2020-21 through February 2021. In March 2021, the Receiver signed the Addendum to Administrative Services Agreement with the Chester County Intermediate Unit (the "CCIU"). The services by the CCIU have transitioned back to the School District included: Business Office, Federal Programs, Information Technology and Child Accounting, and Human Resources.

MARCUM LLP Transition Completed

The Receiver retained Marcum LLP for business office services for an interim period, ending no later than July 30, 2021. Marcum updated and managed the accounting and finances, cash flow reports, budget to actual reporting for 2020-21, preparation of the 2021-22 final budget, and communications and presentations to the Receiver, the Elected Board, and PDE.

Montgomery County Intermediate Unit Retained Services

The Receiver has retained MCIU to provide business office services effective July 1, 2021.

6. BOND REFINANCING AND RESTRUCTURING

The School District is in the process of refinancing the 2011 Series A and Series C State Public School Building Authority School Revenue Bonds. The offering is for approximately \$30M in tax exempt bonds and is expected to provide savings of almost \$2.5M at closing for capital projects. The refinancing is expected to close October-November 2021. In addition, the School District is restructuring the bond debt to provide an additional \$3.3M cash flow benefit over the next four years.

The School District has identified the following projects that may be funded with the bond refinancing:

- \$2,025,000 for Toby Farms Optional Additional Work (New Casework, painting, lighting fixtures, fire alarm upgrades, etc.); and
- \$386,000 for Main Street Optional Additional Work (Painting, fire alarm upgrades, etc.).

7. ESSER FUNDS

The School District has been allocated CARES Act Funds through the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) that may be used to help alleviate the potential impact of the Pandemic, as follows:

	Amount
ESSER I	\$2,383,903
ESSER II	9,656,862
ESSER III	19,519,147
Total	\$31,559,912

The Receiver has developed a plan for the use of funds which include facilities improvements, technology, instructional support, transportation, etc. The planned use of ESSER I and ESSER II have been approved by the Pennsylvania Department of Education. All planned allocations of ESSER funds have been posted to the CUSD website.

8. ADJUDICATION REGARDING OUTSOURCING OF SCHOOLS

Pursuant to an Order of the Delaware County Court of Common Pleas in Civil Action No. 2012-009781 dated May 14, 2020, the District's framework for Strategic Options Initiative was approved for implementation. The District received three proposals from: the Friendship Education Foundation, the Upland Chester School of Arts, and the Chester Community Charter School.

The Receiver, consistent with the Court Order, established a taskforce, which included school board members, community leaders, and parents to evaluate the proposals under the guidance of Dr. Leroy Nunery, strategic advisor to the Receiver and drafter of the RFP document. In addition to the recommendations made by the taskforce and Dr. Leroy Nunery, the Receiver considered extensive public testimony that took place on May 6, 2021, as the result of presentations made by the three proposers. The Receiver also has provided information relating to these proposals to the entire elected Board of School Directors.

Based upon the forgoing, the Receiver officially announced his decision to reject all of the three proposals on June 29, 2021 and incorporated into a comprehensive Adjudication thereafter. The Adjudication has been posted to the CUSD website.

9. CYBER-ATTACK AND RELATED UNRECOVERED AMOUNTS

CUSD identified \$13,330,269.54 of funding from the Pennsylvania Department of Education that was fraudulently remitted to an unauthorized account at Chase Bank from January 21, 2021 through February 25, 2021. The funds remitted to the unauthorized account included grant money due to the School District, as well as funds for food and nutrition, vocational education, pupil transportation, non-public transportation, social security, and basic education.

In addition, the School District has a contract with E-Collect, LLC to collect delinquent real estate taxes for the School District. In December 2020, E-Collect processed a fraudulent bank change request form

that resulted in \$528,537.04 being remitted to an unauthorized account at Chase bank. This was a different account at Chase Bank than the one used in the fraudulent transfer of funds from the Pennsylvania Department of Education.

The School District notified the Delaware County District Attorney, the PA Office of Attorney General, the School District's insurance carrier, the Pennsylvania Department of Education, and E-Collect regarding the fraudulent transfers.

The PA Treasury Department recovered \$10,263,919.58 of the PDE diverted funds and remitted the recovered amounts to CUSD on April 2, 2021. In addition, PDE funded a Ready to Learn Block Grant of \$1,599,550 on July 2, 2021 as part of the diverted funds' recovery. This leaves a balance of PDE funds not yet recovered of \$1,466,799.96. The District's counsel is evaluating options on how to recover the remaining amounts.

E-Collect's legal counsel has denied liability on behalf of E-Collect's insurance carrier and CUSD legal counsel is evaluating options to recover the \$528K of diverted tax collections.

10. PROJECTED GENERAL FUND BALANCE AT JUNE 30, 2021

The projected June 30, 2021 general fund statement of activities and fund balance is summarized as follows:

Projected General Fund Statement of Activities

Total Revenues	\$136,672,396
Total Expenditures	<u>135,269,858</u>
Net Change in Fund Balance	<u>\$ 1,402,538*</u>

*Before accrual of Receivables for \$6.9M CCCS Overpayment (See Section 15 of this Report) and Cyber Attack Unrecovered Amounts (See 9 of this Report).

Projected General Fund Balance

Beginning Fund Balance (6-30-2020)	\$ 224,312
Revenues over (under) Expenditures	<u>1,402,538</u>
Ending Fund Balance (6-30-2021)	<u>\$1,626,850</u>

11. FINAL 2021-2022 BUDGET

The Receiver approved the final 2021-2022 budget, it has been submitted to PDE, and has been posted to the CUSD website. The budgeted revenues, expenditures, and net change in assets are summarized as follows:

Total Revenues	\$136,390,330
Total Expenditures	<u>133,609,420</u>
Net Change in Fund Balance	<u>\$2,780,911</u>

12. ESTIMATED CASH FLOWS FOR 2021-2022

The District's estimated cash flows for 2021-2022 are as follows.

Beginning Cash – August 26, 2021	\$ 23,496
2021-2022 Receipts	131,345,251
2021-2022 Disbursements	<u>(137,775,733)</u>
Balance after Outstanding Payables	\$ <u>(6,406,986)</u>

The primary reasons for the anticipated cash shortfall are as follows:

Current outstanding payables	\$ 3,431,744
CCCS Overpayment	6,914,254
Unrecovered diverted PDE funding	1,466,800
Unrecovered diverted RE taxes	<u>528,537</u>
Total	<u>\$12,341,335</u>

MCIU has been monitoring the cash flows and outstanding payables and believes that there may be need for supplemental PDE advances during 2021-2022.

13. JUNE 30, 2020 AND 2021 FINANCIAL AUDITS

The Receiver has engaged Maillie to complete the June 30, 2020 and 2021 financial audits for \$70,000 per year. The independent auditors initiated a late-June 2021 start for the 2020 audit and anticipate issuance of the audit report in the late November timeframe.

14. REAL ESTATE TAX MATTERS

Prospect Litigation

Pending before the Commonwealth Court of Pennsylvania are appeals by Prospect, the former owner of the Crozer-Keystone hospital complex, of various decisions by the Delaware County trial court, which adopted the District's implied fair market value of \$74M. A reversal of the trial court's decision will result in an approximate loss of potential revenue to the District of \$1.8M. In addition, certain exemption appeals by Prospect remain pending before the trial court; Prospect's appeal, if denied, will result in the District receiving a combined tax revenue of approximately \$2.8M.

Prospect Petition for Tax Reimbursement

Pending before the Court of Common Pleas is a petition by Prospect for reimbursement of approximately \$3M of alleged tax overpayments, as a result of the Court's adoption of the District's opinion of implied fair market value in the amount of \$74M, as stated above.

Settled Prospect Matter

The District had settled a prior claim by Prospect regarding taxes paid on over assessed property values in 2019 for \$720,000. This amount is payable by the District to Prospect in three equal payments of \$240,000 over three years, beginning in October 2020. The District made the first payment in early 2021. The remaining payments are due October 2021 and October 2022.

Keystone Opportunity Zone Properties

Counsel notified all the KOZ property owners in March 2021 that they came off KOZ status as January 1, 2021. The properties should have been put in the regular tax rolls as of January 1, 2021 and should be receiving regular tax bills. The Business Office is aware of these properties and is following up to ensure property tax bills will be sent in due course.

Other Settled Matters

- Concord LLC will pay \$85,000 payable in July 1, 2022 and 2023.
- ISWG will pay \$200,000 at \$25,000 per month beginning in July 2021 through July 2022, and will pay \$46,000 in July 2022, and 2023.
- Clayton Holding will pay \$10,700 in July 2022 and July 2023.
- Billboards – Counsel has settled with 12 billboard owners that will pay a lump sum of \$150,000 for 2015 through 2021.

Other Billboard Cases

- Counsel is negotiating three cases with expected resolution by December 31, 2021.
- Counsel expects 27 cases to proceed to arbitration or settlement with expected resolution by June 30, 2022.
- 105 Commerce: Tax claim filed for \$1M.

Refund Claim filed Against County

Claim filed for \$250,000 for filing fees overcharge.

District and Owner Tax Appeals

Primarily as a result of the countywide reassessment, numerous tax appeals filed by both the District and individual commercial/residential taxpayers are pending before the Court of Common Pleas. The District's appraiser is in the process of completing relevant reports concerning opinions of value.

Other Tax Claims Still in Court

- 21 Value Cases filed in 2020.
- 22 Exemption Challenges filed in 2020.
- 49 Tax Assessment Board Cases for 2022.

15. OTHER LITIGATION MATTERS

Filed Recovery Claim Against the Chester Community Charter School

The Receiver has filed a claim to recover \$6,914,253.80 improperly charged by and paid to Chester Community Charter School pursuant to the terms of the October 2015 Settlement Agreement reached among, *inter alia*, CUSD, CCSD, the Commonwealth of Pennsylvania, Department of Education, the Secretary of Education, and to enforce the settlement agreement.

Settlement of Redirection and Non-Redirected Appeals

Five cyber charter schools have administrative claims pending before Hearing Officers, concerning underpayments by the District of approximately \$2.0M redirected sums and approximately \$1.4M non-redirected sums. These amounts have been confirmed by the District's business office. The District has reached agreement to settle the claims for \$850K. In addition, concerning another underpayment claim of approximately \$22K by a sixth charter school, the Receiver has approved a compromise payment of \$11K.

School District of Philadelphia Appeal

The School District of Philadelphia has appealed to the Commonwealth Court of Pennsylvania concerning a denial of a Petition to Intervene in the Receiver litigation before Judge Dozor. Pursuant to a schedule issued by the Commonwealth Court, it is anticipated that briefs of the parties will be filed in August. However, a possibility may now exist concerning a voluntary discontinuance of this action by the School District of Philadelphia.