



**Office of the Public Auditor**  
Commonwealth of the Northern Mariana Islands

**Public School System  
Audit of the MHS Food Court  
School Year 1998-1999**



**Audit Report**  
**AR-00-05**



# Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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December 14, 2000

Dr. Rita H. Inos  
Commissioner of Education  
Public School System  
P.O. Box 501370  
Saipan, MP 96950

Dear Dr. Inos:

**Subject: Final Report on the Audit of the Marianas High School Food Court  
Covering School Year 1998-1999 (Report No. AR-00-05)**

The enclosed audit report presents the results of our audit of the Marianas High School (MHS) Food Court covering the school year (SY) 1998-1999. The objectives of the audit were to determine whether (1) operations of the Food Court during SY 1998-1999 were conducted in compliance with applicable laws and regulations, and (2) cash receipts at the Food Court were fully accounted for by MHS.

Our audit showed that (1) instead of using the School Lunch Program Trust Fund (Trust Fund) as a matching fund for the federal school lunch program as required by law, the Public School System (PSS) made payments from the Trust Fund totaling \$369,866 as of April 30, 2000 to fund a locally-established food service program at MHS called the MHS Food Court. Our review further showed that (2) the Food Court was used to set up a discretionary fund (called Food Court fund) through which funds for the Trust Fund and fees collected from students were used solely for the benefit of MHS, including payment for non-Food Court expenses, in violation of the Planning and Budgeting Act and Board of Education (BOE) Policy, and (3) MHS procured goods and services from the Food Court fund totaling \$207,677 without going through the competitive bidding process, \$8,000 of which was made in violation of the "conflict of interest" provision of the PSS Procurement Regulations (PSSPR). Finally, we found that (4) proceeds from the sale of reduced-price meals were not fully accounted for, making it difficult to establish the completeness of reported cash collections, and based on available recorded, \$1,172 of Food Court collections were missing.

We recommended (under Recommendations 1, and 3 to 8) that the Commissioner of Education (1) issue a directive immediately disallowing the use of the Trust Fund to pay the vendors of the Food Court; (3) instruct the PSS Legal Counsel to determine the extent of the MHS Principal's liability for his role in the violation of the Planning and Budgeting Act and the BOE Policy on fundraising; (4) issue a memorandum instructing the MHS Principal to stop using the proceeds from the sale of reduced-price meals to pay for non-Food Court expenses; (5) issue a memorandum requiring the MHS Principal to refer all Food Court procurement to the PSS

Procurement Office, and refrain from conducting procurement actions for goods and services needed by the Food Court; (6) consider enforcing employment sanctions against the Food Court Custodian for violating the ethics provision of the PSSPR; (7) instruct the PSS Legal Counsel to determine the extent of personal liability of the MHS Principal and Food Court Custodian for their roles in the violation of key provisions of the PSSPR; and (8) require the MHS Principal, in coordination with the PSS Fiscal and Budget Officer, to establish internal controls and written policies and procedures for the accounting of cash receipts at the Food Court.

We also recommended (under Recommendation 2) that the Secretary of Finance recover from PSS the \$369,866 that was paid by the Trust Fund for the operation of the Food Court. Repayment can be made by offsetting this unlawful payment against future fund allocations for PSS. Any repayment from PSS should be restored to the Trust Fund for possible future re-appropriation.

In her letter response dated November 16, 2000, the Commissioner of Education did not specifically concur with the recommendations. The Commissioner's response generally presented PSS's position on the audit findings, and failed to specifically address the recommendations. However, the Commissioner cited recent actions with respect to the MHS Food Court which addressed Recommendations 1, 5, and 8. .

In her letter response dated November 20, 2000, the Secretary of Finance concurred with the recommendation addressed to her (Recommendation 2), and stated that the Department of Finance (DOF) will withhold \$369,866 from the PSS first quarter allotment in fiscal year 2001.

Based on the response we received from PSS, we consider 4 recommendations open, and 3 recommendations resolved. The recommendation addressed to DOF is considered resolved. The additional information or action required to consider the recommendations closed is presented in **Appendix F**.

Sincerely,



Leo L. LaMotte  
Public Auditor, CNMI

xc: Governor  
Lt. Governor  
Twelfth CNMI Legislature (27 copies)  
Secretary of Finance  
Attorney General  
Special Assistant for Management and Budget  
Press Secretary  
Press

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# EXECUTIVE SUMMARY

**O**ur audit showed that (1) instead of using the School Lunch Program Trust Fund (Trust Fund) as a matching fund for the federal school lunch program as required by law, PSS made payments from the Trust Fund totaling \$369,866 as of April 30, 2000 to fund a locally-established food service program at MHS called the MHS Food Court. Our review further showed that (2) the Food Court was used to set up a discretionary fund (called Food Court fund) through which funds appropriated for the Trust Fund and fees collected from students were used solely for the benefit of MHS, including payment of non-Food Court expenses, in violation of the Planning and Budgeting Act and BOE Policy, and (3) MHS procured goods and services from the Food Court fund totaling \$207,677 without going through the competitive bidding process, \$8,000 of which was made in violation of the “conflict of interest” provision of the PSS Procurement Regulations. We also found that (4) proceeds from the sale of reduced-price meals were not fully accounted for, making it difficult to establish the completeness of the reported cash collections, and based on available records, \$1,172 of Food Court collections were missing.

## **Background**

In December 1998, OPA released a follow-up report on the recommendations in the audit report of the Marianas High School (MHS) student funds for the period August 1991 to September 1992. In this follow-up report, OPA found that the financial records of MHS were not adequate to determine what happened to the \$5,069 that was repaid by the former principal and custodian of the MHS school fund. The same report determined that the school fund bank account was short by \$13,681 as of October 31, 1998. Instead of determining the persons accountable for the shortage, MHS decided to write off the amount against the MHS Food Court Account (Food Court). In May 1999, OPA decided to audit the Food Court.

## **History of the MHS Breakfast and Lunch Service**

The Food Court began full operations in August 1998 at the start of School Year (SY) 1998-1999. The Food Court operations are conducted in the MHS cafeteria where breakfast and lunch are served by vendors selected by MHS. Although the Food Court started only in SY 1998-1999, the student meal service at MHS has been in operation for several years. The Food Court replaced an earlier breakfast and lunch program at MHS which was part of the federally-funded breakfast and lunch program being implemented at all public schools in the CNMI.

## ***The Federal School Food Service Program at PSS***

Prior to its withdrawal from the federally-funded breakfast and lunch program in SY 1998-1999, MHS was

providing breakfast and lunch to its students under the Nutrition Assistance Grant (NAG) of the Food and Nutrition Service (FNS). NAG is a federal program under the United States Department of Agriculture (USDA).

In recent years, school meals under NAG have been contracted to private food vendors. For each school year, PSS solicits bids from private vendors and awards each school's meal requirements under NAG to a particular vendor. This practice is applied to all public schools in the CNMI.

#### ***Change to the Food Court Setup***

In SY 1998-1999, MHS decided to withdraw from the PSS-managed school breakfast and lunch program. MHS then opted to operate its own breakfast and lunch program for its students. To increase the participation of its students in the school breakfast and lunch program, the MHS principal introduced the concept of a food court to be operated in the school cafeteria. The food court concept implemented at MHS is similar to a fast-food center found in shopping malls (although on a smaller scale) where people choose food from various vendors offering different types of meals.

Management of the Food Court, including coordination with the vendors, was handled by students enrolled in a home economics class at MHS under the direction of the Food Court Administrator. Thus, the Food Court also became a part of the school curriculum in which students are taught about food service operation. Additionally, the Food Court became a fundraising activity because its revenues funded various expenses incurred by MHS.

#### ***The School Lunch Program Trust Fund***

The Food Court was funded by the School Lunch Program Trust Fund (Trust Fund) established by Public Law 9-29, otherwise known as the Pachinko Slot Machine Act. Under this act, 50 percent of revenues raised from the licensing of pachinko machines is placed in the Trust Fund to provide local matching funds for any federally-funded school lunch program in the CNMI. At the inception of the Food Court in SY 1998-1999, payments from the Trust Fund to MHS took the form of reimbursements for meals served at the Food Court. MHS then paid its vendors and suppliers from the money received from the Trust Fund.

In SY 1999-2000, however, vendors of the Food Court were issued emergency contracts by PSS. It appears that the use of emergency contracts was a stopgap measure to avoid disruption of the MHS food service. In this school year, PSS no longer reimbursed MHS for meals served at the Food Court, instead paying the Food Court vendors and suppliers directly using the pachinko revenues deposited in the Trust Fund.

#### **Objectives and Scope**

The objectives of our audit were to determine whether (1) operations of the Food Court during SY 1998-1999 were conducted in compliance with applicable laws and regulations, and (2) cash receipts at the Food Court were fully accounted for by MHS.

To accomplish our objectives, we reviewed the financial operations of the Food Court from its inception in SY 1998-1999. As part of our audit, we

reviewed the records of the Food Court from August 1998 to July 1999. We also studied the laws and regulations governing the Food Court, and evaluated its internal accounting controls. Since the Food Court was funded by the Trust Fund, we reviewed the Pachinko Slot Machine Act and also performed a limited review of the Trust Fund expenditures.

We performed our audit between May and September 1999 at MHS and PSS. Update of the audit was done from March to June 2000. This performance audit was made, where applicable, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures as were considered necessary in the circumstances.

### **MHS Food Court Received Unlawful Funding from the Trust Fund**

The School Lunch Program Trust Fund (Trust Fund), which receives 50 percent of revenues from pachinko machines, was established to *provide matching funds* for any federal school lunch program in the CNMI. Our audit showed, however, that instead of using the Trust Fund as a matching fund for the federal school lunch program implemented in various public schools, PSS made payments from the Trust Fund totaling \$369,866 as of April 30, 2000 to fund a locally-established food service program at MHS called the MHS Food Court. This new program at MHS received no federal funding, and its funding has been provided solely by the Trust Fund since its inception in school year 1998-1999. This occurred because PSS allowed

use of the Trust Fund beyond its legislated purpose. As a result, public funds totaling \$369,866 as of April 2000 were misspent on the Food Court, and because these funds were used for a purpose contrary to law, PSS could be required to pay back the money that MHS unlawfully received from the Trust Fund.

Accordingly, we recommend that the Commissioner of Education:

1. Issue a directive immediately disallowing the use of the Trust Fund to pay the vendors of the Food Court. If PSS wants to continue with the operations of the Food Court, it should use other funds for that purpose or seek to have the Pachinko Law amended to authorize continued use of the Trust Fund for the operations of the Food Court.

Also, we recommend that the Secretary of Finance:

2. Recover from PSS the \$369,866 that was paid by the Trust Fund for the operation of the Food Court. Repayment can be made by offsetting this unlawful payment against future fund allocations for PSS. Any repayment from PSS should be restored to the Trust Fund for possible future re-appropriation.

### **PSS's Response**

The Commissioner of Education (Commissioner) in her response dated November 16, 2000 (see **Appendix D**) stated that the analysis presented in the draft report is deficient in that there was no legal requirement for the MHS Food

Court to accept federal funding, nor for other schools not to implement a similar Food Court setup. The Commissioner also questioned how the discussion of the NAG supports the allegation that the MHS Food Court had been unlawfully funded, noting that the MHS Food Court did not apply for NAG funds because it was experimental for the first two school years.

The Commissioner took the position that the MHS Food Court has not been unlawfully funded because the Pachinko Law (Public Law 9-29) codified in 4 CMC §1508 does not require a *school* analysis, but rather a *Commonwealth* analysis. The Commissioner further stated that the statute only alludes to *available* lunch programs as opposed to operating programs, and that the statute failed to explicitly state what may be prohibited. The Commissioner went on to assert that in the current school year (SY2000 - 2001), the MHS Food Court is federally funded by the NAG and complies with federal nutritional guidelines.

### OPA Comments

On September 5, 2000, we specifically requested PSS's explanations concerning the findings presented in this report. We also asked that if its response pointed out any incorrect facts in the report, PSS should attach documents showing the correct facts. The response submitted by the Commissioner did not address the findings of fact presented in the report. Instead, the response offered general statements justifying the creation of the Food Court program and recent changes made to it. Additionally, the Commissioner claims that the Food Court has not been unlawfully funded by suggest-

ing an analysis of 4 CMC §1508(c) that focuses on the words *available* and *Commonwealth* as used in the law. We fail to see the relevance of PSS's analysis of these two words. On the contrary, the language of the law is very specific, straightforward, and does not require a complex analysis or interpretation. The law clearly says that the Trust Fund shall be used as *matching funds* to qualify for and implement any federal school lunch program available to the Commonwealth.

The Commissioner questioned how the MHS Food Court could have been unlawfully funded when it did not apply for the NAG funds. The response seems to miss a basic point of the finding - that the appropriated Trust Fund should not have been used outside of its authorized purpose. The Trust Fund should only be used as matching money in implementing any available federal school lunch program. Not having availed itself of NAG funds in school years 1998-1999 and 1999-2000, the MHS Food Court was not part of the federally-funded school lunch program and was therefore ineligible to receive money from the Trust Fund. We also noted in this report that there is no requirement for local matching funds under the 1991 NAG agreement that was executed between the CNMI Government and the Federal Food and Nutrition Service. Therefore, the funds appropriated in the Trust Fund should not have been used.

The Commissioner stated that the MHS Food Court has started to use federal funds pursuant to the NAG. Accordingly, we consider Recommendation 1 resolved. The additional information or action required to close the recommendation is shown in **Appendix F**.

### DOF Response

The Secretary of Finance (SOF) in her response dated November 20, 2000 (**Appendix E**) concurred with Recommendation 2. The SOF stated that the Department of Finance will withhold \$369,866 from the PSS first quarter allotment in fiscal year 2001.

### OPA Comments

Based on the response of the SOF, we consider Recommendation 2 resolved. The additional information or actions required to close the recommendation is presented in **Appendix F**.

### **The Food Court Provided a Discretionary Fund for the Benefit of MHS in Violation of the Planning and Budgeting Act and BOE Policy**

The Planning and Budgeting Act (PBA) requires that appropriated funds shall be used only for the purposes for which the funds are appropriated, and Board of Education (BOE) Policy provides that all obligations incurred by a fundraising activity shall be paid in full prior to the use of any fundraising proceeds for other purposes. Our audit showed, however, that the Food Court was used to set up a discretionary fund (called Food Court fund) through which funds appropriated for the Trust Fund and fees collected from students were used solely for the benefit of MHS, including payment of non-Food Court expenses, in violation of the PBA and BOE Policy. This occurred because the MHS Principal was allowed to set up the Food Court as

a fundraising activity over which he has complete discretion as to disbursements. As a result, the MHS Principal was able to spend a total of \$243,462 from the Food Court fund, including \$38,091 for non-Food Court purposes, for which he may be liable under the PBA.

Accordingly, we recommend that the Commissioner of Education:

3. Instruct the PSS Legal Counsel to determine the extent of the MHS Principal's liability for his role in the violation of the Planning and Budgeting Act and the BOE Policy on fundraising.
4. Issue a memorandum instructing the MHS Principal to stop using the proceeds from the sale of reduced-price meals to pay for non-Food Court expenses. These collections should first be used only to pay obligations of the Food Court.

### PSS Response

The Commissioner in her November 16, 2000 response (**Appendix D**) claimed that the Planning and Budgeting Act, specifically 1 CMC §7402 and §7701, are not applicable to PSS. The Commissioner asserted that the audit report misapplies Commonwealth law in ignoring the constitutional provision that makes the Board of Education (BOE) autonomous. PSS explained that although it submits a budget to the Legislature as constitutionally required, PSS is ultimately governed by the BOE through the Commissioner. According to the Commissioner, the budgetary system of PSS is governed by BOE Policy 700. The Commissioner also

pointed out that the Food Court funds were used to support educational purposes, and that such funds have not been used as “fundraising” (sic) until the underlying activity has been addressed.

### **OPA Comments**

The Commissioner’s view that the Planning and Budgeting Act (PBA) codified in the Commonwealth Code is not applicable to PSS is misplaced. Under 1 CMC §7402 (a), no obligation or contract for the expenditure of *Commonwealth funds* shall be made for any purposes other than the public purposes for which the funds are appropriated. The Pachinko Trust Fund is a fund created by Commonwealth law and is clearly a *Commonwealth fund*. Therefore, use of this fund outside its intended purpose is a violation of the PBA.

Additionally, BOE Policy 701.4 (a) states that it is the expressed intent of the BOE to comply with the provisions of any and all applicable laws that relate to the preparation and presentation of budgets and the budgeting process, and any applicable subsequent legislation modifying or adding to those laws. The policy specifically mentioned the PBA (Public Law 3-68) as one of the applicable laws to be complied with.

The Commissioner also responded to one of our findings by claiming that funds have been used first to pay the vendors before they were used for other purposes. The response failed to provide documents to support the Commissioner’s claim. In any event, we do not agree with the Commissioner’s statement. As stated in the audit report, we have determined that the Trust Fund money should have been used only to

match the federal school lunch program, and therefore only those proceeds from the sale of reduced-price meals appear to be a legitimate source of funds for the Food Court. Since the amount being collected from paying students is not enough to cover the actual cost of meals, all collections from students should have been dedicated solely to the payment of MHS Food Court expenses.

Based on the response of the Commissioner, we consider Recommendations 3 and 4 open. The additional information or actions required to close the recommendations are presented in **Appendix F**.

### **Violations of the PSS Procurement Regulations**

The PSS Procurement Regulations (PSSPR) provide that bidding is required for procurement valued at \$10,001 and above. In addition, the PSSPR prohibits an employee from participating in a procurement when the employee knows that his business (or that of his immediate family) has a financial interest pertaining to the procurement. Our audit showed, however, that MHS procured goods and services from the Food Court fund totaling \$207,677 without going through the competitive bidding process as required by the PSSPR. Additionally, \$8,000 of the questionable Food Court procurement of \$207,677 was made in violation of the “conflict of interest” provision of the PSSPR. This occurred because MHS procured goods and services on its own without ensuring compliance with applicable laws and regulations. As a result, there is no assurance that MHS obtained the most competitive prices for the goods and

services procured from the Food Court fund in SY 1998-1999, and the MHS employee(s) who were responsible for the violations of the PSSPR could be held personally liable.

Accordingly, we recommend that the Commissioner of Education:

5. Issue a memorandum requiring the MHS Principal to refer all Food Court procurement to the PSS Procurement Office, and refrain from conducting procurement actions for goods and services needed by the Food Court.
6. Consider enforcing employment sanctions against the Food Court Custodian for violating the ethics provision of the PSSPR.
7. Instruct the PSS Legal Counsel to determine the extent of personal liability of the MHS Principal and Food Court Custodian for their roles in the violation of key provisions of the PSSPR.

### **PSS Response**

The Commissioner's November 16, 2000 response (**Appendix D**) stated that the reported violations may be more a question of clarification than purposeful failure to abide by the PSSPR. The response stated that the Food Court had been chronically subject to a lack of willing bidders. The Commissioner stated that the Procurement Officer takes the position that procurement has been involved under the PSSPR. She added that the MHS Principal and the Procurement Officer are now working together, and that many of the problems mentioned in the report have been

corrected.

The Commissioner also compared the Food Court's situation to a person who falls and suffers injuries because of a shaky banister (which is then repaired shortly thereafter by the owner). The Commissioner stated that if the injured person's attorney attempts to introduce the fact of the repair to prove consciousness of wrongdoing or negligence, the judge will declare such evidence inadmissible. According to her, the public policy served by the corrective action outweighs the interests of the injured person in introducing the subject evidence to prove negligent maintenance.

### **OPA Comments**

The Commissioner's November 16, 2000 response did not address the findings and recommendations. Instead, the Commissioner provided a general response and cited recent actions taken with respect to the MHS Food Court. We appreciate the effort to have a better working relationship between PSS and MHS; however, we do not believe that such action is sufficient to simply ignore the violations of the PSSPR cited in the audit report. The PSSPR has specific provisions imposing responsibility on employees for violations of the procurement regulations. We also do not see the relevance of the "shaky banister" analogy presented in the response.

The Commissioner stated that the Procurement Officer takes the position that a procurement has been involved under the PSSPR; however, there was no comment made on any of the procurement violations (such as the custodian's conflict of interest). Additionally,

the response seemed to justify the noncompliance with the PSSPR due to an alleged chronic lack of willing bidders. However, there were no supporting documents to verify PSS's claim of a chronic lack of willing bidders. In any event, we do not agree with this claim because recent solicitation for the Food Court generated at least four vendors who are now currently serving MHS. Even under the PSS-managed school lunch program, previous solicitations generated a number of proposers, some of whom even filed protests for failing to get the contract for certain schools. Besides, without issuing a public solicitation, we question how MHS was able to effectively reach out to potential vendors to justify its conclusion that there was a lack of willing bidders.

Based on the response of the Commissioner, we consider Recommendation 5 resolved. The Commissioner stated that the Procurement Officer and MHS are now working together under the PSS procurement regulations as well as the MOU between PSS/FNS and MHS. The additional information or action required to close this recommendation is presented in **Appendix F**.

Based on the Commissioner's response, we consider Recommendations 6 and 7 open. The Commissioner dismissed the violations by merely stating that they may be more a question of clarification than a purposeful failure to abide by the PSSPR. We believe that appropriate actions should be taken to protect the integrity of the PSS's procurement process. The additional information or action required to close the recommendations are presented in **Appendix F**.

## **No Full Accounting of Food Court Collections**

PSS requires that proceeds from fund-raising activities be properly accounted for. Our audit of the cash receipt transactions of the Food Court in SY 1998-1999 showed, however, that (1) proceeds from the sale of reduced-price meals were not fully accounted for, making it difficult to establish the completeness of the reported cash collections, and (2) based on available records, \$1,172 of Food Court collections were missing. This occurred because internal control and written policies and procedures for the accounting of cash receipts at the Food Court were not established. As a result, there was no assurance that all Food Court collections were reported and deposited in the bank, and there was a high probability that missing collections would continue without being detected.

Accordingly, we recommend that the Commissioner of Education:

8. Require the MHS Principal, in coordination with the PSS Fiscal and Budget Officer, to establish internal controls and written policies and procedures for the accounting of cash receipts at the Food Court. The internal control weaknesses and accounting deficiencies noted in this report should be addressed and remedied by these policies and procedures.

## **PSS Response**

The Commissioner's response dated November 16, 2000 (**Appendix D**) stated that since the advent of the experimental MHS Food Court, MHS and PSS have hired a certified public accountant

(CPA) to monitor and assist the MHS Food Court operations. The Commissioner stated that many problems existed, one of which was theft of meals by students.

The Commissioner also stated that over a period of time, MHS has implemented the following procedures: dual cash account sheets, numbering of tickets sold, assigning two employees to individually count the tickets sold, sequentially numbering the tickets, and frequently changing the colors of tickets and the stamps upon the tickets. The Commissioner also stated that MHS reports to PSS on a monthly basis. She added that on November 2, 2000, she issued a memorandum to the MHS Principal instructing the use of a form called Cash Accountability Report.

The Commissioner concluded by stating that PSS is somewhat perplexed by the reasoning of the audit. The Commissioner stated that the Food Court Custodian and the OPA auditor agreed to institute the accountability measures in August 1999. The Commissioner questions the public purpose to be served by going over the problems (which these internal control procedures were designed to correct) in the operation of the experimental MHS Food Court.

#### **OPA Comments**

In her response, the Commissioner inaccurately stated that MHS and PSS hired a certified public accountant (CPA) to monitor and assist the MHS Food Court operations. Our examination of the employment records of this CPA (referred to as the Food Court Custodian in the audit report) showed

that he was hired by PSS to teach Math at MHS, and because he was hired as a teacher, this CPA was issued a certified employment contract in July 1998. During the first year of operation of the Food Court, he was assigned as custodian of the Food Court fund while being paid under a certified contract. This is a function that he continues to perform today. We question the emphasis on the custodian's alleged qualifications as a CPA when the findings reported in this audit report happened while he was the custodian. We noted further that one of our findings related to a conflict of interest involving the custodian.

The Commissioner also mentioned that the Food Court Custodian (now the MHS Vice Principal) and the OPA auditor agreed in August 1999 to institute accountability measures. We must clarify that the OPA auditor as a matter of courtesy discussed the internal control weaknesses (including the failure to establish cash accountability) with the custodian, and he agreed to implement measures to improve the system. Our update of the audit in April 2000, however, showed that there is still no system of accountability. Although we agree that pre-numbered tickets were issued, the response did not provide documents to show that the number of tickets issued were actually accounted for and compared with the actual collections. Based on our April 2000 audit update, the Food Court still has not established a system to document and account for cash collections.

The Commissioner indirectly concurred with the recommendation by stating that a November 2, 2000 memorandum was issued to MHS advising the school to account for the receipts and tickets used

or sold during the day through the use of a cash accountability report. In the memorandum, PSS also directed MHS to transmit all cash received and collected from the Food Court to the PSS

Treasury. Accordingly, we consider Recommendation 8 resolved. The additional information or action required to close the recommendation is presented in **Appendix F**.

# Introduction

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## Background

In December 1998, OPA released a follow-up report on the recommendations in the audit report of the Marianas High School (MHS) student funds for the period August 1991 to September 1992. In this follow-up report, OPA found that the financial records of MHS were not adequate to determine what happened to the \$5,069 that was repaid by the former principal and custodian of the MHS school fund. The same report determined that the school fund bank account was short by \$13,681 as of October 31, 1998. Instead of determining the persons accountable for the shortage, MHS decided to replace the missing funds with money from the MHS Food Court Account (Food Court), which they said is a fundraising activity sanctioned by the Public School System (PSS). In May 1999, OPA decided to audit the Food Court.

## History of the MHS Breakfast and Lunch Service



Area of the Food Court where meals are distributed.

The Food Court began full operations in August 1998 at the start of School Year (SY) 1998-1999. The Food Court operations are conducted in the MHS cafeteria (see picture at left) where breakfast and lunch are served by vendors selected by MHS. It is run by a class of students under the supervision of the Food Court Administrator who is also a teacher at MHS. Although the Food Court started only in SY 1998-1999, the student meal service at MHS has been in operation for several years. The Food Court replaced an earlier breakfast and lunch program at MHS operated by a vendor previously contracted by PSS. This former program at

MHS was part of the federally-funded breakfast and lunch program being implemented at all public schools in the CNMI.

## *The Federal School Food Service Program at PSS*

Prior to its withdrawal from the federally-funded breakfast and lunch program in SY 1998-1999, MHS was providing breakfast and lunch to its students under the Nutrition Assistance Grant (NAG) of the Food and Nutrition Service (FNS). NAG is a federal program under the United States Department of Agriculture (USDA). The terms and conditions of the federal grant were embodied in a Memorandum of Understanding (MOU) executed by the USDA and the CNMI Government in 1991. NAG's purpose is to provide nutrition assistance to CNMI residents with priority for school-age children. NAG provides that meals served must be nutritious and should include a variety of food. With NAG's implementation, all other USDA

nutrition programs identified in the MOU (such as the National School Lunch Program), except the nutrition program for the elderly, was terminated.

In recent years, school meals under NAG have been contracted to private food vendors. For each school year, PSS solicits bids from private vendors and awards each school's meal requirements under NAG to a particular vendor. Aside from selecting the vendors, PSS also monitors the performance of the vendors, such as the delivery of meals required in the contract. This practice is applied to all public schools in the CNMI.

### ***Change to the Food Court Setup***

In SY 1998-1999, MHS decided to withdraw from the PSS-managed school breakfast and lunch program. MHS then opted to operate its own breakfast and lunch program for its students. To increase the participation of its students in the school breakfast and lunch program, the MHS principal introduced the concept of a food court to be operated in the school cafeteria. The food court concept implemented at MHS is similar to a fast-food center found in shopping malls (although on a smaller scale) where people choose food from various vendors offering different types of meals. The presence of a variety of food alternatives makes a food court setup appealing.

In accordance with a food court setup, MHS planned to have at least four vendors serving meals at the school cafeteria. Management of the Food Court, including coordination with the vendors, was handled by students enrolled in a home economics class at MHS under the direction of the Food Court Administrator. Thus, the Food Court also became a part of the school curriculum in which students are taught about food service operation. Additionally, the Food Court became a fundraising activity because its revenues funded various expenses incurred by MHS.

### ***The School Lunch Program Trust Fund***

The Food Court was funded by the School Lunch Program Trust Fund (Trust Fund) established by Public Law 9-29, otherwise known as the Pachinko Slot Machine Act. Under this act, 50 percent of revenues raised from the licensing of pachinko machines is placed in the Trust Fund to provide local matching funds for any federally-funded school lunch program in the CNMI. At the inception of the Food Court in SY 1998-1999, payments from the Trust Fund to MHS took the form of reimbursements for meals served at the Food Court. MHS then paid its vendors and suppliers from the money received from the Trust Fund.

In SY 1999-2000, however, vendors of the Food Court were issued emergency contracts by PSS. It appears that the use of emergency contracts was a stopgap measure to avoid disruption of the MHS food service. In this school year, PSS no longer reimbursed MHS for meals served at the Food Court, instead paying the Food Court vendors and suppliers directly using the pachinko revenues deposited in the Trust Fund. Towards the end of SY 1999-2000, PSS opted to use its program income to fund the Food Court because the Trust Fund was slowly being depleted.

**Objectives,  
Scope, and  
Methodology**

**T**he objectives of our audit were to determine whether (1) operations of the Food Court during SY 1998-1999 were conducted in compliance with applicable laws and regulations, and (2) cash receipts at the Food Court were fully accounted for by MHS.

To accomplish our objectives, we reviewed the financial operations of the Food Court from its inception in SY 1998-1999. As part of our audit, we reviewed the records of the Food Court from August 1998 to July 1999. We also studied the laws and regulations governing the Food Court, and evaluated its internal accounting controls. Since the Food Court was funded by the Trust Fund, we reviewed the Pachinko Slot Machine Act and also performed a limited review of the Trust Fund expenditures. The Food Court is one of the activities included in the MHS School Fund account. We did not review the other activities of the MHS School Fund as our examination was limited only to those transactions pertaining to the Food Court.

We performed our audit between May and September 1999 at MHS and PSS. Update of the audit was done from March to June 2000. This performance audit was made, where applicable, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures as were considered necessary in the circumstances.

**Prior Audit  
Coverage**

This is an initial audit of the MHS Food Court.

# Findings and Recommendations

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## A. MHS Food Court Received Unlawful Funding from the Trust Fund

The School Lunch Program Trust Fund was used to fund a new food service at MHS (called the Food Court) - an expenditure contrary to the Trust Fund's legislated purpose.

The School Lunch Program Trust Fund (Trust Fund), which receives 50 percent of revenues from pachinko machines, was established to *provide matching funds* for any federal school lunch program in the CNMI. Our audit showed, however, that instead of using the Trust Fund as a matching fund for the federal school lunch program implemented in various public schools, PSS made payments from the Trust Fund totaling \$369,866 as of April 30, 2000 to fund a locally-established food service program at MHS called the MHS Food Court. This new program at MHS received no federal funding, and its funding has been provided solely by the Trust Fund since its inception in school year 1998-1999. This occurred because PSS allowed the use of the Trust Fund beyond its legislated purpose. As a result, public funds totaling \$369,866 as of April 2000 were misspent on the Food Court, and because these funds were used for a purpose contrary to law, PSS could be required to pay back the money that MHS unlawfully received from the Trust Fund.

### Enacted Purpose of the Trust Fund

Section 5 of Public Law 9-29 (Pachinko Slot Machine Act), codified as 4 CMC §1508(c), provides that:

“The Secretary of Finance shall deposit 50% of all revenues raised from the licensing of amusement machines under 4 CMC §1503(a)(5)<sup>1</sup> in a separate trust account in the General Fund to be known as the School Lunch Program Trust Fund. The revenue in such fund *shall be used as matching funds to qualify for and implement any federal school lunch program available to the Commonwealth.*” [Emphasis added.]

### Unlawful Disbursements from the Trust Fund

Contrary to the purpose stated in the Pachinko Slot Machine Act, the Trust Fund was used to fund a local school food service at MHS called the MHS Food Court beginning SY 1998-1999. The money deposited in the Trust Fund was not used to match any of the federal school lunch programs being implemented in the CNMI. Instead, the Trust Fund was used exclusively for the Food Court although all the other public schools in the CNMI had federally-funded school lunch programs. The Food Court was a new concept initiated by the leadership of MHS and PSS

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<sup>1</sup> Established licensing fees for the operation of pachinko machines.

to entice students to patronize the meals served at MHS. No other school in the CNMI has implemented a similar Food Court setup.

In a memorandum dated January 26, 1998, the former PSS nutritionist stated that the Food Court was initiated through a meeting on December 9, 1997 that she attended along with the former Commissioner, MHS Principal, and former Federal Programs Coordinator. The memorandum stated that the Food Court was created to increase student participation in the school’s breakfast and lunch program, as well as to generate a profit for use in student activities. The group agreed to set up four stalls with different foods for sale at the MHS cafeteria, similar to food courts found in shopping malls. As stated in the memorandum, the former Commissioner was receptive to the idea of setting up the Food Court. The memorandum continued to state that the former Commissioner asked for written plans from the MHS Principal and instructed the PSS Food and Nutrition Services (PSS-FNS) to exclude MHS from the PSS-managed school breakfast and lunch program beginning SY 1998-1999.

**Trust Fund Disbursements for the Food Court Totaled \$369,866**

Revenues generated by MHS through the Food Court consisted primarily of the reimbursements by PSS for all the breakfast and lunch meals served to MHS students at the Food Court. During its first year of operations (SY 1998-1999), the Food Court received total reimbursements of \$174,287 (**Appendix A**) from the Trust Fund. In the next school year (1999-2000), however, the payment scheme was changed so that PSS paid Food Court vendors directly from the Trust Fund, instead of reimbursing MHS for the meals. From August 1999 to April 2000, payments from the Trust Fund to vendors and suppliers of the Food Court amounted to \$195,579 (**Appendix A**). Accordingly, PSS paid a total of \$369,866 from the Trust Fund for the meals served at the Food Court from inception to April 30, 2000 as shown below:

Payments to MHS for meal reimbursements (1998-1999) .....	\$174,287
Payments to Food Court vendors (1999-2000) .....	195,579
Total as of April 30, 2000 .....	<u>\$369,866</u>

In reimbursing MHS for the meals served at the Food Court, PSS used a predetermined rate depending on whether the meal was served to paying or non-paying students. Free meals were given to students meeting certain eligibility requirements. PSS reimbursed the Food Court for those free meals at the rate of \$1.15 and \$2.22 for each breakfast and lunch meal, respectively. Students who did not qualify for free meals purchased them at a subsidized (reduced) price of \$1.25 each. PSS reimbursed the reduced-price meals at \$0.65 and \$1.47 for each breakfast and lunch meal, respectively.

At the start of SY 1999-2000, the second year of operations, PSS decided to handle the procurement of meals and supplies for the Food Court, and issued contracts to the vendors who were already serving the Food Court at the time. By letter dated August 13, 1999, the PSS Procurement Officer stated that “In view that the school year has started, it is important that MHS and Food Services must determine what

method of procurement will it use while the RFP is being issued to ensure that services are being provided....” It appears that the use of emergency contracts was a stopgap measure to avoid disruption of the school meal service at MHS. Since the vendors and suppliers were directly contracted by PSS, payments for the meals and supplies at the Food Court were made directly to the vendors. Those payments to the Food Court vendors, which as of April 30, 2000 totaled \$195,579, were made directly from the Trust Fund, thereby eliminating the need to reimburse MHS for the meals served at the Food Court in SY 1999-2000. The PSS Accountant confirmed that the Trust Fund is almost depleted, as shown by its recent balance of about \$46,500 as of April 2000.

### ***The Food Court was not a Federal Food Service Program***

Although the Trust Fund was appropriated exclusively for any federal school lunch program, PSS spent \$369,866 from the Trust Fund for a non-federal school meal program. The Food Court cannot be considered a federal food service program because it did not receive any federal funds from the Nutrition Assistance Grant (NAG) of the U.S. Department of Agriculture (USDA). Additionally, it appears that the Food Court operations were not patterned after any federal food service program. With reference to the food service program funded by NAG, meals were offered at the Food Court which did not meet the meal pattern requirements of USDA.

Under the NAG meal pattern, meals served must be nutritious and include a variety of foods. Specifically, every lunch must include at least one item from each of the following four food groups:

- starch/cereal,
- fruit/vegetable,
- meat/meat alternate, and
- one food source for calcium.

For breakfast, NAG requires at least three items from any of the above food groups. FNS encourages menu planning that keeps fat, sugar, and salt content at moderate levels that are consistent with the dietary guidelines published by USDA and the Department of Health and Human Services. PSS then develops the minimum meal requirements for its school breakfast and lunch program based on the NAG meal pattern. The PSS meal requirements specify the minimum weight (in terms of ounce) and the number of servings for each food group.

In May 1999, OPA requested the former PSS Nutritionist to determine whether the nutrient content of the meals offered at the Food Court met the PSS minimum meal requirements. On August 23, 1999, the former PSS Nutritionist responded to OPA’s request and issued a nutritional analysis of the menu offered at the Food Court during SY 1998-1999. According to the analysis, certain food items lacked the required number of ounces or servings. For example, shiopao (stuffed bread) had only one and one-half servings of bread/bread alternatives instead of the required

two servings, and fried/barbeque chicken had only three ounces of vegetables and/or fruits instead of the required four ounces.

Although these meals did not meet the required minimum level for servings, meal reimbursements were still made by PSS. For example, PSS reimbursed a total of 11,616 lunch meals from October 5 to 30, 1998, of which only 8,629 meals complied with the required meal pattern. The difference of 2,987 units or an equivalent reimbursement amount of \$4,391 (computed at the rate of \$1.47 per meal) represents meals at the Food Court which were not in accordance with the federal food service program.

By not using the Trust Fund to match federal funds, PSS also created an unfair situation because the schools availing themselves of the federal lunch program (the supposed beneficiaries under the Act) were not allowed to share in the Trust Fund proceeds. As discussed above, substantial expenditures from the Trust Fund were made exclusively for the Food Court.

### **PSS Took Advantage of the Trust Fund**

This occurred because PSS allowed use of the Trust Fund for a purpose not within the intent of the law. Our examination of the payment documents showed that the payments were supported by memoranda from the PSS-FNS Administrator to the Fiscal and Budget Officer specifically requesting that the Food Court be reimbursed using the Trust Fund.

Additionally, we reviewed legislative documents on the Pachinko Slot Machine Act and found that the law was created to meet a non-existent need. A November 10, 1994 committee report on House Bill 9-79 (Pachinko Bill) states that “the school lunch program was seen as very important because last fiscal year, the Commonwealth lost out on considerable federal funds for lack of being able to identify a *source of matching funds* and this was seen as a good way to leverage a fixed amount of money into additional funding power.” According to the PSS Federal Programs Officer, however, the federally-funded breakfast and lunch program of the CNMI is governed by the 1991 Nutrition Assistance Grant (NAG), a document that had been existing prior to the passage of the Pachinko Act in 1995. Under the 1991 NAG, there is no local matching requirement for use of the federal grant money. The absence of a local matching requirement for NAG was confirmed by the PSS Federal Programs Officer.

Although PSS was aware that the NAG did not require local matching funds, it took advantage of the money deposited in the Trust Fund by spending it for a purpose other than was authorized. PSS should have informed the Legislature of the availability of the money in the Trust Fund for re-appropriation. However, PSS decided on its own to use the Trust Fund for MHS although there was no new law authorizing such action.

## **PSS May Have to Return the Trust Fund Money**

As a result, public funds totaling \$369,866 as of April 2000 were misspent on the Food Court, and because these funds were used for a purpose contrary to law, PSS could be required to pay back the money that MHS unlawfully received from the Trust Fund. Because the money was not returned to the General Fund, PSS has deprived the CNMI Government of an additional source of appropriation.

Since our audit showed that PSS has continued to take advantage of the Trust Fund by using it for an unauthorized purpose, we believe that the administration of the Trust Fund should be transferred to the Secretary of Finance. Although the Trust Fund relates to the functioning of PSS, the Secretary of Finance is in a better position to objectively manage the Trust Fund. Besides, the Finance Secretary is authorized under 1 CMC §2553(d) to manage trust funds and related receipts of the Commonwealth. In this case, the responsibility for recovering the money that was unlawfully received by PSS from the Trust Fund can be properly assigned to the Secretary of Finance.

## **Conclusion and Recommendations**

PSS has violated the provision of the Pachinko Slot Machine Act that requires the Trust Fund to be used as matching funds to qualify for and implement any federal school lunch program available to the CNMI. Our audit showed that PSS made payments from the Trust Fund totaling \$369,866 as of April 30, 2000 to fund a locally-established food service program at MHS called the MHS Food Court. This new program at MHS received no federal funding and its funding has been provided solely by the Trust Fund since its inception in school year 1998-1999. This occurred because PSS allowed the use of the Trust Fund beyond its legislated purpose. As a result, public funds totaling \$369,866 as of April 2000 were misspent on the Food Court, and because these funds were used for a purpose contrary to law, PSS could be required to pay back the money that MHS unlawfully received from the Trust Fund.

Accordingly, we recommend that the Commissioner of Education:

1. Issue a directive immediately disallowing the use of the Trust Fund to pay the vendors of the Food Court. If PSS wants to continue with the operations of the Food Court, it should use other funds for that purpose or seek to have the Pachinko Law amended to authorize continued use of the Trust Fund for the operations of the Food Court.

Also, we recommend that the Secretary of Finance:

2. Recover from PSS the \$369,866 that was paid by the Trust Fund for the operation of the Food Court. Repayment can be made by offsetting this unlawful payment against future fund allocations for PSS. Any repayment from PSS should be restored to the Trust Fund for possible future re-appropriation.

## PSS Response

The Commissioner of Education (Commissioner) in her response dated November 16, 2000 (see **Appendix D**) stated that the analysis presented in the draft report is deficient in that there was no legal requirement for the MHS Food Court to accept federal funding, nor for other schools not to implement a similar Food Court setup. The Commissioner pointed out that the Nutrition Assistance Grant (NAG) was the model on which the MHS Food Court based its nutritional standards; however, she admitted that in the past, the MHS Food Court had not fully complied with the nutritional requirements of the NAG. The Commissioner also questioned how the discussion of the NAG supports the allegation that the MHS Food Court had been unlawfully funded, noting that the MHS Food Court did not apply for NAG funds because it was an experimental program for the first two school years.

The Commissioner took the position that the MHS Food Court has not been unlawfully funded because the Pachinko Law (Public Law 9-29) codified in 4 CMC §1508 does not require a *school* analysis, but rather a *Commonwealth* analysis. The Commissioner further stated that the statute only alludes to *available* lunch programs as opposed to operating programs, and that the statute failed to explicitly state what may be prohibited. The Commissioner went on to assert that in the current school year (SY 2000 - 2001), the MHS Food Court is federally funded by the NAG and complies with federal nutritional guidelines.

## OPA Comments

On September 5, 2000, we specifically requested PSS's explanations concerning the findings presented in this report. We also asked that if its response pointed out any incorrect facts in the report, PSS should attach documents showing the correct facts. The response submitted by the Commissioner did not address the findings of fact presented in the report. Instead, the response offered general statements justifying the creation of the Food Court program and recent changes made to it. Additionally, the Commissioner claims that the Food Court has not been unlawfully funded by suggesting an analysis of 4 CMC §1508(c) that focuses on the words *available* and *Commonwealth* as used in the law. We fail to see the relevance of PSS's analysis of these two words. On the contrary, the language of the law is very specific, straightforward, and does not require a complex analysis or interpretation. The law clearly says that the Trust Fund shall be used as *matching funds* to qualify for and implement any federal school lunch program available to the Commonwealth.

The Commissioner questioned how the MHS Food Court could have been unlawfully funded when it did not apply for the NAG funds. The response seems to miss a basic point of the finding - that the appropriated Trust Fund should not have been used outside of its authorized purpose. The Trust Fund should only be used as matching money in implementing any available federal school lunch program. Not having availed itself of NAG funds in school years 1998-1999 and 1999-2000, the MHS Food Court was not part of the federally-funded school lunch program and was therefore ineligible to receive money from the Trust Fund. Based on

discussions with PSS's Federal Programs Coordinator, the NAG program is the only federal school lunch program currently available to the CNMI. The 1991 NAG terminated all other ongoing United States Department of Agriculture nutrition programs (including the National School Lunch Program, the School Breakfast Program, State Administrative Expense Funds, the Nutrition Education and Training Program, and the Food Distribution Program, except the Nutrition Program for the Elderly). We also noted in this report that there is no requirement for local matching funds under the 1991 NAG agreement that was executed between the CNMI Government and the Federal Food and Nutrition Service. Therefore, the funds appropriated in the Trust Fund should not have been used.

The Commissioner stated that the MHS Food Court has started to use federal funds pursuant to the NAG. Accordingly, we consider Recommendation 1 resolved. The additional information or action required to close the recommendation is shown in **Appendix F**.

#### ***DOF Response***

The Secretary of Finance (SOF) in her response dated November 20, 2000 (**Appendix E**) concurred with Recommendation 2. The SOF stated that the Department of Finance will withhold \$369,866 from the PSS first quarter allotment in fiscal year 2001.

#### ***OPA Comments***

Based on the response of the SOF, we consider Recommendation 2 resolved. The additional information or actions required to close the recommendation is presented in **Appendix F**.

## B. The Food Court Provided a Discretionary Fund for the Benefit of MHS in Violation of the Planning and Budgeting Act and BOE Policy

The MHS Principal spent a total of \$243,462 from the Food Court fund, including \$38,091 for non-Food Court purposes, for which he may be liable under the PBA.

The Planning and Budgeting Act (PBA) requires that appropriated funds shall be used only for the purposes for which the funds are appropriated, and Board of Education (BOE) Policy provides that all obligations incurred by a fundraising activity shall be paid in full prior to the use of any fundraising proceeds for other purposes. Our audit showed, however, that the Food Court was used to set up a discretionary fund (called Food Court fund) through which funds appropriated for the Trust Fund and fees collected from students were used solely for the benefit of MHS, including payment of non-Food Court expenses, in violation of the PBA and BOE Policy. This occurred because the MHS Principal was allowed to set up the Food Court as a fundraising activity over which he has complete discretion as to disbursements. As a result, the MHS Principal was able to spend a total of \$243,462 from the Food Court fund, including \$38,091 for non-Food Court purposes, for which he may be liable under the PBA.

### Applicable Provisions of the PBA and the BOE Policy

1 CMC §7402(a)(1) provides that no funds may be reprogrammed, and no obligation or contract for the expenditure of Commonwealth funds shall be made, for any purposes other than the public purposes for which the funds are appropriated.

1 CMC §7701(b) states that no officer or employee shall willfully and knowingly involve the Commonwealth or any agency in any contract or other obligation for the payment of money for any purpose, or make or authorize any payment out of the Commonwealth Treasury, in advance of, or in the absence of, appropriations made for such purposes, unless such contract or obligation is authorized by law or joint resolution.

BOE Policy 703.4 provides that a principal is responsible for ensuring that all obligations incurred from a fundraising activity are paid in full prior to the use of any funds for purposes other than the payment of obligations.

### Establishment of the Food Court Fund

Our audit showed that MHS set up a discretionary fund (called Food Court fund) consisting of the revenues collected from the operations of the Food Court. Food Court revenues came from two sources: (1) reimbursement by PSS from the Trust Fund for the meals served at the Food Court, and (2) fees collected for the meals served to certain students. The MHS Principal was given complete discretion for expenditures from this fund.

Aside from the significant amount of money provided by the Trust Fund, MHS was allowed to generate additional revenue through fees collected from students who were determined to be ineligible for free meals. Food Court collections were deposited in two checking accounts: (1) the MHS School Fund<sup>2</sup> account, and (2) an account specifically established for the Food Court. The first account held the reimbursements received from PSS, while the money collected from students for the meals purchased was deposited in the second account. MHS issued checks from these two accounts in paying various expenses.

In just one school year, the Food Court fund accumulated excess funds because it received more from the Trust Fund and student charges than what it paid to its vendors and suppliers. The Trust Fund was eventually used for school expenses, including those unrelated to the Food Court, in violation of the PBA and BOE Policy.

### The Food Court Became a School Fundraising Activity

While the Food Court was primarily a student food service program, it also became a fundraising activity in which proceeds from the sale of meals were intended to defray school expenses. Fundraising is defined under the BOE Policy as any activity or event undertaken for the purpose of obtaining money over and above the actual cost of the activity or event, and conducted under the auspices of the Public School System, its staff or teacher associations, employee organizations, and student body councils. Our review showed that the Food Court was collecting between \$1.15 and \$2.72 revenue per meal as shown below:

Particulars	PSS Reimbursement	Student Fee	Revenue Per Meal
Free meals:			
Breakfast	\$1.15	\$0.00	\$1.15
Lunch	2.22	0.00	2.22
Reduced meals:			
Breakfast	\$0.65	\$1.25	\$1.90
Lunch	1.47	1.25	2.72

At this rate, the Food Court was making a profit because it was collecting more than the cost of the meals. For instance, lunch meals, which are the bulk of the Food Court’s operation, result in a substantial profit margin (revenue minus cost) sometimes even reaching 91.5% of the cost of the meals and drinks. The resulting profit margin (kept in the Food Court fund) becomes a funding source for MHS. At this point, only MHS among CNMI public schools has this additional funding source.

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<sup>2</sup> The MHS School Fund account includes the funds belonging to various school groups, among them Japanese Club, National Honor Society, and other student organizations at MHS.

During SY 1998-1999, aside from the \$174,287 reimbursement by PSS, the Food Court also generated \$89,026 from the sale of breakfast and lunch meals at the subsidized price of \$1.25 per meal. Accordingly, total cash collections made by the Food Court in SY 1998-1999 amounted to \$263,313. Since MHS was given complete authority over the Food Court fund, it was able to use the fund for any purpose it wanted. Our audit showed that most of the Food Court collections had already been spent by MHS. At the end of SY 1998-1999, total expenses paid from the Food Court fund amounted to \$243,462 (see details in **Appendix B**), leaving a balance of only \$19,851<sup>3</sup> at the end of SY 1998-1999.

Although most of the \$243,462 expenditures pertained to Food Court-related expenses, 15.65% or \$38,091 (see details in **Appendix B**) was used for non-Food Court purposes consisting mostly of MHS administrative expenses. Those included janitorial services, payment of teacher substitute pay, MHS office supplies, postage, computer expenses, repairs and landscaping services, graduation expenses, security services, and purchase of shipping containers to be used as a student store, among other non-Food Court expenses. Also included among these expenses were food and drinks consumed during a faculty meeting and entertainment of off-island guests totaling \$3,397 (**Appendix B**, page 8).

Our audit showed that the Food Court fund was initially intended to support activities of student organizations at MHS. In a December 9, 1997 meeting of MHS and PSS officials, it was stated that profits from the sale of meals at the Food Court could be used to fund student activities. The plan was to cease all other fundraising activities at MHS and allow the Student Council to distribute the profit generated from the Food Court among various school organizations.

### **The Food Court Became a Channel for the Unauthorized Use of Appropriated Funds by MHS**

The money deposited in the Food Court fund came mostly from the Trust Fund. Although the Trust Fund was specifically appropriated in the Pachinko Slot Machine Act for the purpose of matching any federal school lunch program, the Trust Fund money provided to the Food Court was not used by MHS for that purpose. MHS was able to use the Trust Fund by first channeling the funds to the Food Court in the form of meal reimbursements. Once the money had been transferred to the Food Court fund, MHS had complete authority to determine the purposes for which the funds would be used.

By using the Trust Fund money for purposes contrary to the Pachinko Slot Machine Act, MHS violated 1 CMC §7402(a)(1). This provision of the PBA provides that no obligation or contract for the expenditure of Commonwealth funds shall be made for any purposes other than the public purposes for which the funds are appropriated.

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<sup>3</sup> Computed by deducting \$243,462 from the total Food Court collections of \$263,313.

## **Proceeds from the Sale of Meals Should Have Been Fully Dedicated to the Food Court**

Since we have determined that the Trust Fund money should have been used only to match the federal school lunch program, only those proceeds from sale of reduced-price meals appear to be a legitimate source of funds for the Food Court. However, the amount being collected from paying students is not even enough to cover the actual cost of the meals. As such, all collections from students should have been dedicated to the payment of Food Court obligations instead of using these collections for non-Food Court expenses. The BOE Policy provides that all obligations incurred by a fundraising activity are to be paid in full prior to the use of any funds for purposes other than the payment of obligations.

Even under the federal program, collections from students are considered program income, and therefore they must first go back into the program to pay all expenses associated with the food service operation. Money collected from MHS students is similar to this program income, and we believe that it should first be applied to the Food Court obligations. Remaining unpaid obligations should be paid from other legitimate fund sources.

## **The MHS Principal is Responsible for the Establishment of the Food Court**

This occurred because the MHS Principal was allowed to set up the Food Court as a fundraising activity over which he has complete discretion as to disbursements. In an attachment to a memorandum dated August 17, 1999, it was stated that the MHS Principal was the school official who approved the implementation of the Food Court.

## **MHS Principal Could Be Liable for the Violation**

As a result, the MHS Principal was able to spend a total of \$243,462 from the Food Court fund, including \$38,091 for non-Food Court purposes, for which he may bear responsibility under the PBA. Every person who knowingly violates any provision of 1 CMC §7701 is guilty of a crime, and upon conviction thereof shall be fined not more than \$2,000 or imprisoned not more than two years, or both.

## **Conclusion and Recommendations**

MHS has violated the Planning and Budgeting Act and the BOE Policy on fundraising. Our audit showed that the Food Court was used to set up a discretionary fund (called Food Court fund) through which funds appropriated for the Trust Fund and fees collected from students were used solely for the benefit of MHS, including payment of non-Food Court expenses, in violation of the PBA and BOE Policy. This occurred because the MHS Principal was allowed to set up the Food Court as a fundraising activity with complete authority over the disbursement of the Food

Court fund. As a result, he was able to spend a total of \$243,462 from the Food Court fund, including \$38,091 for non-Food Court purposes, for which he may bear responsibility under the PBA.

Accordingly, we recommend that the Commissioner of Education:

3. Instruct the PSS Legal Counsel to determine the extent of the MHS Principal's liability for his role in the violation of the Planning and Budgeting Act and the BOE Policy on fundraising.
4. Issue a memorandum instructing the MHS Principal to stop using the proceeds from the sale of reduced-price meals to pay for non-Food Court expenses. These collections should first be used only to pay obligations of the Food Court.

### **PSS Response**

The Commissioner in her November 16, 2000 response (**Appendix D**) claimed that the Planning and Budgeting Act, specifically 1 CMC §7402 and §7701, are not applicable to PSS. The Commissioner asserted that the audit report misapplies Commonwealth law in ignoring the constitutional provision that makes the Board of Education (BOE) autonomous. PSS explained that although it submits a budget to the Legislature as constitutionally required, PSS is ultimately governed by the BOE through the Commissioner. The Commissioner further stated that the budgeting and accountability system invoked within the PSS is that the BOE approves a budget, the Commissioner implements it, and the principals are held accountable for proper implementation at the school level. According to the Commissioner, the budgetary system of PSS is governed by BOE Policy 700.

The Commissioner went on to clarify that the MHS Principal is complying with the BOE policy on fundraising reports by reporting on a monthly basis during SY 1998-1999 and SY 1999-2000. The response confirmed our finding that Trust Fund money has been reimbursed to MHS for meals sold at the Food Court, and that a profit was being generated. However, the Commissioner pointed out that the Food Court funds were used to support educational purposes, and that such funds have not been used as "fundraising" (sic) until the underlying activity has been addressed.

### **OPA Comments**

The Commissioner's view that the Planning and Budgeting Act (PBA) codified in the Commonwealth Code is not applicable to PSS is misplaced. Under 1 CMC §7402(a), no obligation or contract for the expenditure of *Commonwealth funds* shall be made for any purposes other than the public purposes for which the funds are appropriated. The Pachinko Trust Fund is a fund created by Commonwealth law and is clearly a *Commonwealth fund*. Therefore, use of this fund outside its intended purpose is a violation of the PBA.

Additionally, BOE Policy 701.4 (a) states that it is the expressed intent of the BOE to comply with the provisions of any and all applicable laws that relate to the preparation and presentation of budgets and the budgeting process, and any applicable subsequent legislation modifying or adding to those laws. The policy specifically mentioned the PBA (Public Law 3-68) as one of the applicable laws to be complied with.

The Commissioner also responded to one of our findings by claiming that funds have been used first to pay the vendors before they were used for other purposes. The response failed to provide documents to support the Commissioner's claim. In any event, we do not agree with the Commissioner's statement. As stated in the audit report, we have determined that the Trust Fund money should have been used only to match the federal school lunch program, and therefore only those proceeds from the sale of reduced-price meals appear to be a legitimate source of funds for the Food Court. Since the amount being collected from paying students is not enough to cover the actual cost of meals, all collections from students should have been dedicated solely to the payment of MHS Food Court expenses. The other findings presented in the audit report were not addressed in the response. Some other statements were provided pertaining to the submission of fundraising reports and recent actions taken on the Food Court; however, we do not see the relevance of this information to the findings presented above.

Based on the response of the Commissioner, we consider Recommendations 3 and 4 open. The additional information or actions required to close the recommendations are presented in **Appendix F**.

## C. Violations of the PSS Procurement Regulations

Goods and services totaling \$207,677 were procured in violation of the PSSPR, of which \$8,000 worth of services violated the provisions on conflict of interest.

The PSS Procurement Regulations (PSSPR) provide that bidding is required for procurement valued at \$10,001<sup>4</sup> and above. In addition, the PSSPR prohibit an employee from participating in a procurement when the employee knows that his business (or that of his immediate family) has a financial interest pertaining to the procurement. Our audit showed, however, that MHS procured goods and services from the Food Court fund totaling \$207,677 without going through the competitive bidding process as required by the PSSPR. Additionally, \$8,000 of the questionable Food Court procurement of \$207,677 was made in violation of the “conflict of interest” provision of the PSSPR. This occurred because MHS procured goods and services on its own without ensuring compliance with applicable laws and regulations. As a result, there is no assurance that MHS obtained the most competitive prices for the goods and services procured from the Food Court fund in SY 1998-1999, and the MHS employee(s) who were responsible for the violations of the PSSPR could be held personally liable.

### PSSPR Requirements

PSSPR Section 3-101 [Methods of Source Selection] states that all PSS contracts for \$10,001 and above shall be awarded by competitive sealed bidding. PSSPR Section 3-103 [Small Purchases] provides that bidding is not required for procurement under \$10,001; however, the official with expenditure authority may obtain price quotations from at least 3 vendors and base the selection on competitive price and quality for procurement valued up to \$10,000.99.

PSSPR Section 6-204(b) [Employee Conflict of Interest] provides that it is a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that his business (or that of his immediate family) has a financial interest pertaining to the procurement.

### Violations of the PSSPR

Our audit showed, however, that the majority of the funds generated by the Food Court were spent for goods and services which did not go through the competitive bidding process required under the PSSPR. These questionable goods and services totaling \$207,677 represented 85.30 percent of the total Food Court disbursements of \$243,462 in SY 1998-1999. Additionally, \$8,000 of the questionable Food Court

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<sup>4</sup> PSSPR Section 3-101 requires bidding for all PSS contracts above \$10,001, while the small purchase provisions of the PSSPR provide that price quotations may be obtained for procurement valued up to \$10,000.99. Since only those procurement above \$10,001 are required to be bid out, there is a question on whether a procurement of exactly \$10,001 should also be bid out. In view of how specific the \$10,000.99 designation of the small purchase threshold is and since \$10,001 is more than that amount, we interpret this to mean that such a \$10,001 procurement is covered by the bidding requirement. Accordingly, in this audit report, we have taken the position that procurement valued at \$10,001 and above requires bidding under the PSSPR.

procurement were made in violation of the “conflict of interest” provision of the PSSPR.

**Goods and Services Procured Without Bidding**

The \$207,677 procurement that violated the PSSPR consisted of: (1) goods totaling \$192,659, and (2) janitorial services totaling \$15,018. In SY 1998-1999, meals and drinks totaling \$192,659 were procured from two local food service operators and a wholesaler of juice and other beverages without soliciting bids from other vendors, as follows:

Hamburger Chain Operator (Wendy’s)	\$104,979
Pizza Operator (Nino’s)	39,378
Beverage Wholesaler (Northern Marianas Investment)	<u>48,302</u>
Total	<u>\$192,659</u>

MHS allowed these vendors to deliver meals and drinks starting SY 1998-1999 for the Food Court without the involvement of the Chief of Procurement and Supply of PSS (Chief). These procurement transactions should have been referred to the Chief who had jurisdiction over the procurement of goods for the Food Court. Section 2-103(3) of the PSSPR provides that the Chief is responsible for the bidding, procurement, negotiation, or administration of PSS contracts. Although the Food Court is under the management of MHS, the procurement authority still rests with the Chief since PSS has jurisdiction over the Food Court.

Under the PSSPR, meals and drinks for the Food Court should have been bid out since the total amount is well above the \$10,001 threshold level. Even if we consider the individual amount for each vendor, bidding was still required because the total payment for each vendor in SY 1998-1999 was more than \$10,001.

Aside from meals and drinks, the Food Court also procured janitorial services for various areas at MHS totaling \$15,018 in SY 1998-1999. The janitorial services were performed by the following: a company owned by the Food Court Custodian, a teacher at MHS, and two other individuals. Most of the \$15,018 was paid to the Custodian. Under the PSSPR, the \$15,018 for janitorial services should have been put out for public bidding because the total amount of this particular item exceeded the \$10,001 limit for small purchases.

These vendors continued to provide meals and drinks for the Food Court and were paid by the Food Court despite the absence of a contract. It is not clear how these vendors were selected by MHS. Records do not show that MHS considered other vendors for the Food Court, nor was there any record of price comparison among possible vendors.

**Small Purchase Procurement**

As discussed above, of the Food Court disbursements of \$243,462 in SY 1998-1999, competitive bidding should have been used for disbursements totaling \$207,677.

The rest of the disbursements totaling \$35,785 were individually below the \$10,001 bidding threshold, and therefore the PSSPR's small purchase provisions applied for the procurement of the pertinent goods and services. For procurement under \$10,001, the PSSPR provides that the official with expenditure authority, instead of requiring bids, may obtain price quotations from at least three vendors and base the selection on competitive price and quality.

Records of the Food Court do not show that at least three price quotations were ever obtained by MHS. For instance, MHS procured security services for the school totaling \$3,000 which was paid from the Food Court fund. The security services were performed by five individuals, but there were neither price quotations nor any written basis for the selection of these individuals. In fact, MHS allowed the vendors to provide goods and render services without a purchase order or any agreement between these companies and MHS. As with the goods and services which should have been bid out, the small purchases paid from the Food Court fund should also have been referred to the Chief. However, MHS conducted these procurements on its own without involving PSS's Procurement Office.

#### ***Janitorial Services Procured in Violation of the Conflict of Interest Provision***

Of the \$15,018 janitorial services cited above, \$8,000 was paid to the Food Court Custodian (Custodian) in violation of the conflict of interest provisions of the PSSPR. During school year 1998-1999, one of the janitorial services at MHS was performed by a company owned by the Custodian (who was also then a Math teacher at MHS). During this period, as custodian of the fund, he deposited daily collections from the Food Court and received billings from all Food Court vendors, including his own charges for janitorial services. He also prepared the corresponding voucher form called "Student Organization Withdrawal Form" after receipt of the billings. The Custodian signed the voucher form and then prepared the corresponding check, including the payment for his own janitorial services.

The Custodian's company rendered janitorial services from the latter part of February 1999. At the rate of \$2,000 per month, the Custodian received a total payment of \$8,000 for four months of service. This arrangement created a conflict with the Custodian's duties because he was also involved in the procurement of the janitorial services. The PSSPR prohibits an employee from participating directly or indirectly in a procurement when the employee knows that his business has a financial interest pertaining to the procurement. As the custodian, he performed procurement functions for the janitorial services at the Food Court. The PSSPR provides that procurement includes:

“all functions pertaining to the obtaining of goods, services and construction, including description of requirements, *selection and solicitation of sources*, preparation and award of contracts, and *all phases of contract administration*” [Emphasis added].

There is no doubt that the Custodian performed procurement functions for the Food Court because he (or his wife) was involved in the solicitation of quotations. According to the Custodian, he cannot specifically remember whether it was his wife (who was also working at MHS) or he who solicited janitorial service quotations over the phone. He did recall that a certain janitorial company responded to the phone call and submitted a quotation for cleaning 61 rooms at \$1,000 per month. However, according to him, the representative of the company worked for only about 3 weeks. After the withdrawal of this company, the Custodian offered to render janitorial services at MHS for \$2,000 per month. It is not clear how the custodian got the janitorial work at that point, and records do not show that quotations from other janitorial companies were solicited.

Evidence shows that another procurement function performed by the Custodian was that of contract administration. As discussed above, the Custodian monitors and approves billings from vendors - a function which in our view falls under contract administration. Although there were no contracts executed in this instance, we believe that the basic function of contract administration was performed by the Custodian when he monitored vendor billings, checked delivery of the goods or services billed, and approved billings for payment.

### ***Subsequent Events***

On August 10, 1999, the Chief of Procurement and Supply of PSS issued a notice of violation of procurement rules and regulations to the PSS-FNS Administrator. The citation stated that without a contract, the payment of all Food Court reimbursement was in violation of the PSSPR.

During an August 23, 1999 meeting at the Commissioner's office attended by PSS and MHS officials, it was decided that food services at the Food Court from the start of SY 1999-2000 onward would be procured on an emergency basis. In March 2000, PSS released RFP 00-005 which solicited proposals for the school breakfast and lunch program at the Food Court for the remaining quarter of SY 1999- 2000 and for SY 2000 to 2001. Based on this solicitation, PSS selected four vendors to serve meals at the Food Court, three of which were awarded contracts in May 2000 while one was awarded a contact in June 2000. As for the janitorial services, the Food Court Custodian stopped rendering janitorial services at MHS at the end of SY 1998-1999.

### **MHS Failed to Ensure Compliance with the PSSPR**

This occurred because MHS procured goods and services on its own without ensuring compliance with applicable laws and regulations. Although MHS has no authority to conduct procurement functions for the Food Court, PSS was not involved in procuring the needed goods and services. Coursing the procurement through PSS could have ensured compliance with the PSSPR and applicable laws. PSS, for its part, also failed to require that Food Court purchases be processed through the PSS Procurement Office at the onset of Food Court operations. Almost

a year after the Food Court began operating, the PSS Legal Counsel, in a memorandum dated June 11, 1999, urged FNS to comply with the competitive bid process in selecting vendors for the Food Court.

### **No Assurance that Competitive Prices Were Obtained**

As a result, there is no assurance that the Food Court obtained the most competitive prices for the goods and services it procured in SY 1998-1999. Among the purposes of the PSSPR are maximizing to the fullest extent practicable the purchasing value of public funds, and to foster effective broad-based competition within the free enterprise system. These objectives were not accomplished because of the failure of MHS to comply with the PSSPR. Although it would be difficult to quantify in this case, we believe that competition could have resulted in lower prices for the goods and services procured for the Food Court since the absence of competition generally results in higher costs.

### **Responsible Employee(s) Could be Held Personally Liable**

The MHS employee(s) responsible for the violations of the PSSPR could be held personally liable. PSSPR Section 1-108 provides that any procurement action of a PSS employee in violation of the PSSPR is an action outside the scope of his or her employment. This particular provision entitles PSS to seek a judicial determination that a violation of the PSSPR is a personal liability of the responsible employee(s). Accordingly, any responsible employee could be required to compensate PSS for the costs associated with the violation. Based on records, the Food Court Custodian approved vendor billings and the MHS Principal approved the check payment for all Food Court expenses. These two individuals could be deemed responsible for the violations of the PSSPR.

Aside from possible personal liability as discussed in the preceding paragraph, PSS can impose employment sanctions against the Food Court Custodian. Section 6-211(1) of the PSSPR provides that an employee who violates any of the Ethics in Public Contracting provision of the PSSPR is subject to adverse action, including (but not limited to) reprimand, suspension without pay, termination of employment, civil injunction, civil suit, or criminal prosecution.

### **Conclusion and Recommendations**

MHS has violated key provisions of the PSSPR. Our audit showed that MHS procured goods and services from the Food Court fund totaling \$207,677 without going through the competitive selection process and in addition, \$8,000 of that amount was procured in violation of the “conflict of interest” provision of the PSSPR. This occurred because MHS procured goods and services on its own without ensuring compliance with applicable laws and regulations. As a result, there is no assurance that MHS obtained the most competitive prices for the goods and services procured from the Food Court fund in SY 1998-1999, and the MHS employee(s) responsible for the violations of the PSSPR could be held personally liable.

Accordingly, we recommend that the Commissioner of Education:

5. Issue a memorandum requiring the MHS Principal to refer all Food Court procurement to the PSS Procurement Office, and refrain from conducting procurement actions for goods and services needed by the Food Court.
6. Consider enforcing employment sanctions against the Food Court Custodian for violating the ethics provision of the PSSPR.
7. Instruct the PSS Legal Counsel to determine the extent of personal liability of the MHS Principal and Food Court Custodian for their roles in the violation of key provisions of the PSSPR.

### **PSS Response**

The Commissioner's November 16, 2000 response (**Appendix D**) stated that the reported violations may be more a question of clarification than purposeful failure to abide by the PSSPR. The response stated that the Food Court had been chronically subject to a lack of willing bidders. The Commissioner stated that the Procurement Officer takes the position that procurement has been involved under the PSSPR. She added that the MHS Principal and the Procurement Officer are now working together, and that many of the problems mentioned in the report have been corrected. As an example, she mentioned a better coordination between the PSS Procurement Office and the staff at MHS.

The Commissioner also compared the Food Court's situation to a person who falls and suffers injuries because of a shaky banister (which is then repaired shortly thereafter by the owner). The Commissioner stated that if the injured person's attorney attempts to introduce the fact of the repair to prove consciousness of wrongdoing or negligence, the judge will declare such evidence inadmissible. According to her, the public policy served by the corrective action outweighs the interests of the injured person in introducing the subject evidence to prove negligent maintenance.

### **OPA Comments**

The Commissioner's November 16, 2000 response did not address the findings and recommendations. Instead, the Commissioner provided a general response and cited recent actions taken with respect to the MHS Food Court. We appreciate the effort to have a better working relationship between PSS and MHS; however, we do not believe that such action is sufficient to simply ignore the violations of the PSSPR cited in the audit report. The PSSPR has specific provisions imposing responsibility on employees for violations of the procurement regulations. We also do not see the relevance of the "shaky banister" analogy presented in the response.

The Commissioner stated that the Procurement Officer takes the position that a procurement has been involved under the PSSPR; however, there was no comment

made on any of the procurement violations (such as the custodian's conflict of interest). Additionally, the response seemed to justify the noncompliance with the PSSPR due to an alleged chronic lack of willing bidders. However, there were no supporting documents to verify PSS's claim of a chronic lack of willing bidders. In any event, we do not agree with this claim because recent solicitation for the Food Court generated at least four vendors who are now currently serving MHS. Even under the PSS-managed school lunch program, previous solicitations generated a number of proposers, some of whom even filed protests for failing to get the contract for certain schools. Besides, without issuing a public solicitation, we question how MHS was able to effectively reach out to potential vendors to justify its conclusion that there was a lack of willing bidders.

Based on the response of the Commissioner, we consider Recommendation 5 resolved. The Commissioner stated that the Procurement Officer and MHS are now working together under the PSS procurement regulations as well as the MOU between PSS/FNS and MHS. The additional information or action required to close this recommendation is presented in **Appendix F**.

Based on the Commissioner's response, we consider Recommendations 6 and 7 open. The Commissioner dismissed the violations by merely stating that they may be more a question of clarification than a purposeful failure to abide by the PSSPR. We believe that appropriate actions should be taken to protect the integrity of the PSS's procurement process. The additional information or action required to close the recommendations are presented in **Appendix F**.

## D. No Full Accounting of Food Court Collections

Food Court collections were not fully accounted for, and \$1,172 of Food Court collections were missing.

PSS requires that proceeds from fundraising activities be properly accounted for. Our audit of the cash receipt transactions of the Food Court in SY 1998-1999 showed, however, that (1) proceeds from the sale of reduced-price meals were not fully accounted for, making it difficult to establish the completeness of the reported cash collections, and (2) based on available records, \$1,172 of Food Court collections was missing. This occurred because internal control and written policies and procedures for the accounting of cash receipts at the Food Court were not established. As a result, there was no assurance that all Food Court collections were reported and deposited in the bank, and there was a high probability that missing collections would continue without being detected.

### **BOE Policy Requires Full Accounting of Funds**

Section 703.4 of the PSS Board of Education (BOE) Policy Manual provides that the principal or his designee has the primary responsibility for providing a full accounting of all proceeds generated by a fundraising activity. Full accounting of funds is necessary to ensure the completeness and accuracy of the cash receipts and disbursements, and to ensure that there are no missing collections and funds are used only for valid expenses.

### **Cash Collections Were Not Fully Accounted For**

Our audit showed, however, that (1) proceeds from the sale of food court meals had not been fully accounted for, and (2) we identified \$1,172 of food court collections that had been missing based on available records.

#### *Failure to Establish Cashier's Accountability*

A basic element of every cash receipts system is the establishment of cashier's accountability. Determining the amount of cash for which a cashier is accountable is critical in providing assurance that all cash collections are deposited in the Food Court fund. Without this accountability, cash collections could be stolen or missing without being detected by MHS or PSS.

MHS never attempted to establish daily cash accountability at the Food Court. In order to determine the cash accountability, the number of paid meals should be documented and properly accounted for. Paid meals consisted of two components: (1) reduced-price meals which were sold at \$1.25 per meal, and (2) ala carte meals which were special meals (not conforming to the required meal pattern) sold to students at their option. Students meeting certain income eligibility requirements were given free breakfast and lunch meals.

In documenting the meals sold at the Food Court, MHS implemented the use of tickets<sup>5</sup>. These tickets were issued to both paying and non-paying students before they were served meals. However, students who were not eligible for free meals (paying students) needed to purchase their tickets (referred to in this report as reduced-price tickets) at a fixed price of \$1.25 per meal. Each paying student received a ticket corresponding to the price of the meal he paid. The most reliable basis of cash accountability in this case would have been the number of reduced-price tickets *issued* during the day. However, tickets issued during the day were never accounted for and recorded by MHS.

The tickets issued to the students were redeemed at the food counter, that is, the tickets were exchanged for the corresponding meal. The tickets redeemed at the food counter were also not accounted for, and therefore cash accountability could not be based on the redeemed tickets. The reduced-price tickets were not separated from the free meal tickets, making it impossible to establish how many of the redeemed tickets were paid by students. It was also difficult to identify whether a particular ticket was for a free or reduced-price meal because the same tickets were used for both types of meals.

Alternatively, cash accountability could still have been determined if the number of free meals served at the Food Court had been adequately documented by MHS. In this case, the total free meals could have been deducted from the total tickets redeemed to arrive at the quantity of reduced-price meals. However, even the free meals served were not accurately documented and accounted for by MHS. According to the Food Court Administrator, the issuance of free meal tickets was monitored by putting a check mark on the list of students entitled to free meals. However, when we asked for the file of these documents, we were informed that those lists were purportedly discarded due to the confidentiality of the information. Essentially, MHS had not maintained a record of the number of free meals served at the Food Court. There were also cases when the number of free meals served was no longer noted on the list because the Food Court Administrator mentally computed the total free meals served. Such a mental computation did not provide an accurate and reliable accounting of the free meals.

We attempted to establish cash accountability on May 24, 1999 by performing a surprise cash count. We based the cash accountability on counting the tickets redeemed at the food counter. Even with this approach, the computation of cash accountability was a problem because tickets redeemed for that day could have included tickets paid for on previous days. According to the custodian, students could purchase as many tickets as they chose, and redeem them on any day. Tickets paid for on previous days but redeemed only on May 24, 1999 should be excluded from the cash accountability for that day. However, such tickets could not be identified because MHS never implemented any procedure to account for and monitor prepaid

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<sup>5</sup> These were pre-printed tickets that bore the dollar amount (\$1.25) for the meal being purchased. Since ala carte meals were priced differently (for instance \$0.50 per individual dish), a different set of tickets was used for these meals.

tickets. Accordingly, the surprise cash count did not allow us to determine whether cash collections were properly accounted for by the cashiers.

Aside from the indeterminable cash accountability, no individual was primarily responsible for the cash collections. The cashiering function at the food court was not assigned to a specific person, and instead custody of the cash box was given to those Food Court personnel who were least busy.

**Missing Food Court Collections**

Based on available records, we identified cash collections totaling \$1,172 that had been missing from the Food Court fund. These missing collections consisted of:

Undeposited September 9, 1998 collections . . . . .	\$ 747.00
Short deposit on September 4 and October 6, 1998 . . . . .	115.00
Collections on March 27, 2000 alleged to have been stolen . . . . .	310.00
Total . . . . .	<u>\$1,172.00</u>

At the end of the day, the cash collections were counted by the students or by the Food Court Administrator and recorded in a cash count sheet. The cash collections, together with the cash count sheet, were then forwarded to the Food Court Custodian for deposit in the bank. The Custodian acknowledged that there were instances when the money remitted to him did not tie in with the amount shown on the cash count sheet. The money was either more than or less than the amount shown in the summary sheet. The situation became even more problematic because the cash count sheets were discarded by the Custodian.

Without the cash count sheets, it was difficult to verify that all cash collections forwarded to the Custodian were deposited in the bank. Accordingly, our audit was limited to verifying whether the deposits recorded by the Custodian matched the deposits shown in the bank statements. Based on this procedure, we were able to identify a total of \$862 of missing Food Court collections. This amount consisted of \$747 collections on September 9, 1998 which could not be traced to the bank statement, and \$100 and \$15 short deposits on September 4 and October 6, 1998, respectively.

The only missing collection admitted by MHS was a purported theft of the entire collections on March 27, 2000, estimated at around \$310. Because of the absence of adequate documentation, however, the exact amount of the total collections on March 27, 2000 was never established. It was claimed that the cash box on that particular day was kept in the one of the classroom, which MHS believed had been burglarized. Since the incident was not reported to the police, there was no basis to verify MHS’s claim of theft.

Additionally, there were occasions when cash collections were not timely deposited in the bank. During the first few months of Food Court operations, the collections

were not deposited on the same day or the next banking day. There was even an instance when a deposit was delayed for nine working days.

### **Absence of Internal Control and Accounting Policies and Procedures**

This occurred because internal control and written policies and procedures for the accounting of cash receipts at the Food Court were not established. PSS and MHS went ahead with the full operation of the Food Court in SY 1998-1999 without adequate planning and consideration of needed internal controls, including necessary accounting policies and procedures. The Commissioner, in her memorandum to the MHS Vice Principal dated July 15, 1998, requested written plans on the operation of the Food Court. However, records do not show that MHS responded to the Commissioner's request.

### **Collections Could Be Misappropriated Without Being Detected**

As a result, there was no assurance that all Food Court collections were reported and deposited in the bank, and there was a high probability that collections could have been misappropriated without being detected. Because cash collections at the Food Court were not accounted for, it was not possible to calculate how much of the collections might be missing aside from the \$1,172 that we identified.

Additionally, any cash shortage (or overage) could continue without being detected. Because no one verified the cash collections reported by the Custodian, any amount missing would be undetected.

### **Subsequent Events**

The Food Court implemented certain changes in its cash collection procedures during SY 1999-2000. However, these changes did not help in establishing the cash accountability at the Food Court, as follows:

- In SY 1999-2000, MHS started using separate sets of tickets for free and reduced-price meals. Although each set of tickets has its own serial numbers, the number of tickets issued for free and reduced-price meals is not accounted for at the end of the day. With separate serial numbers, it would have been easier to determine the cash accountability for a given day. Such a simple procedure can be implemented by writing down the number of the last ticket used after each shift for breakfast and lunch. The difference between the number of the last ticket used in the current shift and that of the previous shift (minus the quantity of any void tickets during the current shift) should provide the number of reduced-price meals sold. This number can be multiplied with the unit selling price to arrive at the total cash accountability for the day. This amount should

be compared with the actual cash collections to identify any cash shortage or overage.

To document the above procedures for establishing accountability, we have developed a form called “Cash Accountability Report” which is shown in **Appendix C**. This form will facilitate the daily computation of accountability and the monitoring of daily collections by MHS. Since the form provides for one-week cash accountability information, MHS can use the same form to report weekly cash collections to PSS.

- The food servers were instructed to tear the tickets in half after the meal tickets are redeemed at the food counter. One-half of the ticket is disposed of, and at the end of the day, the servers (consisting of students) count the other half of the redeemed tickets. A sales report for each vendor is then prepared based on the tickets that have been retained. This report could be a proper basis for establishing cash accountability as it shows the quantity of reduced-price meals served at the Food Court. However, the daily sales reports are not consistently prepared because they are done primarily for classroom grading purposes and are discarded after each quarter’s grading period. In addition, the sales reports are neither reviewed nor compared with actual cash collections. Cash accountability has been left out of the documentation process because of emphasis on the other Food Court functions. The Food Court was turned into a multi-role facility, that of a student food service program, a school instruction facility, and a fundraising activity.
- During SY 1999-2000, the Food Court Custodian was no longer given any teaching assignment because he was designated as a full time custodian. In an interview on March 20, 2000, the Custodian stated that he was now the only one currently handling the cashiering duties at the Food Court. Accordingly, the Food Court Custodian controls the whole cash receipts system (from the cash collection, to recording, to actual deposit in the bank). This situation creates a major internal control weakness because the Custodian is now handling two incompatible functions - the handling of cash and the maintenance of cash records. One of the cardinal principles of internal control is the proper segregation of incompatible functions. The absence of segregation of duties, together with the absence of cash accountability records and review procedures, makes it easier to manipulate cash collections without being detected.

## **Conclusion and Recommendations**

Cash receipts at the Food Court have not been fully accounted for by MHS. Our audit showed that: (1) proceeds from the sale of reduced-price meals were not accounted for, making it difficult to establish the completeness of the reported cash collections, and (2) based on available records, \$1,172 of Food Court collections was missing. This occurred because internal controls and written policies and procedures on the accounting of cash receipts had not been established. As a result, there was no assurance that all Food Court collections were reported and deposited,

and there was a high probability that missing collections would continue without being detected.

Accordingly, we recommend that the Commissioner of Education:

8. Require the MHS Principal, in coordination with the PSS Fiscal and Budget Officer, to establish internal controls and written policies and procedures for the accounting of cash receipts at the Food Court. The internal control weaknesses and accounting deficiencies noted in this report should be addressed and remedied by these policies and procedures, most notably:
  - (a) Establishment of cash accountability of the Food Court cashier, and to comparison of that accountability with actual collections on a daily basis (we suggest that PSS adopt the form shown in **Appendix C**);
  - (b) The proper segregation of cashiering duty, maintenance of cash records, and bank deposit function;
  - (c) A regular review of the Food Court cash collection transactions by the PSS Fiscal and Budget Office;
  - (d) The maintenance of complete and adequate records of cash receipts (including the retention and proper filing of all documents); and
  - (e) Full accounting of Food Court funds to PSS through regular submission of fund status reports.

### **PSS Response**

The Commissioner's response dated November 16, 2000 (**Appendix D**) stated that since the advent of the experimental MHS Food Court, MHS and PSS have hired a certified public accountant (CPA) to monitor and assist the MHS Food Court operations. The Commissioner stated that many problems existed, one of which was theft of meals by students.

The Commissioner also stated that over a period of time, MHS has implemented the following procedures: dual cash account sheets, numbering of tickets sold, assigning two employees to individually count the tickets sold, sequentially numbering the tickets, and frequently changing the colors of tickets and the stamps upon the tickets. The Commissioner also stated that MHS reports to PSS on a monthly basis. She added that on November 2, 2000, she issued a memorandum to the MHS Principal instructing the use of a form called Cash Accountability Report.

The Commissioner concluded by stating that PSS is somewhat perplexed by the reasoning of the audit. The Commissioner stated that the Food Court Custodian and the OPA auditor agreed to institute the accountability measures in August 1999.

The Commissioner questions the public purpose to be served by going over the problems (which these internal control procedures were designed to correct) in the operation of the experimental MHS Food Court.

### **OPA Comments**

In her response, the Commissioner inaccurately stated that MHS and PSS hired a certified public accountant (CPA) to monitor and assist the MHS Food Court operations. Our examination of the employment records of this CPA (referred to as the Food Court Custodian in the audit report) showed that he was hired by PSS to teach Math at MHS, and because he was hired as a teacher, this CPA was issued a certified employment contract in July 1998. During the first year of operation of the Food Court, he was assigned as custodian of the Food Court fund while being paid under a certified contract. This is a function that he continues to perform today. We question the emphasis on the custodian's alleged qualifications as a CPA when the findings reported in this audit report happened while he was the custodian. We noted further that one of our findings related to a conflict of interest involving the custodian.

The Commissioner also mentioned that the Food Court Custodian (now the MHS Vice Principal) and the OPA auditor agreed in August 1999 to institute accountability measures. We must clarify that the OPA auditor as a matter of courtesy discussed the internal control weaknesses (including the failure to establish cash accountability) with the custodian, and he agreed to implement measures to improve the system. Our update of the audit in April 2000, however, showed that there is still no system of accountability. Although we agree that pre-numbered tickets were issued, the response did not provide documents to show that the number of tickets issued were actually accounted for and compared with the actual collections. Based on our April 2000 audit update, the Food Court still has not established a system to document and account for cash collections.

The Commissioner indirectly concurred with the recommendation by stating that a November 2, 2000 memorandum was issued to MHS advising the school to account for the receipts and tickets used or sold during the day through the use of a cash accountability report. In the memorandum, PSS also directed MHS to transmit all cash received and collected from the Food Court to the PSS Treasury. Accordingly, we consider Recommendation 8 resolved. The additional information or action required to close the recommendation is presented in **Appendix F**.

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### TRUST FUND PAYMENTS FOR THE MHS FOOD COURT

Payee	Reference No.	Date	Amount
<b>Reimbursements to MHS for the Food Court</b>			
Marianas High School	Ck No. 90112	Sep. 24, 1998	\$8,689.00
Marianas High School	Ck No. 90806	Oct. 29, 1998	26,557.20
Marianas High School	Ck No. 91883	Dec. 15, 1998	23,557.52
Marianas High School	Ck No. 92202	Jan. 5, 1999	27,548.47
Marianas High School	Ck No. 93942	Mar. 26, 1999	20,245.43
Marianas High School	Ck No. 217	Apr. 21, 1999	20,172.83
Marianas High School	Ck No. 608	May 11, 1999	20,873.88
Marianas High School	Ck No. 1489	Jun. 29, 1999	19,380.72
Marianas High School	Ck No. 2999	Sep. 16, 1999	7,261.91
Subtotal			\$174,286.96
<b>Payments to MHS Food Court vendors</b>			
Kalayaan Inc.	Contract No. C2033	Sep. 30, 1999	\$8,559.63
Cruz Catering	Contract No. C2034	Sep. 30, 1999	10,436.63
Barney's Pizza	Contract No. C2031	Sep. 30, 1999	13,946.33
Two Seasons	Contract No. C2035	Sep. 30, 1999	7,518.43
Barney's Pizza	Contract No. C2031	Nov. 30, 1999	14,274.60
Kalayaan Inc.	Contract No. C2033	Nov. 30, 1999	10,914.00
Cruz Catering	Contract No. C2034	Nov. 30, 1999	13,512.80
Two Seasons	Contract No. C2035	Nov. 30, 1999	11,044.50
Micronesia Brokers	Purchase Order 1921	Nov. 30, 1999	8,926.76
Kalayaan Inc.	Contract No. C2033	Dec. 2, 1999	2,347.50
Two Seasons	Contract No. C2035	Dec. 2, 1999	2,989.50
Cruz Catering	Contract No. C2034	Dec. 2, 1999	3,708.00
Micronesia Brokers	Purchase Order 2985	Dec. 13, 1999	5,347.50
Cruz Catering	Contract No. C2034	Dec. 17, 1999	4,532.00
Two Seasons	Contract No. C2035	Dec. 17, 1999	2,389.50
Barney's Pizza	Contract No. C2031	Dec. 17, 1999	8,534.00
Kalayaan Inc.	Contract No. C2033	Dec. 17, 1999	4,473.00
Two Seasons	Contract No. C2035	Jan. 4, 2000	1,421.50
Micronesia Brokers		Feb, 2000	5,005.26
Kalayaan Inc.	Contract No. C2033	Feb. 2000	3,502.50
Barney's Pizza	Contract No. C2031	Feb. 2000	6,643.00
Two Seasons	Contract No. C2035	Feb. 2000	3,547.50
Cruz Catering	Contract No. C2034	Feb. 2000	4,908.50
Kalayaan Inc.	Contract No. C2033	Mar. 2000	3,420.00
Two Seasons	Contract No. C2035	Mar. 2000	3,375.00
Barney's Pizza	Contract No. C2031	Mar. 2000	5,032.00
Cruz Catering	Contract No. C2034	Mar. 2000	5,225.00
Micronesia Brokers		Mar. 2000	2,367.16
Cruz Catering	Contract No. C2034	Apr. 2000	5,045.00
Barney's Pizza	Contract No. C2031	Apr. 2000	5,044.00

**TRUST FUND PAYMENTS FOR THE MHS FOOD COURT**

Payee	Reference No.	Date	Amount
Kalayaan Inc.	Contract No. C2033	Apr. 2000	3,345.00
Two Seasons	Contract No. C2035	Apr. 2000	3,174.00
Micronesian Brokers		Apr. 2000	1,069.50
Subtotal			\$195,579.60
<b>Total</b>			<b>\$369,866.56</b>

**APPENDIX B**

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**DISBURSEMENTS FROM THE MHS FOOD COURT FUND**

Particulars	Check No.	Date	Amount
<b>Payments to Food Court food and juice vendors</b>			
Marianas Investment	BOH No. 1061	8/17/98	720.00
Wendy's	BOH No. 1071	9/3/98	11,996.29
Nino's	BOH No. 1072	9/3/98	3,427.60
Lufthansa	BOH No. 1073	9/3/98	1,270.00
Northern Marianas Investment	BOH No. 1078	9/16/98	2,289.60
Sundance Marketing	BOH No. 1084	9/22/98	383.75
Wendy's	BOH No. 1095	9/29/98	14,884.54
Nino's	BOH No. 1096	9/29/98	820.00
Nino's	BOH No. 1108	10/13/98	5,323.05
Marianas Investment Wholesale	BOH No. 1111	10/19/98	4,532.80
Wendy's	BOH No. 1148	10/29/98	10,407.60
Northern Marianas Investment	BOH No. 1177	11/9/98	7,200.00
Wendy's	BOH No. 1193	11/12/98	2,869.50
Nino's	BOH No. 1214	11/18/98	5,723.40
Sundance Marketing	BOH No. 1215	11/18/98	1,384.20
Wendy's	BOH No. 1257	12/2/98	10,635.77
Nino's	BOH No. 1287	12/11/98	2,035.19
Northern Marianas Investment	BOH No. 1314	12/17/98	7,666.40
Nino's	BOH No. 1332	12/21/98	3,630.11
Wendy's	BOH No. 1333	12/21/98	4,183.00
Sundance Marketing	BOH No. 1334	12/21/98	492.75
Wendy's	BOH No. 1335	12/21/98	7,691.00
Wendy's	BOH No. 1432	2/16/99	2,719.65
Wendy's	BOH No. 1452	2/19/99	2,453.75
Wendy's	BOH No. 1467	2/25/99	2,420.90
Northern Marianas Investment	BOH No. 7	3/8/99	6,256.80
Wendy's	BOH No. 6	3/8/99	3,461.35
Sundance Marketing	BOH No. 1532	3/25/99	1,349.05
Wendy's	BOH No. 1534	3/26/99	3,597.45
Nino's	BOH No. 1535	3/26/99	4,357.86
Northern Marianas Investment	BOH No. 1552	4/8/99	5,165.60
Wendy's	BOH No. 1623	4/28/99	10,631.60
Wendy's	BOH No. 1648	5/4/99	1,898.25
Northern Marianas Investment	BOH No. 1650	5/4/99	5,912.70
Nino's	BOH No. 1698	5/18/99	7,775.32
Wendy's	BOH No. 1699	5/18/99	6,437.00
Sundance Marketing	BOH No. 126	5/25/99	329.40
Wendy's	BOH No. 1736	6/7/99	4,433.89
Nino's	BOH No. 1836	6/25/99	6,285.20
Sundance Marketing	BOH No. 1840	6/28/99	65.50
Northern Marianas Investment	BOH No. 1878	6/28/99	8,558.50
Wendy's	BOH No. 1879	6/28/99	4,257.18

**DISBURSEMENTS FROM THE MHS FOOD COURT FUND**

Particulars	Check No.	Date	Amount
Sub-total			197,933.50
<b>Food Court janitorial expenses</b>			
Maria Sablan	BOH No. 1079	9/17/98	230.00
Katherine Villanueva	BOH No. 1080	9/17/98	230.00
Maria Sablan	BOH No. 1092	9/25/98	60.00
Katherine Villanueva	BOH No. 1093	9/25/98	60.00
Maria Sablan	BOH No. 1100	10/2/98	60.00
Katherine Sablan	BOH No. 1101	10/2/98	60.00
Maria Sablan	BOH No. 1106	10/9/98	60.00
Katherine Villanueva	BOH No. 1107	10/9/98	60.00
Maria Sablan	BOH No. 1113	10/19/98	50.00
Katherine Villanueva	BOH No. 1114	10/19/98	50.00
Maria Sablan	BOH No. 1116	10/23/98	60.00
Katherine Villanueva	BOH No. 1117	10/23/98	60.00
Katherine Villanueva	BOH No. 1143	10/29/98	60.00
Maria Sablan	BOH No. 1142	10/29/98	60.00
Maria Sablan	BOH No. 1174	11/6/98	50.00
Katherine Villanueva	BOH No. 1175	11/6/98	50.00
Maria Sablan	BOH No. 1209	11/16/98	60.00
Katherine Villanueva	BOH No. 1210	11/16/98	60.00
Maria Sablan	BOH No. 1226	11/20/98	60.00
Katherine Villanueva	BOH No. 1227	11/20/98	60.00
Maria Sablan	BOH No. 1251	12/1/98	47.50
Katherine Villanueva	BOH No. 1252	12/1/98	47.50
Maria Sablan	BOH No. 1271	12/4/98	62.50
Katherine Villanueva	BOH No. 1272	12/4/98	62.50
Katherine Villanueva	BOH No. 1291	12/11/98	60.00
Maria Sablan	BOH No. 1292	12/11/98	60.00
Maria Sablan	BOH No. 1306	12/18/98	50.00
Katherine Villanueva	BOH No. 1318	12/18/98	50.00
Katherine Villanueva	BOH No. 1406	2/5/99	65.00
Maria Sablan	BOH No. 1407	2/5/99	75.00
Maria Sablan	BOH No. 1427	2/12/99	70.00
Katherine Villanueva	BOH No. 1428	2/12/99	70.00
Maria Sablan	BOH No. 1453	2/19/99	50.00
Katherine Villanueva	BOH No. 1454	2/19/99	50.00
Maria Sablan	BOH No. 1474	2/26/99	60.00
Katherine Villanueva	BOH No. 1475	2/26/99	60.00
Maria Sablan	BOH No. 3	3/8/99	60.00
Katherine Villanueva	BOH No. 2	3/8/99	60.00
Katherine Villanueva	BOH No. 18	3/12/99	60.00
Maria Sablan	BOH No. 17	3/12/99	60.00
Maria Sablan	BOH No. 1517	3/19/99	62.50
Katherine Villanueva	BOH No. 1518	3/19/99	62.50

**APPENDIX B**

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**DISBURSEMENTS FROM THE MHS FOOD COURT FUND**

Particulars	Check No.	Date	Amount
Maria Sablan	BOH No. 1536	3/26/99	50.00
Katherine Villanueva	BOH No. 1537	3/26/99	50.00
Maria Sablan	BOH No. 1563	4/12/99	64.55
Katherine Villanueva	BOH No. 1564	4/12/99	64.55
Maria Sablan	BOH No. 1577	4/16/99	50.00
Katherine Villanueva	BOH No. 1578	4/16/99	50.00
Katherine Villanueva	BOH No. 1602	4/23/99	80.00
Maria Sablan	BOH No. 1603	4/23/99	80.00
Maria Sablan	BOH No. 1628	4/30/99	67.50
Katherine Villanueva	BOH No. 1629	4/30/99	67.50
Maria Sablan	BOH No. 1658	5/7/99	65.00
Katherine Villanueva	BOH No. 1659	5/7/99	65.00
Maria Sablan	BOH No. 1685	5/14/99	71.25
Katherine Villanueva	BOH No. 1686	5/14/99	71.25
Maria Sablan	BOH No. 118	5/21/99	70.00
Katherine Villanueva	BOH No. 119	5/21/99	70.00
Maria Sablan	BOH No. 1709	5/28/99	69.00
Katherine Villanueva	BOH No. 1710	5/28/99	69.00
Maria Sablan	BOH No. 1729	6/4/99	67.50
Katherine Villanueva	BOH No. 1730	6/4/99	67.50
Maria Sablan	BOH No. 1817	6/11/99	101.65
Katherine Villanueva	BOH No. 1818	6/11/99	101.65
Subtotal			4,317.90
<b>Other Food Court Expenses</b>			
Ann Quick - supplies for food court	BOH No. 1075	9/9/98	134.86
Printmart - menu printing	BOH No. 1187	11/10/98	140.00
Jeffrey Cope - reimbursement for picnic table materials	BOH No. 1507	3/16/99	920.50
Price Costco - drinks	BOH No. 1553	4/8/99	359.64
Price Costco	BOH No. 1559	4/9/99	100.00
Regina Aguon - trash bags	BOH No. 1582	4/19/99	12.98
Rita Mallari - hardware supplies for FC repairs	BOH No. 1596	4/23/99	50.00
Ace Hardware - food court outlet covers	BOH No. 1631	4/30/99	25.00
Regina Aguon - trash bags	BOH No. 1675	5/11/99	21.98
Regina Aguon - trash bags	BOH No. 114	5/21/99	25.96
Regina Aguon - drink reimbursement at Price Costco	BOH No. 1851	6/14/99	399.60
Mathew Allen - tools for food court repairs	UB No. 5025	2/5/99	500.00
Triple J Wholesale	UB No. 5102	7/16/99	335.80
Purchase of checks		12/7/98	46.35
Purchase of deposit slips		12/4/98	28.50
Bank Fee			10.00
Rita Mallari - supplies for food court	UB No. 5103	7/16/99	8.15
Subtotal			3,119.32
<b>Total Food Court expenses</b>			205,370.72

## DISBURSEMENTS FROM THE MHS FOOD COURT FUND

Particulars	Check No.	Date	Amount
<b>Non-Food Court expenses - janitorial and cleaning expenses</b>			
Craig Garrison - reimbursements for wax	BOH No. 1645	5/3/99	33.20
Craig Garrison - janitorial services	BOH No. 1676	5/12/99	900.00
Richard Waldo - janitorial services	BOH No. 120	5/21/99	2,000.00
Craig Garrison - janitorial services	BOH No. 1819	6/9/99	900.00
Craig Garrison - janitorial supplies	BOH No. 1868	6/21/99	223.77
Richard Waldo - janitorial services	BOH No. 1874	6/23/99	2,000.00
Edward Dowai - janitorial services	BOH No. 1839	6/28/99	150.00
Edward Dowai - janitorial services	BOH No. 1884	7/16/99	150.00
Edward Dowai - janitorial services	UB No. 5030	3/1/99	150.00
Alps Merchandising - janitorial supplies	UB No. 5040	3/9/99	154.44
Richard Waldo - janitorial services	UB No. 5006	3/19/99	2,000.00
Craig Garrison - janitorial services	UB No. 5050	4/18/99	900.00
Richard Waldo - janitorial services	UB No. 5053	4/21/99	2,000.00
Cruz Sanitation - trash pick up	UB No. 5101	7/16/99	75.00
Edward Dowai - janitorial services	UB No. 5105	7/30/99	160.00
Subtotal			11,796.41
<b>Non-Food Court expenses - substitute teaching</b>			
Leif Asper	UB No. 5047	3/12/99	200.00
James Weedy	UB No. 5048	3/12/99	500.00
Noah Kemesong	UB No. 5049	3/12/99	700.00
Eleanor Loste	UB No. 5000	3/12/99	500.00
Leif Asper	UB No. 5005	3/18/99	200.00
Leif Asper	UB No. 5007	3/26/99	700.00
Noah Kemesong	UB No. 5008	3/26/99	600.00
Olivia A. Camacho	UB No. 5009	3/26/99	700.00
Noah Kemesong	UB No. 5018	4/9/99	250.00
James Weedy	UB No. 5019	4/9/99	300.00
James Weedy	UB No. 5020	4/9/99	200.00
Eleanor Loste	UB No. 5021	4/9/99	500.00
Subtotal - substitute teaching			5,350.00
<b>Non-Food Court expenses - school office expenses</b>			
Ann Quick - reimbursement	BOH No. 1089	9/23/98	118.11
Ann Quick - reimbursement of office supplies	BOH No. 1091	9/24/98	218.00
IT&E - phone	BOH No. 1604	4/23/99	59.59
National Office Supply - toner	BOH No. 1626	4/29/99	189.00
Island Business System - copier lease	BOH No. 1644	5/3/99	328.00
Michael Friesen - computer supplies	BOH No. 1654	5/6/99	275.86
Michael Friesen - computer supplies	BOH No. 132	5/25/99	616.69
Xerox Corp. - ink for copier	BOH No. 1728	6/4/99	285.00
Island Business Systems - toner	BOH No. 1794	6/8/99	320.00
USPS - admin mailing	UB No. 5026	2/22/99	55.00
Xerox - toner cartridge	UB No. 5031	3/2/99	285.00
A. Quick - curriculum materials	UB No. 5033	3/3/99	61.50

**APPENDIX B**

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**DISBURSEMENTS FROM THE MHS FOOD COURT FUND**

Particulars	Check No.	Date	Amount
A Quick - admin xeroxing	UB No. 5036	3/5/99	15.60
A Quick - admin xeroxing	UB No. 5037	3/5/99	15.60
IBSS - copier	UB No. 5042	3/11/99	82.00
Wesley Foster - cultural day framing	UB No. 5043	3/12/99	577.18
IT&E - admin phone	UB No. 5045	3/12/99	50.05
National Office Supply - toner	UB No. 5003	3/17/99	129.95
Michael Friesen - computer parts	UB No. 5022	4/12/99	225.68
IBSS	UB No. 5054	5/11/99	55.00
IBSS	UB No. 5059	5/14/99	750.00
Subtotal			4,712.81
<b>Non-Food Court expenses - repairs and maintenance</b>			
IBSS - copier repair	BOH No. 1667	5/10/99	111.00
JWS air-con repair	BOH No. 103	5/19/99	75.00
Ann Quick - reimbursement tour bus v-belt	BOH No. 113	5/21/99	61.26
Valenz Enterprises - plumbing	BOH No. 1734	6/4/99	55.00
Daniel Simpson - tools and pliers	BOH No. 1792	6/8/99	23.98
Valenz Enterprises - water pump repair	BOH No. 1793	6/8/99	132.32
Marianas Electronics - repair of printer	BOH No. 1798	6/8/99	124.00
Daniel Simpson - landscape	BOH No. 1873	6/23/99	199.54
Lemson L. Serapio	BOH No. 1837	6/28/99	220.50
Joey L. Teregeyo	BOH No. 1838	6/28/99	220.50
Marianas Repair	BOH No. 1842	7/1/99	262.00
Action Locksmith - bolt change	BOH No. 1880	6/28/99	158.75
Ace Hardware - bathroom repair	UB No. 5029	2/26/99	50.00
Ann Quick - circuit breaker	UB No. 5038	3/5/99	60.00
Saeed Rasquity - power repair	UB No. 5044	3/12/99	86.05
Christine Taylor - oil for SPED van	UB No. 5046	3/12/99	12.00
Sam Corp - TV repair	UB No. 5014	4/8/99	70.00
Saipan Machinery - water repair	UB No. 5015	4/8/99	25.00
Conwood - materials for adm office repair	UB No. 5061	5/18/99	251.85
Transamerica - materials for adm office repair	UB No. 5062	5/18/99	292.50
Ace Hardware - adm office repair	UB No. 5063	5/18/99	145.30
Valenz Enterprises - plumbing	UB No. 5075	7/2/99	280.00
Valenz Enterprises - plumbing repair	UB No. 5078	7/2/99	298.86
Chong's Corp. - air-con repair (adm)	UB No. 5079	7/9/99	650.00
Valenz Enterprises - plumbing	UB No. 5083	7/26/99	320.00
Subtotal			4,185.41
<b>Non-Food Court expenses - graduation expenses</b>			
American Memorial - graduation ceremony	BOH No. 1799	6/8/99	500.00
Dai-Ichi Hotel - graduation ceremony	BOH No. 1800	6/8/99	500.00
Cecilia San Nicolas - admin graduation	UB No. 5069	6/11/99	200.00
Design Florist - graduation flowers	UB No. 5064	6/11/99	200.00
Subtotal			1,400.00
<b>Non-Food Court expenses - security services</b>			

**DISBURSEMENTS FROM THE MHS FOOD COURT FUND**

Particulars	Check No.	Date	Amount
Ryan Kaipat - security services	BOH No. 1579	4/16/99	200.00
Ryat Kaipat - security services	BOH No. 1600	4/23/99	200.00
Akira Kentaro - security services	BOH No. 1630	4/30/99	200.00
Humio Laurel - security services	BOH No. 1657	5/7/99	200.00
Ryan Kaipat - security services	BOH No. 1684	5/14/99	200.00
Akira Kentaro - security services	BOH No. 117	5/21/99	200.00
Humio Laurel - security services	BOH No. 1711	5/28/99	200.00
Ryan Kaipat - security services	BOH No. 1727	6/4/99	200.00
Ryan Kaipat - security services	BOH No. 1816	6/11/99	200.00
Akira Kentaro - security services	BOH No. 1867	6/18/99	200.00
Edward Santos - security services	BOH No. 1877	6/23/99	200.00
Edward Quinata - security services	BOH No. 1841	7/2/99	200.00
Ryan Kaipat - security services	BOH No. 1883	7/16/99	200.00
Ryan Kaipat - security services	UB No. 5080	7/9/99	200.00
Akira Kentaro - security services	UB No. 5082	7/23/99	200.00
Subtotal			3,000.00
<b>Non-Food Court expenses -Saipan Shipping - containers</b>	UB No. 5058	5/14/99	3,000.00
<b>Non-Food Court expenses - entertainment</b>			
Pizza Hut - staff meeting	BOH No. 1586	4/20/99	289.50
Richard Waldo - drinks for faculty	BOH No. 1588	4/20/99	50.00
Dr. James Denight - reimb. for Miyazawa ent.	UB No. 5010	3/31/99	584.86
Meitetsu Shopping - food for accreditation	UB No. 5024	4/14/99	464.31
Ednalyn Waldo	UB No. 5055	5/12/99	8.50
Hyatt Regency - Miyazawa	UB No. 5077	7/2/99	2,000.00
Subtotal			3,397.17
<b>Non-Food Court expenses - miscellaneous</b>			
Action Locksmith - key duplication	BOH No. 1606	4/23/99	7.00
David Meyers - fuel reimbursement	BOH No. 1618	4/28/99	45.00
Liberty Plaza - deposit for security uniforms	BOH No. 1656	5/7/99	200.00
David Meyers - fuel reimbursement	BOH No. 110	5/20/99	25.00
Action Locksmith - key duplication	BOH No. 125	5/25/99	55.00
Humio Laurel - reimbursement for fuel	BOH No. 1712	5/28/99	10.00
David Meyer - fuel	UB No. 5027	2/23/99	35.00
Richard Waldo - key duplication	UB No. 5028	2/23/99	100.00
Richard Waldo - key duplication	UB No. 5032	3/3/99	44.00
Action Locksmith - key duplication	UB No. 5034	3/4/99	50.00
David Meyers - fuel	UB No. 5035	3/5/99	35.00
David Meyers - fuel	UB No. 5041	3/9/99	40.00
Richard Waldo - key duplication	UB No. 5001	3/13/99	12.25
David Meyers - fuel reimb	UB No. 5004	3/17/99	45.00
Action Locksmith - key duplication	UB No. 5011	3/31/99	37.50
David Meyers - fuel	UB No. 5013	4/6/99	35.00
Action Locksmith - key duplication	UB No. 5016	4/8/99	5.25
David Meyers - gas reimb.	UB No. 5023	4/13/99	45.00

**APPENDIX B**

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**DISBURSEMENTS FROM THE MHS FOOD COURT FUND**

Particulars	Check No.	Date	Amount
Action Locksmith - key duplication	UB No. 5051	4/19/99	137.50
David Meyers - fuel reimbursement	UB No. 5052	4/20/99	45.00
First Floral - admin flowers	UB No. 5056	5/13/99	53.00
David Meyers - fuel reimb	UB No. 5057	5/13/99	45.00
Liberty Plaza - uniforms	UB No. 5060	5/17/99	118.00
Vergel Amado	UB No. 5076	7/2/99	25.00
Subtotal			1,249.50
<b>Total non-Food Court expenses</b>			38,091.30
<b>Total disbursements from the Food Court fund</b>			243,462.02

**CASH ACCOUNTABILITY REPORT**

		LAST TICKET USED		(A)	(B)	(A X B)			
DAY	SHIFT	PREVIOUS	THIS SHIFT	DIFF	U/P	ACCOUN- TABILITY	CASH COUNTED	SHORT (OVER)	COMMENTS
1	B								
	L								
2	B								
	L								
3	B								
	L								
4	B								
	L								
5	B								
	L								
PREPARED BY:						ACKNOWLEDGED BY (CASHIER):			
1	B								
	L								
2	B								
	L								
3	B								
	L								
4	B								
	L								
5	B								
	L								
Submitted (to PSS) By:									
_____					_____				
Signature above Printed Name					Date				

- Notes:
- (1) The shift pertains to either breakfast (B) or lunch (L). This form should be filled-out at the end of each shift.
  - (2) The difference (DIFF) is computed by deducting the last ticket used in the previous shift from the number of the last ticket for the current shift.
  - (3) Cash shortage or overage is determined by deducting the actual cash counted from the computed cash accountability.
  - (4) Comments should provide the reason for any cash shortage or overage.
  - (5) Although this form is to be submitted to PSS on a weekly basis, the information should be filled out on a daily basis.
  - (6) The shift cashier should sign this form after the required information for each shift is filled out. This form should be prepared by a person other than the cashier.

**Appendix D**  
Page 1 of 13



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
STATE BOARD OF EDUCATION  
PUBLIC SCHOOL SYSTEM  
P.O. BOX 1370 CK  
SAIPAN, MP 96950



VIA FACSIMILE  
(670) 234-7812

Commissioner of Education  
Rita Hocog Intos, Ed.D.

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*David Borja*  
Pub. School Teacher

*Scott Norman*  
Non Pub. School Rep.

*Antenilla M. Mendiola*  
Student Representative

November 16, 2000

Mr. Leo L. LaMotte  
Public Auditor  
Office of the Public Auditor  
Commonwealth of the Northern Mariana Islands



**Subject: Draft Report: MHS Food Court**

Dear Mr. LaMotte:

In response to your draft audit, please allow us to provide the context in which this matter was initiated. MHS students, prior to school year (SY) 1998-1999 were not getting any nutritional value whatsoever (so far as we could ascertain) during the school day. A slight percentage of students were using cafeteria services for breakfast and lunch, thus the advent of the MHS Food Court. It was in this context that we attempted to increase student participation in nutritional activities. Participation has been increased from approximately one hundred to one hundred and fifty students to seven hundred to nine hundred students at lunchtime. It was in this same context that we asked for your office's assistance to audit the Food Court (see copy of your letter of May 20, 1999, enclosed).

**Allegation: MHS Food Court Unlawfully Funded From the Trust Fund**

The last sentence of Section of Public Law 9 29 (Pachinko Slot Machine Act), codified as 4 CMC Section 1508 provides:

**The revenue in such fund shall be used as matching funds to qualify for and implement any federal school lunch program available to the Commonwealth.**

Board of Education  
P.O. Box 1370 CK  
Saipan, MP 96950

www.commonwealthofnmaria.gov

Comptroller  
Rita Hocog Intos, Ed.D.

Public Auditor (Ltr.)  
MHS Food Court  
11/16/00: Page 2.

The analysis that proceeds over the next several pages of the draft report (Draft), in our opinion, is deficient in several respects: 1. We are reminded that the Food Court at MHS received no federal funds during SY 1998-1999 and SY 1999-2000. There was no legal requirement to accept federal funding, nor did the PSS or MHS apply for federal funding for the referenced school years. To assure the accuracy of the record, for SY 2000-2001, the MHS Food Court is federally funded pursuant to the Nutrition Assistance Grant (NAG) program. 2. No other school in the CNMI has implemented a similar "Food Court set up". There is no such legal requirement. 3. The Draft does not address at any time the fact that the statute in question refers to "available" "federal school lunch program(s)" in the "Commonwealth", as opposed to operating programs.

The Draft then proceeds to describe the nutritional standards of the NAG program. Even early in the history of the Food Court, the Draft admits that up to eighty-five per cent of meals complied with this standard. The nutritional standards set forth therein have been standards that the MHS Food Court has attempted to meet. As the process of improving the Food Court has been ongoing, attempts to meet and exceed federal nutritional standards are improving. In the present SY 2000-2001, the Food Court complies with federal nutritional guidelines and is participating in the Nutrition Assistance Grant program.

However, that being said, how does the Draft's discussion of the NAG support the Draft's allegation that the Food Court has been unlawfully funded in the past two school years, when the MHS program, being experimental for its first two school years in existence, did not apply for NAG funds?

It is our position that the MHS Food Court has not been unlawfully funded because the statute in question does not require a "school" analysis, but a "Commonwealth" analysis. Moreover, the statute only alludes to "available" lunch programs as opposed to operating programs. A statute that fails to explicitly state what may be prohibited should not be selectively interpreted by the Public Auditor to assail the experimental Food Court at MHS.

As we have been in the past, we welcome the Public Auditor's assistance in making the MHS Food Court as acceptable from a public accounting perspective as possible. We realize it is a new program and we are improving it as we discover program details that can be corrected, implemented or delivered to students in a better way.

## Appendix D

Page 3 of 13

Public Auditor (Ltr.)  
MHS Food Court  
11/16/00: Page 3.

### **Allegation: The Food Court Violated the Planning & Budgeting Act and BOE Policy in Generating Discretionary Funds**

The Draft misapplies Commonwealth law in ignoring the constitutional provision that makes the Board of Education (BOE) autonomous. The Public School System presents to the Legislature a budget based on the Article XV constitutional guarantee. However, the Public School System (PSS) is ultimately governed by the BOE through the Commissioner of Education. Article XV (e) provides in relevant part:

**The ...education system shall be guaranteed an annual budget of not less than fifteen percent of the general revenues of the Commonwealth.**

The budgetary decisions as to how these funds are distributed to the various schools and administrative departments is the province of the BOE with the assistance of the Commissioner. The Commonwealth Constitution, Article XV, provides:

**The BOE shall formulate policy and exercise control over the Public School System through the (Commissioner).**

Because the Draft's analysis is based upon two provisions of the Commonwealth Code that are not constitutionally applicable to the Public School System (PSS), we question the conclusions reached in the Draft.

The budgeting and accountability system invoked within the PSS is that the BOE approves a budget and the Commissioner implements it. Principals, for example, are held accountable to the Commissioner for proper implementation at the school level.

The budgetary system of the PSS is governed by Policy 700. Such constitutionally granted powers by the framers means that funds are properly allocated and spent in accordance with the adopted BOE budget. The Commissioner must oversee the spending of budgeted monies in accordance with the budget adopted by the BOE. We therefore conclude that 1 CMC Sections 7402 and Section 7701 are not applicable to the BOE and the PSS.

With respect to BOE Policy 703.4, the principal did not report the results of fundraising within ninety (90) days as required. Rather, he submitted his report monthly during SY 1998-1999 and SY 1999-2000.

Public Auditor (Ltr.)  
MHS Food Court  
11/16/00: Page 4.

During the present SY 2000-2001, the principal has been asked to comply with the Memorandum of Understanding (MOU) between PSS Food and Nutrition Services and MHS (copy attached hereto) by the undersigned (see attached copy of memorandum, dated November 2, 2000). The enclosed copy of memorandum requests that the principal employ a designated accountability form in complying with the MOU and in compliance with a request with our internal auditor, Lorrie Grizzard. He is complying with the Board's policy by reporting more frequently than technically required.

As we understand it, Trust Funds were reimbursed to MHS/PSS during the two previous school years for meals sold at the MHS Food Court. Because of the pricing structure, a "profit" was produced. This profit was used in accordance with BOE Policy. The funds were used to support "educational purposes" in accordance with Policy 703.3. Furthermore, funds have not been used as "fundraising" until the underlying activity (payment of vendors) had been addressed in accordance with BOE Policy 703.1.

#### **Allegation: Violation of PSS Procurement Regulations**

This purported violation may be more a question of clarification than purposeful failure to abide by the PSSPR. Essentially, it has been difficult to have vendors garner interest in the MHS Food Court. Many vendors were called to solicit interest. Few responded. Others, Wendy's for example, have tried to offer services within the price structure, but simply could not profitably operate a food court concession. Therefor, Wendy's, for example, withdrew from participation in the MHS Food Court. Thus, the program has been chronically subject to a lack of willing bidders. This fact also led PSS to treat the MHS Food Court as an experiment during SY 1998-1999 and SY 1999-2000.

The Procurement Officer takes the position that procurement has been involved under the PSSPR. In any event, the principal and procurement official are working together now under our procurement rules and under the terms of the copy of the enclosed MOU. This working relationship has improved as the program at MHS has evolved into the NAG participating program it is today.

#### **Accounting of Food Court Collections**

Since the advent of the experimental MHS Food Court, MHS and PSS have hired a certified public account (CPA) to monitor and assist its operations pursuant to the terms of the MOU (Mr. Richard Waldo). At the inception of the program, admittedly there were many problems. One such problem was thefts of meals by students.

## Appendix D

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Public Auditor (Ltr.)  
MHS Food Court  
11/16/00: Page 5.

Over a period of time, we have implemented the following procedures: We now have dual cash account sheets; we are numbering tickets sold for meals; we assign two employees to individually count the number of tickets sold; the tickets are numbered sequentially; the colors of tickets are frequently changed; and the stamps upon tickets are frequently changed.

Furthermore, we now require the maintenance of a daily detailed general ledger; we maintain separate banking accounts: one for food court funds and one for "non-appropriate funds". Mr. Waldo, as mentioned previously, assures that a monthly accounting goes to both the Commissioner and the PSS Treasurer after it has been reviewed by the MHS principal. These arrangements have been further refined by the internal auditor's requirement through the undersigned's memo that the "Cash Accountability Report" be employed at MHS pursuant to the MOU and my memo's specific directions to the principal of November 2, 2000.

### Conclusion

The Food Court at MHS can always be improved. It is an innovative idea sought to be introduced in a Commonwealth with many varied ethnic groups being represented, each with their own culinary and cultural diets, dishes, delicacies, staples and (even) religious preferences in food. We could probably accurately describe it as an evolving idea. Today, the program receives federal funding under the NAG program, as do other schools throughout the CNMI.

On page ii of the Draft, you have correctly pointed out that the Food Court was conceived, "To increase the participation of its students in the school breakfast and lunch program..." You have also perceptively noted, "Management of the Food Court, including coordination with the vendors, was handled by students enrolled in a home economics class at MHS under the direction of the Food Court Administrator".

Both of your observations are accurate if not, cogent. Surely, you will agree with us, what began as an innovative, unconventional and experimental program, has become a federally approved program with three to four times as many students participating.

If there was unintentional wrongdoing during its first years of operation, it certainly has not been purposeful or unlawful. There are missteps in any new endeavor. This does not mean a program should be condemned and abandoned.

I have been particularly appreciative of the principal's efforts, above and beyond the call of duty, to get the program up and going. He has done nothing wrong; in fact he should be commended.

Public Auditor (Ltr.)  
MHS Food Court  
11/16/00: Page 6.

Many of the problems you have mentioned have been corrected. For example, better coordination between our procurement department and staff at MHS has been achieved. Also, you mentioned the "stop-gap" contracts of SY 1999-2000. Because of a number of matters deserving our attention at the same time (graduation, hiring new teachers, a very active capital improvements effort, etc.), we had to take action to assure that the few vendors who were willing to participate in the Food Court program were on board.

I understand that there is a public policy recognized by most courts that may be applicable here. Someone falls and suffers injuries because of a shaky banister. Shortly thereafter, the owner repairs the shaky banister. As I understand it, if the injured person's attorney attempts to introduce the fact of the repair in court as "proof of consciousness of wrongdoing or negligence", the judge will declare such evidence inadmissible. Legislatures have uniformly decided that the public policy served by the corrective action outweighs the interests of the injured person in introducing the subject evidence to prove negligent maintenance.

Bearing the foregoing concept in mind, quite frankly, we are somewhat perplexed by the purported reasoning for this audit. I understand that all of the accountability measures discussed above were shared between Vice Principal Waldo and the auditor from your office assigned to this matter. According to the principal, Mr. Waldo and the Office of the Public Auditor (OPA) representative at MHS mutually agreed to institute the accountability measures in August of 1999. What public purpose is to be served by going over problems that these internal control procedures were designed to correct in the operation of the experimental MHS Food Court?

There have been many changes made to the MHS Food Court to improve it for our students. We welcome working hand in hand with the OPA to improve it further. The beneficiaries are as important to your office as they are to this office: the students of the Commonwealth. As we have attempted to point out, the present MHS Food Court is funded and approved by the NAG. The experimental Food Court (SY 1998-1999 and SY 1999-2000) did not apply for federal funding because it was thought that we could learn whether the concept of a food court was workable in the Commonwealth's largest high school.

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Public Auditor (Ltr.)  
MHS Food Court  
11/16/00: Page 7.

I have concluded that nothing sinister has occurred with respect to the MHS Food Court. A few students took meals without paying for them: yes. We have taken steps to prevent that in the future.

We have improved aspects of the MHS Food Court program, including, without limitation, increasing nutritional quality and delivering more meals to more students. On behalf of the Board of Education, my staff and I look forward to working with your office to allay and address your concerns.

Sincerely yours,

  
Rita Hocog Inos, Ed.D

Copies Enclosed: Mr. LaMotte's Letter dated May 20, 1999; MOU, dated Dec., 1999; COE's Memo dated Nov. 2, 2000 with attached "Cash Accountability Report"

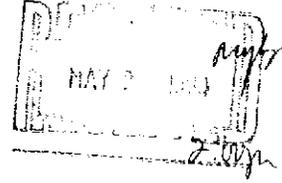
xc: BOE Members  
Legal Counsel  
Acting Fiscal & Budget Officer  
Principal, MHS



**Office of the Public Auditor**  
Commonwealth of the Northern Mariana Islands  
World Wide Web Site: <http://opacnmi.com>  
2nd Floor J. E. Tenorio Building, Chalan Pale Arnold  
Gualo Rai, Saipan, MP 96950

**COPY**

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[mail@opacnmi.com](mailto:mail@opacnmi.com)  
Phone: (670) 234-6481  
Fax: (670) 234-7812



May 20, 1999

Mr. Tim Connor  
Legal Counsel  
Public School System  
Saipan, MP 96950

Dear Mr. Connor:

**Subject: Authorization Letter - Audit of the Marianas High School (MHS) Food Service Program**

Pursuant to your request, we are notifying you that our office has started doing preliminary audit work on the MHS food service program, including the operations of the MHS food court fund. In connection with this audit, we have assigned Auditors Arnold Jimeno and Violy Tesorero. During the conduct of the audit, our auditors will review pertinent records, interview PSS staff members, and perform other necessary auditing procedures. Accordingly, please extend your office's full cooperation to our auditors.

Please do not hesitate to contact us should you have any questions.

Sincerely,

  
Leo L. LaMotte  
Public Auditor

cc: Commissioner of Education  
MIIS Principal



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
STATE BOARD OF EDUCATION  
PUBLIC SCHOOL SYSTEM  
P.O. BOX 1370 CK  
SAIPAN, MP 96950

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**Members**  
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*David Dorja*  
Pub. School Teacher Rep.

*Scott Norman*  
Non-Pub. School Rep.

*Asterville M. Mendiola*  
Student Representative

November 2, 2000

Commissioner of Education  
Rita Ilcocog Inos, Ed.D

TO: Dr. James Denight  
MHS Principal

FR: Commissioner of Education

RE: Internal Control for Cash Receipts at Food Court

As per advise of our Internal Auditor and Acting Fiscal & Budget Officer, the nature of cash, its importance to the operations, its susceptibility to mis-appropriation , a cash accountability report should be maintained for accounting and controlling of cash receipt for MHS Food Court.

These report are used to account in detail the receipts and the tickets used or sold during the day for each employee/shift. Shift pertains to breakfast and lunch. This form should be filled out at the end of each shift and to be signed by the shift cashier. Internal control/full accounting for cash receipts is as follows:

1. Proceeds from the sale of reduced-price meals is to be accounted under Special Revenue Fund, Co. 42000, account #4324
2. All deposits/disbursements will be maintained by Treasury Dept.
3. All cash received/collected for each shift for the day should be transmitted to Treasury Dept. for deposit.
4. The Treaury Dept. will then issue a corresponding receipt for all cash received based on the cash accountability report prepared by MHS with a copy of deposit slip.
5. Distribution of Cash Accountability Report is as follows:
  1. PSS Treasury      2. MIIS
  2. Food and Service    3. PSS Fiscal & Budget Office

Please adhere to this directive immediately.

xc: BOE, chair  
Treasury  
F/B  
FNS  
file

Board of Education  
Telephone: (670) 664-3711/3722  
Fax: (670) 664-3711/3717

<http://www.saipan.com/gov/branches/pss/index.htm>

Commissioner of Education  
Telephone: (670) 664-3770  
Fax: (670) 664-3708

CNMI PUBLIC SCHOOL SYSTEM  
MARIANAS HIGH SCHOOL FOOD COURT

**COPY**

CASH ACCOUNTABILITY REPORT

Day	Shift	Previous	This Shift	Diff	U/P	Accountability	Cash Counted	Short (Over)	Comments
1	B								
	L								
2	B								
	L								
3	B								
	L								
4	B								
	L								
5	B								
	L								

PREPARED BY:

SUBMITTED (TO PSS) BY:

\_\_\_\_\_

\_\_\_\_\_

ACKNOWLEDGED BY (PSS Treasurer):

\_\_\_\_\_

- Notes:
- (1) The shift pertains to either breakfast (B) or lunch (L). This form should be filled-out at the end of each shift.
  - (2) The difference (DIFF) is computed by deducting the last ticket used in the previous shift from the number of the last ticket used for the current shift.
  - (3) Cash shortage or overage is determined by deducting the actual cash counted from the computed cash accountability.
  - (4) Comments should provide the reason for any cash shortage or overage.

**COPY**

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE FOOD AND NUTRITION SERVICES  
and  
MARIANAS HIGH SCHOOL

\*\*\*\*\*

Preamble

The Public School System ("PSS") of the Commonwealth of the Northern Marianas Islands hereby enters into this Memorandum of Understanding between the PSS Food and Nutrition Services ("FNS") and Marianas High School ("MHS") in order to establish operations for breakfast and lunch services at MHS.

Witnesseth

WHEREAS, the FSN and MHS jointly agree to provide nutrition assistance for the students and faculty of MHS in the form of a Food Court in which MHS will manage daily operations and FSN will regulate and monitor operations; and

WHEREAS, the MHS Food Court is consistent with the goals of the FNS and National school Lunch Act (42 U.S.C. 1751-1769e), Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) (except for the Nutrition Program for the Elderly; 42 U.S.C. 3030).

It is hereby agreed that:

**1. Plan of Operations**

The MHS Food Court will be managed daily by the school. Daily management consists of contacting food vendors the day before meal service to place meal orders. MHS will also be responsible for developing a meal count system that distinguishes between free and paying students, and distinguishes between initial reimbursable meals and secondary a la carte sales. MHS will be responsible for

collecting and counting all monies received and depositing all funds in the MHS Program Income Account with the PSS Treasurer. MHS will be responsible for ensuring that daily operations meet all Bureau of Environmental Health regulations and that no food is sold at the Food Court and at the school campus in violation of 7CFR210.

FNS is responsible for monitoring compliance of the Food Court. FNS will ensure that all meals meet the recommended dietary guidelines as stated in the *Food Buying Guide for Child Nutrition Programs*. FNS will also be responsible for reviewing accounting documents of the Food Court.

## **2. Reporting Requirements**

MHS will submit actual meal counts that distinguish free and paying students for breakfast and lunch to FNS monthly. MHS will submit monthly records of existing inventory, the number of meals and a la carte sold daily and any left over inventory. The number of meals and a la carte sold minus leftover meals should equal the amount of meals ordered from vendors.

## **3. Financial Accounts**

The PSS Treasurer and MHS will set up a MHS Program Income Account for all Food Court monies collected at MHS. Withdrawal from this account will be done through obligating documents, and in accordance to BOE Policy 702. The account funds may be used for payment to vendors, related services and equipment of the MHS cafeteria, and for other MHS needs. All funds collected from secondary a la carte sales or faculty sales determined to not be program income is to be deposited into a separate account for use by MHS. Food cost of these meals will need to be reimbursed to FNS.

## **4. Vendor Contract**

MHS in coordination with FNS will be responsible for developing vendor contracts and RFP. Menus will be included in the contract. Menu items may be changed if items are not popular with students. MHS shall advise FNS if menus need to be changed. All menu items and a la carte items must conform to the food specification of quality, quantity, and nutrition as outlined in the Food Buying Guide. All suggested changes to the menu and a la carte must be reviewed and approved by FNS prior to implementation.

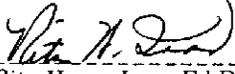
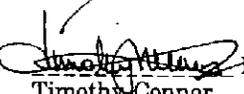
**Appendix D**  
Page 13 of 13

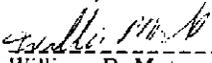
**5. Amendments to and Termination of the MOU**

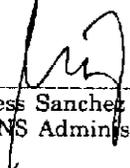
Amendments to the MOU may be suggested at any time by either party and shall require the approval of the both parties prior to implementation. This MOU may be terminated upon 30 days written notice by either party with the approval of the Commissioner of Education.

**6. Effective Date of the MOU**

This agreement shall become effective upon the signature of all parties.

 Date: 12/8/99  Date: 12/8/99  
Rita Hocog Inos, Ed.D. Timothy Connor  
Commissioner of Education PSS Legal Counsel

 Date: 12/9/99  
William P. Matson  
Acting Fiscal & Budget Officer

 Date: 12/10/99  Date: 12.1.99  
Jess Sanchez James A. Denight, Ed.D.  
FNS Administrator MHS Principal



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRBSAIPAN, MP 96950

TEL: (670) 564-1100 FAX: (670) 564-1115

November 20, 2000

SFL2001-048

Mr. Leo L. LaMotte  
Public Auditor, CNMI  
Office of the Public Auditor  
The Commonwealth of the Northern  
Mariana Islands  
P.O. Box 501399  
Saipan, MP 96950



Dear Mr. LaMotte:

I am providing our response to the Draft Report on the Audit of the Marianas High School Food Court Covering School Year 1998-1999.

The draft report requires our response to one of the eight recommendations. Specifically, audit recommendation two recommends that we recover from the Public School System the \$369,866 that was paid by the Trust Fund for the operation of the Food Court. We concur with this recommendation and will withhold \$369,866.00 from Fiscal Year 2001's first quarter allotment for operations to the Public School System.

The draft audit report states that the federally funded breakfast and lunch program of the CNMI is governed by the 1991 Nutrition Assistant Grant, which does not require local matching for the use of the federal grant money. This grant has been in force at the time the Pachinko Act became law in 1995. Since the effective date of the Act, the Department of Finance has been transferring the PSS's share of the revenues generated from the licensing of pachinko slot machines. If there was no local matching requirement, the PSS should have informed the Legislature that the funds were not needed for the school lunch program and are available for re-appropriation to other programs.

In view of these events, the Department of Finance will hold onto all funds generated from the licensing of pachinko slot machines for the PSS, and will transfer the funds only upon documentation of a requirement of a local match of funds for the school lunch program.

Sincerely,

LUCY D.G. NIELSEN  
Secretary of Finance

**Appendix F**  
Page 1 of 3

**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
<p>1. The Commissioner of Education issue a directive immediately disallowing the use of the Trust Fund to pay the vendors of the Food Court. If PSS wants to continue with the operations of the Food Court, it should use other funds for that purpose or seek to have the Pachinko Law amended to authorize continued use of the Trust Fund for the operations of the Food Court.</p>	PSS	Resolved	<p>The Commissioner stated that for SY 2000-2001, the MHS Food Court is federally funded pursuant to the Nutrition Assistance Grant.</p> <p><i>Further Action Required</i></p> <p>The Commissioner should provide documentation such as a directive or any document showing that PSS has ceased to use the Trust Fund to pay the vendors of the Food Court.</p>
<p>2. The Secretary of Finance recover from PSS the \$369,866 that was paid from the Trust Fund for the operation of the MHS Food Court. Repayment can be made by offsetting this unlawful payment against future fund allocations for PSS. Any repayment from PSS should be restored to the Trust Fund for possible re-appropriation.</p>	DOF	Resolved	<p>The Secretary of Finance concurred with the recommendation and stated that the Department of Finance will withhold \$369,866 from the first quarter allotment of PSS in fiscal year 2001.</p> <p><i>Further Action Required</i></p> <p>The Secretary of Finance should provide documentation that the \$369,866 has been withheld from the FY 2001 first quarter allotment of PSS.</p>
<p>3. The Commissioner of Education instruct the PSS Legal Counsel to determine the extent of the MHS Principal's liability for his role in the violation of the Planning and Budgeting Act and the BOE Policy on fundraising.</p>	PSS	Open	<p>The Commissioner stated that the provisions of the Planning and Budgeting Act (PBA), specifically 1 CMC §7402 and §7701, are not applicable.</p> <p><b>OPA Comments</b></p> <p>PSS as a component of the Commonwealth Government should abide by the PBA. BOE Policy 701.4(a) even states that it is the intention of the BOE to comply with the provisions of any and all applicable laws that related to the preparation and presentation of budgets and the budgeting process. Mentioned among the applicable laws was PBA.</p> <p><i>Further Action Required</i></p> <p>The Commissioner should reconsider her position on this matter. Accordingly, the Commissioner should instruct the PSS Legal Counsel to determine the extent of the MHS Principal's liability for his role in the violation of the PBA and the BOE Policy on fundraising.</p>
<p>4. The Commissioner of Education issue a memorandum instructing the MHS Principal to stop using the proceeds from the sale of reduced-price meals to pay for non-Food Court expenses. These collections should first be used only to pay obligations of the Food Court.</p>	PSS	Open	<p>The Commissioner stated that profit from the MHS Food Court were used in accordance with BOE policy and that funds have not been used as <i>fundraising</i> until the payment of vendors had been made.</p> <p><b>OPA Comments</b></p> <p>Profits from the MHS Food Court were not used in accordance with BOE Policy. Since the Trust Fund should not have been used for the MHS Food Court,</p>

**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
			<p>only those proceeds from the sale of reduced-price meals appear to be a legitimate source of funds for the MHS Food Court. Since the amount collected from paying students is not even enough to cover the actual cost of the meals, all collections from the students should have been dedicated solely to the payment of Food Court obligations (instead of using these collections for non-Food Court expenses).</p> <p><i>Further Action Required</i></p> <p>The Commissioner of Education should reconsider her position on this matter. Accordingly, the Commissioner should issue a memorandum instructing the MHS Principal to stop using the proceeds from the sale of reduced-price meals to pay for non-Food Court expenses. These collections should first be used to pay obligations of the Food Court.</p>
<p>5. The Commissioner of Education issue a memorandum requiring the MHS Principal to refer all Food Court procurement to the PSS Procurement Office, and refrain from conducting procurement actions for goods and services needed by the Food Court.</p>	<p>PSS</p>	<p>Resolved</p>	<p>The Commissioner of Education stated that the Procurement Officer and MHS are now working together under the PSS procurement regulations and the MOU between PSS/FNS and MHS.</p> <p><i>Further Action Required</i></p> <p>The Commissioner of Education should provide OPA with documentation such as a memorandum requiring the MHS Principal to refer all Food Court procurement to the PSS Procurement Office and to refrain from conducting procurement actions for goods and services needed by the Food Court in the future.</p>
<p>6. The Commissioner of Education consider enforcing employment sanctions against the Food Court Custodian for violating the ethics provision of the PSSPR.</p>	<p>PSS</p>	<p>Open</p>	<p>The Commissioner of Education dismissed the violations as mere questions of clarification rather than purposeful failure to abide by the PSSPR.</p> <p><b>OPA Comment</b></p> <p>To maintain the integrity of the PSS’s procurement process, we believe that appropriate employment sanctions should be enforced.</p> <p><i>Further Action Required</i></p> <p>The Commissioner of Education should reconsider her position on this matter. Accordingly, the Commissioner should consider enforcing employment sanctions against the Food Court Custodian for violating the ethics provision of the PSSPR.</p>
<p>7. The Commissioner of Education instruct the PSS Legal Counsel to determine the extent of personal liability of the MHS Principal and MHS Food Court Custodian for their roles in the violation of key</p>	<p>PSS</p>	<p>Open</p>	<p>The Commissioner of Education dismissed the violations as mere questions of clarification than purposeful failure to abide by the PSSPR.</p>

**Appendix F**  
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**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
provisions of the PSSPR.			<p><b>OPA Comment</b></p> <p>To protect the integrity of the PSS’s procurement process, we believe that appropriate employment sanctions should be enforced.</p> <p><i>Further Action Required</i></p> <p>The Commissioner of Education should reconsider her position on this matter. Accordingly, the Commissioner should instruct the PSS Legal Counsel to determine the extent of personal liability of the MHS Principal and MHS Food Court Custodian for their roles in the violation of key provisions of the PSSPR.</p>
<p>8. The Commissioner of Education require the MHS Principal, in coordination with the PSS Fiscal and Budget Officer, to establish internal controls and written policies and procedures for the accounting of cash receipts at the Food Court.</p>	PSS	Resolved	<p>Although she did not directly concur with the recommendation, the Commissioner on November 2, 2000 issued a memorandum to the MHS Principal directing that an accountability form be used in the accounting of cash receipts. The memorandum also directed the MHS Principal to transmit cash collections of the MHS Food Court to the PSS Treasury for deposit.</p> <p><i>Further Action Required</i></p> <p>The Commissioner should provide evidence of actual implementation (such as copies of the accountability forms prepared by MHS and official receipts evidencing that MHS submits the collections to the PSS Treasury).</p>

