

# PERFORMANCE AUDIT

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## New Day Charter School Huntingdon County, Pennsylvania

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October 2014



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania  
Department of the Auditor General  
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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120

Mr. James Foster, Board President  
New Day Charter School  
256 South Fifth Street  
Huntingdon, Pennsylvania 16652

Dear Governor Corbett and Mr. Foster:

We conducted a performance audit of the New Day Charter School (Charter School), to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period October 25, 2010 to April 25, 2014, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2009, 2010, 2011, and 2012. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the Charter School complied, in all significant respects, with relevant requirements.

We appreciate the Charter School's cooperation during the conduct of the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale".

Eugene A. DePasquale  
Auditor General

October 2, 2014

cc: **NEW DAY CHARTER SCHOOL** Board of Trustees

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## **Executive Summary**

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### **Audit Work**

The Pennsylvania Department of the Auditor General conducted a performance audit of the New Day Charter School (Charter School) in Huntingdon County. Our audit sought to answer certain questions regarding the Charter School's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures and to determine the status of corrective action taken by the Charter School in response to our prior audit recommendations.

Our audit scope covered the period October 25, 2010 through April 25, 2014, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

### **Charter School Background**

The Charter School, located in Huntingdon County, Pennsylvania, opened in August 2003 under the name of Tuscarora Blended Learning Charter School. It was originally chartered on July 1, 2003, for a period of five (5) years by the following school districts: Central Fulton, Forbes Road, Huntingdon Area, Juniata County, Juniata Valley, Mount Union Area, Southern Fulton, and Southern Huntingdon County. Effective July 1, 2010, its name was changed to the New Day Charter School. The Charter School's mission "is to enhance and expand traditional educational opportunities by offering students, through a blended classroom, a comprehensive

educational program that prepares them for their futures in this new century. The term 'blended classroom' is used to mean the delivery of instruction through a variety of learning methods, traditional, distance learning, correspondence, experiential, virtual, and other ways in which learning is proven to take place. It will provide an alternative education to those students who are having difficulty in the regular classroom and/or who would benefit from an individualized educational program."

The Charter School provided educational services to 138 pupils from 22 sending school districts, through the employment of eleven (11) teachers, four (4) full-time and part-time support personnel, and three (3) administrators during the 2011-12 school year. The Charter School received approximately \$1 million in tuition payments from school districts required to pay for their students attending the Charter School in the 2011-12 school year.

### **Adequate Yearly Progress**

The Charter School did not make Adequate Yearly Progress (AYP) for the 2011-12 school year and is in a "School Improvement II" status. A school that misses only one (1) measure will not meet AYP. Specifically, the Charter School fell short of the 2012 AYP targets/goals for Reading and Mathematics performance by the students overall group. This is the sixth consecutive year that the Charter School did not meet all AYP Measures and the fourth year that the Charter School is in a "School Improvement" status, which means the

Charter School is subject to consequences and must take certain actions.

AYP is a key measure of school performance established by the federal No Child Left Behind Act (NCLB) of 2001 requiring that all students reach proficiency in Reading and Math by 2014. For a school to meet AYP measures, students in the school must meet goals or targets in three (3) areas: (1) Attendance (for schools that do not have a graduating class) or Graduation (for schools that have a high school graduating class), (2) Academic Performance, which is based on tested students' performance on the Pennsylvania System of School Assessment (PSSA), and (3) Test Participation, which is based on the number of students that participate in the PSSA. Schools are evaluated for test performance and test participation for all students in the tested grades (3-8 and 11) in the school. AYP measures determine whether a school is making sufficient annual progress towards the goal of 100 percent proficiency by 2014.

## **Audit Conclusion and Results**

Our audit found that the Charter School complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures. Our audit resulted in no findings or observations.

## **Status of Prior Audit Findings and Observations**

With regard to the status of our prior audit recommendations to the New Day Charter School (Charter School), we found the Charter School had taken appropriate corrective action in implementing our recommendations pertaining to errors in reporting pupil membership data driving state subsidies (see page 11) and failure to file for charter school lease reimbursement (see page 12).

## Background Information on Pennsylvania Charter Schools

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### *Description of Pennsylvania Charter Schools:*

Charter and cyber charter schools are taxpayer-funded public schools just like traditional public schools. There is no additional cost to the student associated with attending a charter or cyber charter school. Charter and cyber charter schools operate free from many educational mandates, except for those concerning nondiscrimination, health and safety, and accountability.

### *Pennsylvania ranks high compared to other states in the number of charter schools:*

According to the Center for Education Reform, Pennsylvania has the 7<sup>th</sup> highest charter school student enrollment, and the 10<sup>th</sup> largest number of operating charter schools, in the United States.

Source: "National Charter School and Enrollment Statistics 2010." October, 2010.

### **Pennsylvania Charter School Law**

Pennsylvania's charter schools were established by the Charter School Law (CSL), enacted through Act 22 of 1997, as amended. In the preamble of the Law, the General Assembly stated its intent to provide teachers, parents, students, and community members with the opportunity to establish schools that were independent of the existing school district structure.<sup>1</sup> In addition, the preamble provides that charter schools are intended to, among other things, improve student learning, encourage the use of different and innovative teaching methods, and offer parents and students expanded educational choices.<sup>2</sup>

The CSL permits the establishment of charter schools by a variety of persons and entities, including, among others, an individual; a parent or guardian of a student who will attend the school; any nonsectarian corporation not-for-profit; and any nonsectarian college, university or museum.<sup>3</sup>

Applications must be submitted to the local school board where the charter school will be located by November 15 of the school year preceding the school year in which the charter school will be established,<sup>4</sup> and that board must hold at least one (1) public hearing before approving or rejecting the application.<sup>5</sup> If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,<sup>6</sup> which is comprised of the Secretary of Education and six (6) members appointed by the Governor with the consent of a majority of all of the members of the Senate.<sup>7</sup>

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<sup>1</sup> 24 P.S. § 17-1702-A.

<sup>2</sup> *Id.*

<sup>3</sup> 24 P.S. § 17-1717-A (a).

<sup>4</sup> *Id.* § 17-1717-A (c).

<sup>5</sup> *Id.* § 17-1717-A (d).

<sup>6</sup> *Id.* § 17-1717-A (f).

<sup>7</sup> 24 P.S. § 17-1721-A (a).

With certain exceptions for charter schools within the School District of Philadelphia, initial charters are valid for a period of no less than three (3) years and no more than five (5) years.<sup>8</sup> After that, the local school board can choose to renew a school's charter every five (5) years, based on a variety of information, such as the charter school's most recent annual report, financial audits, and standardized test scores. The board can immediately revoke a charter if the school has endangered the health and welfare of its students and/or faculty. However, under those circumstances, the board must hold a public hearing on the issue before it makes its final decision.<sup>9</sup>

*Funding of Pennsylvania Charter Schools:*

Brick-and-mortar charter schools and cyber charter schools are funded in the same manner, which is primarily through tuition payments made by school districts for students who have transferred to a charter or cyber charter school.

The Charter School Law requires a school district to pay a per-pupil tuition rate for its students attending a charter or cyber charter school.

Act 88 of 2002 amended the CSL to distinguish cyber charter schools, which conduct a significant portion of their curriculum and instruction through the Internet or other electronic means, from brick-and-mortar charter schools that operate in buildings similar to school districts.<sup>10</sup> Unlike brick-and-mortar charter schools, cyber charter schools must submit their application to the Pennsylvania Department of Education (PDE), which determines whether the application for a charter should be granted or denied.<sup>11</sup> However, if PDE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.<sup>12</sup> In addition, PDE is responsible for renewing and revoking the charters of cyber charter schools.<sup>13</sup> Cyber charter schools that had their charter initially approved by a local school district prior to August 15, 2002, must seek renewal of their charter from PDE.<sup>14</sup>

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<sup>8</sup> 24 P.S. § 17-1720-A.

<sup>9</sup> Pennsylvania Department of Education, Basic Education Circular, "Charter Schools," Issued 10/1/2004.

<sup>10</sup> 24 P.S. §§ 17-1703-A, 17-1741-A *et seq.*

<sup>11</sup> 24 P.S. § 17-1745-A(d).

<sup>12</sup> *Id.* § 17-1745-A(f)(4).

<sup>13</sup> 24 P.S. § 17-1741-A(a)(3).

<sup>14</sup> 24 P.S. § 17-1750-A(e).

## Pennsylvania Charter School Funding

The Commonwealth bases the funding for charter schools on the principle that the state's subsidies should follow the students, regardless of whether they choose to attend traditional public schools or charter schools. According to the CSL, the sending school district must pay the charter/cyber charter school a per-pupil tuition rate based on its own budgeted costs, minus specified expenditures, for the prior school year.<sup>15</sup> For special education students, the same funding formula applies, and an additional per-pupil amount based upon the sending district's special education expenditures divided by a state-determined percentage specific to the 1996-97 school year.<sup>16</sup> The CSL also requires that charter schools bill each sending school district on a monthly basis for students attending the charter school.<sup>17</sup>

Typically, charter schools provide educational services to students from multiple school districts throughout the Commonwealth. For example, a charter school may receive students from ten (10) neighboring, but different, sending school districts. Moreover, students from numerous districts across Pennsylvania attend cyber charter schools.

Under the Public School Code of 1949, as amended, the Commonwealth also pays a reimbursement to each sending school district with students attending a charter school that amounts to a mandatory percentage rate of total charter school costs.<sup>18</sup> Commonwealth reimbursements for charter school costs are funded through an education appropriation in the state's annual budget. However, the enacted state budget for the 2011-12 fiscal year eliminated funding of the charter school reimbursement previously paid to sending school districts.<sup>19</sup>

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<sup>15</sup> See 24 P.S. § 17-1725-A(a)(2).

<sup>16</sup> See *Id.* §§ 17-1725-A(a)(3); 25-2509.5(k).

<sup>17</sup> See 24 P.S. § 17-1725-A(a)(5).

<sup>18</sup> See 24 P.S. § 25-2591.1. Please note that this provision is contained in the general funding provisions of the Public School Code and not in the Charter School Law.

<sup>19</sup> Please note that the general funding provision referenced above (24 P.S. § 25-2591.1) has not been repealed from the Public School Code and states the following: "For the fiscal year 2003-2004 and each fiscal year thereafter, if insufficient funds are appropriated to make Commonwealth payments pursuant to this section, such payments shall be made on a pro rata basis." Therefore, it appears that state funding could be restored in future years.

## Audit Scope, Objectives, and Methodology

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### Scope

*What is a school performance audit?*

School performance audits allow the Pennsylvania Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each local education agency (LEA). The results of these audits are shared with the LEA's management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

Our audit, conducted under the authority of Section 403 of The Fiscal Code, 72 P.S. § 403, is not a substitute for the local annual audit required by the Public School Code of 1949, as amended. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period October 25, 2010 through April 25, 2014, except for the verification of professional employee certification, which was performed for the period July 1, 2010 through February 21, 2014.

Regarding state subsidies and reimbursements, our audit covered the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

For the purposes of our audit work and to be consistent with Pennsylvania Department of Education (PDE) reporting guidelines, we use the term *school year* rather than fiscal year throughout this report. A school year covers the period July 1 to June 30.

### Objectives

*What is the difference between a finding and an observation?*

Our performance audits may contain findings and/or observations related to our audit objectives. Findings describe noncompliance with a statute, regulation, policy, contract, grant requirement, or administrative procedure. Observations are reported when we believe corrective action should be taken to remedy a potential problem not rising to the level of noncompliance with specific criteria.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the Charter School's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures. However, as we conducted our audit procedures, we sought to determine answers to the following questions, which serve as our audit objectives:

- ✓ Was the Charter School in overall compliance with the Public School Code of 1949<sup>20</sup> (PSC) and the Charter School Law (CSL)?<sup>21</sup>
- ✓ Did the Charter School have policies and procedures regarding the requirements to maintain student health records and perform required health services, and keep accurate documentation supporting its annual health

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<sup>20</sup> 24 P.S. § 1-101 *et seq.*

<sup>21</sup> 24 P.S. § 17-1701-A *et seq.*

services report filed with the Pennsylvania Department of Health to receive state reimbursement?

- ✓ Did the Charter School receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program, was its lease agreement approved by its Board of Trustees, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act?<sup>22</sup>
- ✓ Did the Charter School comply with the open enrollment and lottery provisions of the CSL?
- ✓ Did the Charter School provide the services required for its special education students through outside agencies and/or through properly certified professional staff with the required instructional hours and/or training?
- ✓ Did the Charter School Board of Trustees and administrators, and the chartering school board members, comply with the PSC, the Public Official and Employee Ethics Act, and the Sunshine Act?
- ✓ Were at least 75 percent of the Charter School’s teachers properly certified, and did all of its noncertified teachers meet the “highly qualified teacher” requirements?
- ✓ Did the Charter School require its noncertified professional employees to provide evidence that they are at least 18 years of age, a U.S. citizen, and certified by a licensed Pennsylvania physician to be neither mentally or physically disqualified from successful performance of the duties of a professional employee of the Charter School?
- ✓ Did the Charter School accurately report its membership numbers to PDE, and were its average daily membership and tuition billings accurate?
- ✓ Did the Charter School have sufficient internal controls to ensure that the membership data it reported

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<sup>22</sup> 65 Pa.C.S. § 1101 *et seq.*

to PDE through the Pennsylvania Management System was complete, accurate, valid, and reliable?

- ✓ Did the Charter School comply with the CSL's compulsory attendance provisions and, if not, did the Charter School remove days in excess of ten (10) consecutive unexcused absences from the Charter School's reported membership totals pursuant to the regulations?<sup>23</sup>
- ✓ Did the Charter School take appropriate steps to ensure school safety?
- ✓ Did the Charter School require that all of its employees enroll in the Public School Employees' Retirement System at the time of filing its Charter School application as required by the Law, unless the Board of Trustees had a retirement plan that covered the employees or the employees were already enrolled in another retirement program?
- ✓ Did the Charter School use an outside vendor to maintain its membership data, and if so, are internal controls in place related to vendor access?
- ✓ Were there any other areas of concern reported by independent auditors, citizens, or other interested parties which warrant further attention during our audit?
- ✓ Did the Charter School take appropriate corrective action to address recommendations made in our prior audits?

## **Methodology**

*Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our results and conclusions based on our audit objectives.

The Charter School's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Charter School is in

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<sup>23</sup> 22 Pa. Code § 11.24.

*What are internal controls?*

Internal controls are processes designed by management to provide reasonable assurance of achieving objectives in areas such as:

- Effectiveness and efficiency of operations.
- Relevance and reliability of operational and financial information.
- Compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). In conducting our audit, we obtained an understanding of the Charter School's internal controls, including any information technology controls, as they relate to the Charter School's compliance with relevant requirements that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal controls that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

Our audit examined the following:

- Records pertaining to professional employee certification, state ethics compliance, student health services, special education, lease agreements, pupil membership records, open enrollment, student enrollment, vendor contracts, IRS 990 forms, and reimbursement applications, tuition receipts and deposited state funds.
- Items such as Board of Trustees' meeting minutes, and policies and procedures.

Additionally, we interviewed select administrators and support personnel associated with the Charter School's operations.

To determine the status of our audit recommendations made in a prior audit report released on May 7, 2012, we reviewed the Charter School's response and then performed additional audit procedures targeting the previously reported matters.

## **Findings and Observations**

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**F**or the audited period, our audit of the New Day Charter School resulted in no findings or observations.

## Status of Prior Audit Findings and Observations

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Our prior audit of the New Day Charter School (Charter School) released on May 7, 2012, resulted in two (2) reported findings. The first finding pertained to errors in reporting pupil membership data driving state subsidies, and the second finding addressed failure to file for charter school lease reimbursement. As part of our current audit, we determined the status of corrective action taken by the Charter School to implement our prior recommendations. We performed audit procedures and interviewed the Charter School's personnel regarding the prior findings. As shown below, we found that the Charter School did implement recommendations related to prior findings.

### Auditor General Performance Audit Report Released on May 7, 2012

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#### **Finding No. 1: Errors in Reporting Pupil Membership Data Driving State Subsidies**

Finding Summary: Our prior audit of the Charter School's 2006-07 and 2007-08 pupil membership data submitted to the Pennsylvania Department of Education (PDE) found errors which may have resulted in over/underpayments to state reimbursements paid to sending school districts for a portion of their costs for students attending the Charter School. Additionally, these errors may have also caused over/underpayments in other state subsidies based on pupil membership received by these sending school districts.

Recommendations: Our audit finding recommended that the Charter School should:

1. Institute a system of review of pupil membership reports and tuition billings to ensure agreement before submission of membership reports to PDE.
2. Review subsequent year reports and resubmit to PDE, if necessary.

We also recommended that PDE should:

3. Review the accuracy of pupil membership reports submitted by the Charter School to PDE and correct any over/underpayments in state subsidies paid to sending school districts resulting from these errors.

Current Status: During our current audit, we found that the Charter School did implement these recommendations by implementing a reconciliation process at the end of each school year. As a result of this reconciliation process, our review of pupil membership data for the 2008-09, 2009-10, 2010-11, and 2011-12 school years revealed no significant errors.

**Finding No. 2: Failure to File for Charter School Lease Reimbursement**

Finding Summary: The Charter School failed to file for state lease reimbursement for renting its school building for the 2007-08 school year, for which the Charter School was approved by PDE to receive \$26,379 from the Commonwealth under the State's Charter School Lease Reimbursement Program.

Recommendations: Our audit finding recommended that the Charter School should:  
  
Institute an internal review process to ensure the necessary applications for approval and reimbursement of a charter school lease are filed timely and the approved payment is received.

We also recommended that PDE:

Review the application for reimbursement submitted by the Charter School on October 22, 2010, to determine whether the Charter School is still eligible to receive state reimbursement of \$26,379 for previously approved lease costs for the 2007-08 school year, which were filed late by the Charter School.

Current Status: During our current audit, we found that the Charter School did implement the recommendations. As a result of our finding, the Charter School submitted the application for lease reimbursement on October 22, 2010. In November 2010, the Charter School received the appropriate reimbursement. Our current review of rental reimbursements for the 2008-09, 2009-10, 2010-11, and 2011-12 school years indicated all eligible rental reimbursements were filed timely and reimbursement was received.

## Distribution List

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This report was initially distributed to the Chief Executive Officer of the Charter School, the Board of Trustees, our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us), and the following stakeholders:

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