

PERFORMANCE AUDIT

Seven Generations Charter School Lehigh County, Pennsylvania

June 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Mr. Jim Moreno and Ms. Mariska Van Aalst
Co-Coordinator
Seven Generations Charter School
154 East Minor Street
Emmaus, Pennsylvania 18049

Dear Governor Wolf, Mr. Moreno, and Ms. Van Aalst:

We conducted a performance audit of the Seven Generations 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 May 17, 2013 through April 7, 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, 2011 and June 30, 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, except as detailed in two findings noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

Our audit findings and recommendations have been discussed with the Charter School's management, and their responses are included in the audit report. We believe the implementation of our recommendations will improve the Charter School's operations and facilitate compliance with legal and administrative requirements. We appreciate the Charter School's cooperation during the conduct of the audit.

Sincerely,

Eugene A. DePasquale
Auditor General

June 25, 2015

cc: **SEVEN GENERATIONS CHARTER SCHOOL** Board of Trustees

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Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the Charter School. 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.

Our audit scope covered the period May 17, 2013 through April 7, 2014, except as otherwise stated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2010-11 and 2011-12 school years.

Charter School Background

The Charter School, located in Lehigh County, Pennsylvania, opened in September 2009. It was originally chartered on May 11, 2009 by the East Penn School District. The Charter School's mission states: "The mission of Seven Generations Charter School is to provide an academically rich educational community that creates generations of stewards who respect our world and each other. All members of the Seven Generations Charter School community are committed to creating a public education alternative that promotes sustainability and citizenship with an interdisciplinary, individualized, project-based curriculum." The Charter School provided educational services to 315 pupils from 23 sending school districts through the employment of 26 teachers, 12 full-time and part-time support personnel, and one administrator during the 2011-12 school

year. The Charter School received \$3.3 million in tuition payments from school districts required to pay for their students attending the Charter School in the 2011-12 school year.

Academic Performance

The Charter School's academic performance as measured by its School Performance Profile (SPP) score was 77.3 percent in the 2012-13 school year. SPP is the Pennsylvania Department of Education's (PDE) current method of providing a quantitative, academic score based upon a 100-point scale for all public schools. A score of 77.3 would be considered a "C" if using a letter grade system. Weighted data factors included in the SPP score are indicators of academic achievement, indicators of closing the achievement gap, indicators of academic growth, and other academic indicators such as attendance and graduation rates.

Previously, the Charter School made Adequate Yearly Progress (AYP) for the 2011-12 school year. AYP was 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 needed to meet goals or targets in three areas: (1) Attendance (for schools that did not have a graduating class) or Graduation (for schools that had a high school graduating class), (2) Academic Performance, which was based on tested students' performance on the Pennsylvania System of School Assessment (PSSA), and

(3) Test Participation, which was based on the number of students that participated in the PSSA. Schools were evaluated for test performance and test participation for all students in the tested grades (3-8 and 11) in the school. AYP measures determined whether a school was making sufficient annual progress towards statewide proficiency goals. On August 20, 2013, Pennsylvania was granted a waiver from the NCLB's requirement of achieving 100 percent proficiency in Reading and Math by 2014, so AYP measures were discontinued beginning with the 2012-13 school year.¹

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, except for two compliance related matters reported as findings.

Finding No. 1: Possible Reporting of Ineligible Retirement Wages. During our audit of the Charter School, we reviewed a former Academic Director's employment contract, payroll records, and retirement records and found retirement wages may have been overstated in reports submitted to the Public School Employees' Retirement System (PSERS) for the 2010-11 school year. The total possible ineligible compensation reported for the former Academic Director was \$6,712.

Our audit also found that compensation reported for the 2010-11 and 2011-12 school

¹ In February 2013, Pennsylvania was one of many states that applied for flexibility from NCLB standards, which was granted by the U.S. Department of Education on August 20, 2013. The waiver eliminates AYP for all public schools and replaces it with a federal accountability system specific to Title I

years may have been inaccurate for employees that chose to receive payments in lieu of health benefits. The amount received for foregoing health benefits was reported as eligible compensation to PSERS. The possible ineligible payments reported to PSERS for inclusion in retirement wages were \$13,167 and \$24,613 for the 2010-11 and 2011-12 school years, respectively (see page 13).

Finding No. 2: Public Official and Employee Ethics Act Violations.

Our audit of the Charter School for the calendar years ended December 31, 2010, 2011, and 2012 found that four Board of Trustees' (Board) members and two administrators failed to file their Statements of Financial Interest (SFI) forms, and three board members filed their form late for the calendar year ended December 31, 2010. Five board members and three administrators failed to file their SFI form, and two board members filed their form late for the calendar year ended December 31, 2011. Two board members and two administrators failed to file their SFI form, and three board members filed their form late for the calendar year ended December 31, 2012 (see page 16).

Status of Prior Audit Findings and Observations.

This was our first audit of the Charter School. Therefore, there are no prior findings or observations.

schools only (those with a high percentage of low-income students), which identifies Title I schools as "Priority," "Focus," "Reward," or "No Designation" schools. Beginning in 2012-13, all public school buildings received a SPP score.

Background Information on Pennsylvania Charter Schools

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 7th highest charter school student enrollment, and the 10th 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 CSL, 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.² 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.³

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.⁴

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,⁵ and that board must hold at least one public hearing before approving or rejecting the application.⁶ If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,⁷ which is comprised of the Secretary of Education and six members appointed by the Governor with the consent of a majority of all of the members of the Senate.⁸

² 24 P.S. § 17-1702-A.

³ *Id.*

⁴ 24 P.S. § 17-1717-A (a).

⁵ *Id.* § 17-1717-A (c).

⁶ *Id.* § 17-1717-A (d).

⁷ *Id.* § 17-1717-A (f).

⁸ 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 years and no more than five years.⁹ After that, the local school board can choose to renew a school's charter every five 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.¹⁰

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.¹¹ Unlike brick-and-mortar charter schools, cyber charter schools must submit their application to PDE, which determines whether the application for a charter should be granted or denied.¹² However, if PDE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.¹³ In addition, PDE is responsible for renewing and revoking the charters of cyber charter schools.¹⁴ 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.¹⁵

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.

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,

⁹ 24 P.S. § 17-1720-A.

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

¹¹ 24 P.S. §§ 17-1703-A, 17-1741-A *et seq.*

¹² 24 P.S. § 17-1745-A(d).

¹³ *Id.* § 17-1745-A(f)(4).

¹⁴ 24 P.S. § 17-1741-A(a)(3).

¹⁵ 24 P.S. § 17-1750-A(e).

for the prior school year.¹⁶ For special education students, the same funding formula applies, plus 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.¹⁷ The CSL also requires that charter schools bill each sending school district on a monthly basis for students attending the Charter School.¹⁸

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 neighboring, but different, sending school districts. Moreover, students from numerous districts across Pennsylvania attend cyber charter schools.

Under the Public School Code (PSC) 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.¹⁹ 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.²⁰

¹⁶ See 24 P.S. § 17-1725-A(a)(2).

¹⁷ See *Id.* §§ 17-1725-A(a)(3); 25-2509.5(k).

¹⁸ See 24 P.S. § 17-1725-A(a)(5).

¹⁹ See 24 P.S. § 25-2591.1. Please note that this provision is contained in the general funding provisions of the PSC and not in the CSL.

²⁰ Please note that the general funding provision referenced above (24 P.S. § 25-2591.1) has not been repealed from the PSC and states the following: "For the fiscal year 2003-04 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

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 LEA management, the Governor, PDE, 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 PSC 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 May 17, 2013 through April 7, 2014, except for the verification of professional employee certification which was performed for the 2010-11, 2011-12, and 2012-13 school years.

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

For the purposes of our audit work and to be consistent with 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, regulations, third-party studies and best 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:

ü Was the Charter School in overall compliance with the PSC of 1949²¹ and the CSL?²²

²¹ 24 P.S. § 1-101 *et seq.*

²² 24 P.S. § 17-1701-A *et seq.*

- Ü Was the Charter School operating in compliance with accountability provisions included in the CSL specific to its approved charter and governance structure?

To address this objective:

- The auditors reviewed the approved charter and any amendments.
- In addition, the auditors reviewed board policies and procedures, IRS 990 forms for the 2010-11 and 2011-12 calendar years, and charter school annual reports for the 2009-10, 2010-11, and 2011-12 school years.

- Ü Did the Charter School receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program administered by PDE, was its lease agreement approved by its Board, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act (Ethics Act)?²³

- To address this objective, the auditors reviewed building ownership documentation, the lease agreement(s), lease payments, and the Charter School's lease documentation filed with PDE to obtain state reimbursement for the 2010-11 and 2011-12 school years.

- Ü Were the Charter School's Board and administrators free from apparent conflicts of interest and in compliance with the CSL, the PSC, the Ethics Act, and the Sunshine Act?

- To address this objective, the auditors reviewed SFIs for all board members and administrators, board meeting minutes, management company contract(s), and any known outside relationships with the Charter School and/or its authorizing school district for the 2010, 2011, and 2012 calendar years.

²³ 65 Pa.C.S. § 1101 *et seq.*

- ü Were at least 75 percent of the Charter School’s teachers properly certified pursuant to Section 1724-A of the CSL, and did all of its noncertified teachers in core content subjects meet the “highly qualified teacher” requirements under the federal NCLB of 2001?
 - To address this objective, the auditors reviewed and evaluated certification documentation and teacher course schedules for all teachers and administrators for the certification audit period covering the 2010-11, 2011-12, and 2012-13 school years.

- ü Did the Charter School require its non-certified professional employees to provide evidence that they are at least 18 years of age and a U.S. citizen pursuant to Section 1724-A(b) of the CSL and that they have a pre-employment medical examination certificate pursuant to Section 1418(a) of the PSC?
 - To address this objective, the auditors reviewed personnel files and supporting documentation for all non-certified professional employees for the 2010-11, 2011-12, and 2012-13 school years.

- ü Did the Charter School accurately report its membership numbers to PDE, and were its average daily membership and tuition billings accurate?

To address this objective:

- The auditors reviewed charter school tuition rates and tuition billings for all sending school districts for the 2011-12 school year.

- In addition, the auditors reviewed the Charter School’s membership reports, instructional time summaries, entry/withdrawal procedures, and supporting documentation for the 2011-12 school years.

- ü Did the Charter School ensure that the membership data it reported to PDE through the Pennsylvania Information Management System was complete, accurate, valid, and reliable for the most current year available?

To address this objective:

- The auditors randomly selected 10 out of 315 total registered students from the vendor software listing and verified that each child was appropriately registered with the Charter School.
- In addition, the auditors selected the only school term reported on the Summary of Child Accounting for verification that the school days reported on the Instructional Time Membership Report matched the school days reported on the School Calendar Fact Template.

- ü Did the Charter School provide its employees with a retirement plan, such as PSERS, as required by Section 1724-A(c) of the CSL, and were employees enrolled in PSERS eligible to receive plan benefits?

To address this objective:

- The auditors reviewed the approved charter and any amendments.
- In addition, the auditors reviewed board meeting minutes, personnel listings, payroll reports, and PSERS wage reports for all contracted employees for the 2010-11 and 2011-12 school years.

- ü Did the Charter School take appropriate steps to ensure school safety, including maintaining a current Memorandum of Understanding (MOU) with local law enforcement?

To address this objective:

- The auditors reviewed a variety of documentation including MOU(s), safety plans, training schedules, anti-bullying policies, and after action reports to assess whether the Charter School is in compliance with relevant safe schools requirements in the PSC²⁴ and with best practices for ensuring school safety.
- In addition, the auditors conducted on-site reviews at both of the Charter School's buildings to assess whether they had implemented basic physical safety practices based on national best practices.

Ü 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 pursuant to Chapter 711 of Pennsylvania's Special Education Regulations?²⁵

- To address this objective, the auditors reviewed the approved charter and any amendments, relevant policies and procedures, special education service contracts for the 2010-11 and 2011-12 school years, special education certification results for the 2010-11, 2011-12, and 2012-13 school years, and charter school annual reports for the 2010-11 and 2011-12 school years.

Ü Did the Charter School have policies and procedures regarding the requirements to maintain student health records, perform required health services, and keep accurate documentation supporting its annual health services report filed with the Pennsylvania Department

²⁴ 24 P.S. § 13-1301-A *et seq.*

²⁵ 22 Pa. Code § 711 *et seq.*

of Health to receive state reimbursement as required by law?²⁶

- To address this objective, the auditors reviewed the Charter School’s annual health services reports and supporting documentation, policies and procedures regarding student health services, and wellness policy for the 2010-11 and 2011-12 school years.

ü Did the Charter School comply with the open enrollment and lottery provisions under Section 1723-A of the CSL?

- To address this objective, the auditors reviewed the approved charter and any amendments, admission policies and procedures, wait lists, lottery results, and other supporting documentation that were in effect at the start of the 2013-14 school year.

Methodology

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.

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 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

²⁶ Article XIV, School Health Services, 24 P.S. § 14-1401 (2006), is applicable to charters and cyber charters in its entirety through its incorporation in 24 P.S. § 17-1732-A(a) and 24 P.S. § 17-1749-A(a)(1), respectively, of the CSL.

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, open enrollment, vendor contracts, and student enrollment.
- Items such as the approved charter and any amendments, board meeting minutes, pupil membership records, IRS 990 forms, annual reports, and reimbursement applications.
- Tuition receipts and deposited state funds.

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

Findings and Observations

Finding No. 1

Criteria relevant to the finding:

PSERS allows only qualified salary and wages to be included for retirement purposes.

PSERS Employers Reference Manual, Chapter 8, states in part:

Retirement Code defines "compensation" generally to mean any remuneration received as a school employee excluding the following:

1. reimbursement for expenses, incidental to employment.
2. bonus.
3. severance payment.
4. payments not based on the standard salary schedule.
5. payments for unused vacation and sick leave.
6. compensation for attending seminars and conventions.
7. any other payment that the Board determines is for the purpose of enhancing final average salary.

The Reference Manual further states:

Incentive payments refer to payments made by an employer, typically in a one-time amount.

Based on a Commonwealth Court decision, incentive payments are retirement-covered compensation.

The following criteria must be met:

- *The payment must be tied to work performance standards agreed upon in advance.*

Possible Reporting of Ineligible Retirement Wages

During our audit of the Charter School, we reviewed employment contracts, payroll records, board meeting minutes, and retirement records. We found that employees' retirement wages may have been overstated in reports submitted to PSERS for the 2010-11 and 2011-12 school years. The total possible ineligible compensation reported as eligible retirement wages totaled \$44,492. The questionable compensation was for a settlement payment and payments in lieu of health benefits, as follows.

Reported Compensation in Question		
Subject	Year	Amount
Former Academic Director Settlement Payment	2010-11	\$ 6,712
Nine Employees Electing Payments in Lieu of Health Benefits	2010-11	\$13,167
Thirteen Employees Electing Payments in Lieu of Health Benefits	2011-12	\$24,613
	Total	\$44,492

Settlement Payment

Review of the former Academic Director's employment contract, board meeting minutes, and payroll records found the individual received a payment of \$6,712 on September 30, 2010, which was in addition to the wages allowed under her contract.

Charter School personnel indicated that it was a settlement payment in lieu of severance pay. We verified that the former Academic Director's last day of full-time employment was August 10, 2010. Our review of the payroll check detail confirmed money was withheld from this payment for retirement purposes and reported to PSERS as retirement wages. Since severance payments are not considered qualified retirement compensation, we question the eligibility of the payment in lieu of severance pay as retirement wages.

- *There is an objective means to calculate the payment.*
- *The employer is contractually obligated to make the payment if the performance standards are met and are not discretionary or subjective.*
- *If the above criteria are met, report the incentive payment.*

In addition, the PSC, 24 Pa.C.S. § 8102, defines compensation, in part as follows:

Pickup contributions plus any remuneration received as a school employee excluding reimbursements for expenses incidental to employment and excluding any bonus, severance payments, any other remuneration or other emolument received by a school employee during his school service which is not based on the standard salary schedule under which he is rendering service, payments for unused sick leave or vacation leave, bonuses or other compensation for attending school seminars and conventions . . .

Payments in Lieu of Health Benefits

Our audit also found that compensation reported to PSERS for the 2010-11 and the 2011-12 school years may have been overstated for employees who chose to receive payroll payments in lieu of health benefits. The amount received for foregoing health benefits was reported as eligible compensation to PSERS. The possible ineligible payments reported for inclusion in retirement wages were \$13,167 and \$24,613 for the 2010-11 and 2011-12 school years, respectively.

The possible reporting of ineligible compensation to PSERS was the result of personnel at the Charter School misunderstanding the PSERS compensation reporting guidelines.

PSERS has been provided reports detailing the questionable retirement compensation for determination of eligibility and possible adjustments to individual retirement calculations.

Recommendations

The *Seven Generations Charter School*, in conjunction with PSERS' determination should:

1. Ensure that Charter School personnel report to PSERS only those wages allowable for retirement purposes, as stated in PSERS regulations and guidelines.
2. Ensure that Charter School personnel make payments according to contracts.
3. Ensure all of the Charter School's employment and compensation agreements are as transparent as possible with reasons for compensation noted, so that the Charter School's taxpayers can evaluate their appropriateness and auditing agencies can determine correct reporting procedures.

The *Public School Employees' Retirement System* should:

4. Review the compensation reported for the former Academic Director for the 2010-11 school year and the compensation for employees who chose to receive

payments in lieu of health benefits for the 2010-11 and 2011-12 school years and render an opinion on the propriety of the wages reported by the Charter School.

5. Make the necessary corrections to the pension benefits and contributions if any of the payments are determined to be ineligible for inclusion in PSERS compensation.

Management Response

Management stated the following:

“The settlement payment of \$6,712 made to the former Academic Director on September 30, 2010 was in lieu of severance pay. Under PSERS rules severance pay is not subject to withholding of retirement contributions.

The payroll company incorrectly coded amounts paid to employees for waiving the School’s health insurance coverage. Under PSERS rules these payments are not subject to withholding of retirement contributions. This error was discovered back in July 2012 and was corrected at that time.”

Auditor Conclusion

Management agreed that the settlement payment of \$6,712, which was in lieu of severance pay, should not have been reported to PSERS as eligible retirement wages. We will determine if adequate corrective action was taken by the Charter School, based on our recommendations to ensure proper reporting of retirement wages to PSERS, during the next audit.

As for the payment in lieu of health benefits, we are pleased Charter School personnel found this error in July 2012 and took corrective action. We will confirm the effectiveness of the corrective action during the next audit.

Finding No. 2 →

Public Official and Employee Ethics Act Violations

Relevant statutory provisions and related criteria:

When enacting the Ethics Act, 65 Pa. C.S. §1101 *et seq.*, our General Assembly stated the following: “Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this chapter shall be liberally construed to promote **complete** financial disclosure as specified in this chapter.” (See 65 Pa. C.S. § 1101.1(a)).

The Ethics Act requires all candidates for public office, public officials, and certain public employees to complete a SFI for the preceding calendar year annually, no later than May 1st of each year they hold their positions and of the year after leaving such positions. (See 65 Pa. C.S. § 1104(a)).

Section 1104(d) of the Ethics Act, 65 Pa. C.S. §1104(d), which pertains to the failure to file the required SFI, provides in pertinent part, as follows:

“No public official shall be allowed to take the oath of office or enter or continue upon his duties, nor shall he receive compensation from public funds, unless he has filed a statement of financial interests. . . .”

Section 1104(e) of the Ethics Act, 65 Pa.C.S. §1104(e), states, in pertinent part:

“All statements of financial interests . . . shall be made available for public inspection. . . .”

Our audit of the Charter School for the calendar years ended December 31, 2010, 2011, and 2012 found that SFI forms were not filed or were filed late for several board members and school administrators, in violation of the Ethics Act, as follows:

Statement of Financial Interest Forms Not Filed or Filed Late

Year	Classification/Job Title
2010	7 Board Members -4 Not Filed -3 Filed Late
	2 School Administrators -Not Filed
2011	7 Board Members -5 Not Filed -2 Filed Late
	3 School Administrators -Not Filed
2012	5 Board Members -2 Not Filed -3 Filed Late
	2 School Administrators -Not Filed

Board members and administrators, including the chief executive officer and all other employees of a charter school, who by virtue of their positions exercise management or operational oversight responsibilities, are considered “public officials” under the CSL²⁷ and are, therefore, subject to the Ethics Act.

²⁷ See 24 P.S. § 17-1715-A(11), (12).

Section 1105(a) of the Ethics Act, 65 Pa. C.S. §1105(a), which requires the filing of a SFI, states, in part:

“All information requested on the statement shall be provided to the best of the knowledge, information and belief of the person required to file and shall be signed under oath or equivalent affirmation.”

Section 1105(b) of the Ethics Act, 65 Pa. C.S. §1105(b), which specifies required information on a SFI form, includes requirements to list any office, directorship or employment of any nature whatsoever in any business entity and any financial interest in any legal entity engaged in business for profit.

Section 1109(b) of the Ethics Act, 65 Pa. C.S. §1109(b), provides that any person who is required to file a SFI but fails to do so may be found guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than one year, or both.

Section 1109(f), 65 Pa. C.S. § 1109(f), provides, in pertinent part that any person who is required to file a SFI but fails to do so in a timely manner or who files a deficient SFI may be subject to a civil penalty at a rate of not more than \$25 for each day such statement remains delinquent or deficient, with a maximum penalty under this chapter or \$250.

SFIs are intended to provide those charged with governance information about the existence or nonexistence of relationships between public officials and parties with whom the charter school engages with in business activities.

The Charter School’s failure to maintain the required SFIs for all administrators and board members highlights the fact that this information is not available for public inspection and copying as required under Section 1104(e) of the Ethics Act. Consequently, members of the general public and others, such as the chartering school district, would not be provided with complete and accurate information regarding financial disclosures and potential conflicts of interest involving the Charter School’s administrators and board members.

The SFI forms that were not filed or filed late can be attributed to an insufficient knowledge of the SFI filing requirements and to inadequate oversight in the timely collection of the forms. Management noted that this was the result of employee turnover at the administrative level.

Public office is a public trust sustained by assuring the taxpayers of the impartiality and honesty of public officials and public employees. Accordingly, the Ethics Act requires all candidates for public office, public officials, and certain public employees to annually complete a SFI for the preceding calendar year, by no later than May 1st of each year they hold their positions and the year after leaving such positions.

When a public official does not properly file a required disclosure, the public and others cannot examine the disclosure in order to determine whether conflicts of interest exist. This in turn erodes the public’s trust. In addition, an individual’s failure to file and/or failure to file complete and accurate SFIs may constitute violations of the Ethics Act that are subject to fines and penalties, or both.

A copy of this finding will be forwarded to the State Ethics Commission for additional review and whatever action it deems necessary.

Recommendations

The *Seven Generations Charter School* should:

1. Seek the advice of its solicitor and the State Ethics Commission in regard to the board members' responsibility when administrators and board members fail to file or file incomplete SFIs.
2. Develop procedures to ensure that all individuals required to file their SFI form do so in compliance with the Ethics Act.

The *Seven Generations Charter School Board of Trustees* should:

3. Ensure that all board members understand and adhere to the requirements of the Ethics Act and the SFI filing requirements.

Management Response

Management stated the following:

“The failure to collect the Statement of Financial Interest forms in past years can be attributed to the consistent turnover in the organization at the administrative level. Going forward the Statement of Financial Interest forms will be distributed to all required individuals with a letter explaining the consequences for the failure to submit the form. These individuals will be directed to speak to our legal counsel should they have any questions about the filing of this form.”

Auditor Conclusion

We are pleased the Charter School agrees with the importance of completing the SFIs and completing the SFIs timely. We will verify the effectiveness of the Charter School's corrective action during the next audit.

Status of Prior Audit Findings and Observations

This is the first audit of the Charter School. Therefore, there are no prior audit findings or observations.

Distribution List

This report was initially distributed to the Chief Executive Officer of the Charter School, the Board of Trustees, and the following stakeholders:

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