

PERFORMANCE AUDIT

Infinity Charter School Dauphin County, Pennsylvania

October 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Ms. Suzanne Gausman, Director/CEO
Infinity Charter School
51 Banks Street
Harrisburg, Pennsylvania 17103

Ms. Michelle Coleman, Board President
Infinity Charter School
51 Banks Street
Harrisburg, Pennsylvania 17103

Dear Ms. Gausman and Ms. Coleman:

We conducted a performance audit of the Infinity Charter School (Charter School) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). We also evaluated the application of best practices in the area of school safety. Our audit covered the period October 1, 2010 through October 31, 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, except as detailed in the one finding noted in this report. In addition, we identified one matter unrelated to compliance that is reported as an observation. A summary of the results is presented in the Executive Summary section of the audit report.

Our audit finding, observation, 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,

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

Eugene A. DePasquale
Auditor General

October 15, 2015

cc: **INFINITY 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 application of best practices and 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 1, 2010 through October 31, 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 Dauphin County, Pennsylvania, opened in August 2003. It was originally chartered on January 17, 2003, for a period of five years by the Central Dauphin School District.

Charter School's Mission Statement

The Charter School's mission states: "Our mission is the creation, operation, and maintenance of a world-class charter school in the Central Dauphin School District that addresses the intellectual, academic and social-emotional needs of mentally gifted children in grades K-12." (Note: the charter school provides education to pupils in grades K-8).

Further Background

During the 2013-14 school year, the Charter School provided educational services to 124 pupils from 14 sending school districts through the employment of 11 teachers, 7 full-time and part-time support personnel, and 1 administrator. The Charter School received \$1.1 million in tuition payments from school districts required to pay for their students attending the Charter School in the 2013-14 school year.

Academic Performance

The Charter School's academic performance as measured by its School Performance Profile (SPP) score was an 89.9 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 89.9 percent would be considered a "B+" 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 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 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 applied best practices and complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, except for one compliance related matter reported as a finding. In addition, we identified one matter unrelated to compliance that is reported as an observation.

Finding: The Charter School Modified Its Enrollment Preferences in Noncompliance with the Charter School Law. The Board of Trustees (Board) approved a modification to the Charter School's enrollment

preferences at a meeting on February 14, 2013, to be effective starting with the 2013-14 school year. The modification gives first preference to "all eligible applicants who are children or grandchildren of the Charter School employees or Board." This change in preference was in noncompliance with the Charter School Law (CSL). In addition, the Charter School failed to notify the chartering school district, Central Dauphin School District, about the change in enrollment preferences (see page 12).

Observation: Legal Fees of \$17,273 Were Incurred Due to the Lack of A Detailed Separation Clause in an Administrative Contract. The Board terminated the Curriculum Director prior to the fulfillment of the employment contract because written and verbal directives were not adhered to or being followed by the Curriculum Director. An out-of-court settlement was reached, which was covered by the Charter School's insurance company. However, the Charter School incurred \$17,273 in legal expenses that were not covered by their insurance company (see page 15).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations, we found the Charter School had taken appropriate corrective action in implementing our recommendations pertaining to Memorandums of Understanding (MOU) (see page 17) and Supplemental Contract Payments (see page 18).

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 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 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 CSL 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 PDE, 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 October 1, 2010 through October 31, 2014. In addition, the scope of each individual audit objective is detailed below.

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 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. Our audit focused primarily on whether the Charter School was in compliance with the PSC²¹ and the CSL.²² More specifically, we sought to determine answers to the following questions, which serve as our audit objectives:

- 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

²¹ 24 P.S. § 1-101 *et seq.*

²² 24 P.S. § 17-1701-A *et seq.*

services report filed with the Pennsylvania Department of Health to receive state reimbursement?²³

- To address this objective, auditors reviewed the Charter School’s annual health services reports and supporting documentation for the 2009-10 through 2012-13 school years, policies and procedures regarding student health services, and the wellness policy.
- 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, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act?²⁴
 - To address this objective, 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 2011-12 through 2013-14 school years.
- Did the Charter School comply with the open enrollment and lottery provisions of the CSL?
 - To address this objective, auditors reviewed the approved charter and any amendments, admission policies and procedures, wait lists, lottery results, and other supporting documentation for the audit period.
- 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

²³ Article XIV, School Health Services, 24 P.S. § 14-1401 *et seq.*, 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.

²⁴ 65 Pa.C.S. § 1101 *et seq.*

²⁵ 22 Pa. Code §§ 711.1 to 711.62.

- To address this objective, auditors reviewed the approved charter and any amendments, relevant policies and procedures, special education service contracts, special education certification results, and annual reports for the 2008-09 through 2011-12 school years.
- Did the Charter School’s Board and administrators comply with the CSL, the PSC, the Public Official and Employee Ethics Act, and the Sunshine Act?
 - To address this objective, auditors reviewed Statements of Financial Interest 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 period 2010 through 2014 calendar years.
- 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?
 - To address this objective, auditors reviewed and evaluated certification documentation and teacher course schedules for all 13 teachers and administrators for the 2010-11 school year.
- 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 nor physically disqualified from successful performance of the duties of a professional employee of the Charter School?
 - To address this objective, auditors reviewed personnel files and supporting documentation for all non-certified professional employees for the 2010-11 school year.

- 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:

- Auditors conducted interviews, completed an internal control questionnaire, and reviewed documentation to determine whether the stated controls regarding membership data reported to PDE through the Pennsylvania Information Management System were implemented as part of our membership review for the 2009-10 through 2011-12 school years.
 - Additionally, auditors reviewed charter school tuition rates and tuition billings for all sending school districts for the 2009-10 and 2011-12 school years.
 - Furthermore, auditors reviewed the Charter School's membership reports, instructional time summaries, entry/withdrawal procedures, and supporting documentation.
- 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 consecutive unexcused absences from the Charter School's reported membership totals pursuant to the regulations?²⁶
 - To address this objective, auditors reviewed student attendance reports, notification letters, and supporting documentation for the 2009-10 through 2014-15 school years.
 - Did the Charter School take appropriate steps to ensure school safety, including maintaining a current MOU with local law enforcement?
 - The auditors reviewed a variety of documentation including MOU(s), safety plans, training schedules, anti-bullying policies, and

²⁶ 22 Pa. Code § 11.24.

after action reports for the audit period to assess whether the Charter School is in compliance with relevant safe schools requirements in the PSC²⁷ and with best practices for ensuring school safety. Generally, the auditors evaluate the age of the safety plan, whether it is being practiced through training, whether the Charter School has an after action process for trying to improve on the results of its training exercises, and whether the Charter School has a current MOU with local law enforcement.

- Did the Charter School provide its employees with a retirement plan, such as the Public School Employees' Retirement System (PSERS), as required by Section 1724-A(c) of the CSL,²⁸ and were employees enrolled in PSERS eligible to receive plan benefits?
 - To address this objective, auditors reviewed the approved charter and any amendments, board meeting minutes, personnel listings, payroll reports, and PSERS wage reports for all employees for the 2008-09 through the 2011-12 school years.
- Did the Charter School take appropriate corrective action to address recommendations made in our prior audits?

To address this objective:

- Auditors interviewed Charter School administrators to determine whether they had taken corrective action.
- Auditors then reviewed documentation to verify that the administration had implemented the prior audit report's recommendations.

²⁷ 24 P.S. § 13-1301-A *et seq.*

²⁸ 24 P.S. § 17-1724-A(c).

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

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 July 5, 2011, we reviewed the Charter School's response to PDE dated May 29, 2012. We then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding

The Charter School Modified Its Enrollment Preferences in Noncompliance with the Charter School Law

Criteria relevant to the finding:

Section 1723-A of the CSL, 24 P.S. § 17-1723-A, provides, in part:

“(a) All resident children in this Commonwealth qualify for admission to a charter school within the provisions of subsection (b). If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.”

The CSL allows charter schools to develop enrollment preferences if more students apply to the charter school than the number of attendance slots available in the school. Prior to the 2013-14 school year, the Charter School’s enrollment preferences were as follows:

1. All eligible applicants who reside within the Central Dauphin School District and have a sibling or siblings currently enrolled at the Charter School.
2. All eligible applicants who reside outside the Central Dauphin School District and have a sibling or siblings currently enrolled at the Charter School.
3. All eligible applicants who reside within the Central Dauphin School District.
4. All eligible applicants who reside outside the Central Dauphin School District.

The Board approved a modification to the Charter School’s enrollment preferences at a meeting on February 14, 2013, to be effective starting with the 2013-14 school year. This modification gives first preference to “all eligible applicants who are children or grandchildren of the Charter School employees or Board.” This change in preference is in noncompliance with the CSL because there are no allowable enrollment preferences under Section 1723-A of the CSL for children of employees or board members, unless these individuals were involved in the development of the original charter. In addition, the Charter School failed to notify the chartering school district, Central Dauphin School District, about the change in enrollment preferences.

Recommendations

The Infinity Charter School should:

1. Revise its enrollment preferences to comply with allowable preferences specified under the CSL.
2. Notify the chartering school district about any changes to enrollment procedures.

Management Response

Management stated the following:

“Infinity Charter School revised its enrollment preferences on November 11, 2014, to comply with allowable preferences and return to our original enrollment guidelines as specified under the Charter School Law. Revisions will take effect beginning with the 2015-2016 school year. Following are the revised enrollment preferences.

A lottery will be conducted for admission to the available spaces. Preference in the Lottery for the available classroom spaces will be given in the following order:

- (i) All eligible applicants who reside *within* the Central Dauphin School District and have a sibling or siblings *currently enrolled* at ICS;
- (ii) All eligible applicants who reside *outside* the Central Dauphin School district and have a sibling or siblings *currently enrolled* at ICS;
- (iii) All eligible applicants who reside *within* the Central Dauphin School District; and
- (iv) All eligible applicants who reside *outside* the Central Dauphin School District.”

Auditor Conclusion

The Charter School has stated that it has taken corrective action and removed the enrollment preference that were in noncompliance with the CSL starting with the 2015-16 school year. We will review this issue again during our next audit.

Observation

Legal Fees of \$17,273 Were Incurred Due to the Lack of a Detailed Separation Clause in an Administrative Contract

Criteria relevant to the observation:

Administrator contracts noted the following:

“8. Notwithstanding any other provisions of this contract, in the event that the ‘administrator’ fails to perform services as required in this contract for three (3) consecutive working days, without the failure having been approved by the Board of the CHARTER may, within reasonable time after the failure, elect in its sole discretion to treat the failure as abandonment of this contract by the ‘administrator,’ and upon such election, this contract, without further action by either the Board of Trustees of the CHARTER or the ‘administrator,’ is automatically terminated.”

The Charter School’s Board entered into an employment contract with an individual serving as the Curriculum Director for the period of July 1, 2012 through June 30, 2013. The Board terminated the Curriculum Director’s employment on November 30, 2012, which was prior to the end of the employment contract, because written and verbal directives were not being adhered to or followed by the Curriculum Director.

After the termination, the former Curriculum Director retained counsel, and negotiations were ongoing until September 2014, when an out-of-court settlement in the amount of \$30,000 was reached. While the settlement costs were paid for by the Charter School’s insurance company, the Charter School incurred \$17,273 in legal expenses.

The settlement and legal expenses were the result of inadequate separation language in the administrative contract. While the contract provides for termination due to failure to perform services for three consecutive working days, there are no provisions for other types of insubordination or failure to meet agreed upon goals. The contract also lacks detailed financial stipulations to be executed in the event of early separation or termination prior to the fulfillment of the contract terms.

The Charter School explained that administrator contracts do not contain a separation clause. As such, the contract executed by the Charter School with its current Chief Executive Officer (CEO) contains the same language as the contract with the former Curriculum Director. The lack of detailed separation language in administrative contracts puts the Charter School at risk for lengthy and potentially expensive litigation in the future should an early separation or termination of an administrator take place.

Recommendations

The Infinity Charter School should:

1. Ensure that all future administrative contracts contain a detailed separation clause that includes financial stipulations, in order to protect the Charter School in the event of a separation prior to the fulfillment of the contract terms.
2. Consult with its solicitor about renegotiating and amending existing administrative contracts to include detailed terms for separation.

Management Response

Management stated the following:

“Infinity Charter School revised its administrative and teacher contracts to contain a detailed separation clause that includes financial stipulations, in order to protect the Charter School in the event of a separation prior to the fulfillment of the contract terms. Under the guidance of legal counsel, the revised contracts were approved by Infinity Charter School’s Board of Trustees in January, 2015. All contracted employees currently are employed under a one-year contract. The revised contracts will be utilized for all contracts executed after January, 2015.”

Auditor Conclusion

The revisions noted by the Charter School appear to be a good improvement to the previous contract provisions. We will confirm the actions noted above during our next audit.

Status of Prior Audit Findings and Observations

Our prior audit of the Charter School released on July 5, 2011, resulted in one finding and one observation. The finding pertained to the lack of an MOU between the Charter School and the local law enforcement agency, and the observation pertained to the payment of a supplemental contract that lacked written minutes and a recorded board vote. 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 finding and observation. As shown below, we found that the Charter School did implement recommendations related to the MOU and the payment of the supplemental contract.

Auditor General Performance Audit Report Released on July 5, 2011

Prior Finding: **Lack of Memorandum of Understanding**

Prior
Finding Summary:

Our prior audit found that the Charter School did not have a signed MOU available for audit for its building within the Penbrook Township.

The failure to obtain the MOU with the local law enforcement agency could have resulted in a lack of cooperation, direction, and guidance between Charter School employees and the law enforcement agency if an incident occurred on school property, at any school-sponsored activity, or any public conveyance providing transportation to or from a school or school-sponsored activity. This internal control weakness could have impacted the local law enforcement agency's notification and response, and ultimately the resolution of a problem situation.

During the audit on July 26, 2010, Charter School personnel and personnel of the local law enforcement agency executed and signed an MOU.

Prior
Recommendations:

Our prior audit finding recommended that the Charter School:

1. Continue to maintain an MOU with the local law enforcement agency having jurisdiction over school property.
2. In consultation with the Charter School's solicitor, review new requirements for MOUs and other school safety areas under the PSC to ensure compliance with the amended Safe Schools provisions enacted November 17, 2010.

3. Adopt an official board policy requiring the administration to biennially update and re-execute all MOUs with the local law enforcement agency and file a copy with the PDE's Office of Safe Schools on a biennial basis.

Current Status: During our current audit, we found that the Charter School did implement the recommendations. The Charter School has executed MOUs biennially as required on June 29, 2012 and July 1, 2014.

Prior Observation: Payment of Supplemental CEO Contract Lacked Written Minutes and Recorded Board Vote

Prior Observation Summary: Our prior review of the Charter School's contracts and board meeting minutes found that the Charter School failed to record official board action and individual board votes related to a supplemental contract payment of \$50,000 to the CEO for curriculum writing.

Additionally, we established that the CEO's husband sat on the Board from time to time when the Board was short a member. Due to the lack of written minutes, auditors could not determine if the CEO's husband was on the Board at the time of the contract agreement, if he participated in discussions with board members regarding the contract, and if he abstained from the vote. These issues were relevant to identifying potential violations of the Public Official and Employee Ethics Act as it relates to restricted activities of board members. Furthermore, the contract provided was signed and dated for a date after the Charter School made payment to the CEO for the contracted work.

The Sunshine Act requires transparency of business conducted by agencies in an effort to hold public officials accountable for how taxpayer money is spent. The Charter School's lack of written minutes approving this contract limited public transparency and accountability for business conducted by the Charter School and its Board involving the spending of public education dollars. Furthermore, the Charter School's lack of recorded board minutes detailing discussions, actions, and roll call votes required under the Sunshine Act restricted our ability to review Board consideration and approval of this contract.

Prior

Recommendations:

Our prior audit observation recommended that the Charter School:

1. Vote on all matters during a public open meeting and record the substance of all official board actions and roll call votes taken.
2. Require all contracts be signed and dated prior to payment being made.
3. Maintain executed contracts on file.

Current Status:

During our current audit, we found that the Charter School did implement the recommendations. A second payment of \$50,000 in additional salary to the CEO for further development of the curriculum was approved at a board meeting on February 13, 2011. The Board vote was properly recorded, and the payment was added to the CEO's base salary for the 2011-12 school year. The CEO's contract for the 2011-12 school year was on file and reflected the increase in salary.

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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