

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
MERCER COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT
FOR THE YEARS ENDED JUNE 30, 2003 AND 2002
WITH OBSERVATION AND RECOMMENDATIONS
THROUGH MAY 25, 2004

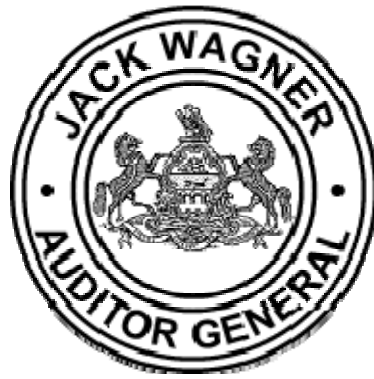


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The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Governor Rendell:

We have conducted a performance audit of the Midwestern Regional Virtual Charter School for the years ended June 30, 2003 and 2002, and in certain areas extending beyond June 30, 2003. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

The objective of our audit was to determine if the Midwestern Regional Virtual Charter School complied with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit.

To plan and perform our audit of the Midwestern Regional Virtual Charter School, we considered the school's internal controls pertinent to our audit objectives. Based on our consideration of these internal controls we determined audit procedures for the purpose of reporting on our audit objectives, but not to provide assurance on the effectiveness of the school's internal controls. However, any significant internal control deficiencies found during our audit were included in our report.

Although the Midwestern Regional Virtual Charter School ceased operations effective June 30, 2006, the results of our tests indicate that certain weaknesses in the school's internal controls, as further discussed in the observation in this report, will be of interest because they may raise broader implications as to the management, operations, and lack of Department of Education (DE) oversight of charter and cyber charter schools across the Commonwealth. In particular, the school's internal control weaknesses were factors in the school's noncompliance with certain important legal and regulatory mandates applicable to charter and cyber charter schools and were not detected by DE when it conducted a review, dated August 14, 2002, of the school's compliance with requirements applicable to cyber charter schools pursuant to a provision added to the Charter School Law by Act 88 of 2002. Moreover, we believe that our recommendations, if implemented by DE and the General Assembly, will help strengthen compliance with statutory requirements regarding charter and cyber charter school establishment, operations, and state oversight.

Independent Auditor's Report (Continued)

This report is intended solely for the information and use of the General Assembly, DE, and other Commonwealth agencies in determining the school's entitlement to funds received from the state and its compliance with state laws and regulations governing such entitlement and other applicable state laws and regulations falling within the scope of our audit. This report is not intended to be used for any other purposes and should not be used by anyone other than these specified parties.

Sincerely,

January 26, 2007

/s/
JACK WAGNER
Auditor General

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT
BACKGROUND

BACKGROUND

The school, located in Mercer County, opened as the Midwestern Regional Virtual Charter School (MRVCS) in Mercer County in July 2001. The MRVCS was chartered for a period of five years.¹ The administrative offices were at 453 Maple Street, Grove City, Pennsylvania.

The mission of the MRVCS was to enhance and expand traditional educational opportunities by offering students, through a virtual classroom, a comprehensive education program that prepares them for their futures in this new century. It would provide an alternative opportunity to those students who are not successful in the regular classroom setting and/or who would benefit from this individualized program.

During the school year ended June 30, 2003, the school provided educational services to 281 students from 27 sending school districts through the employment of four administrators of the Midwestern Intermediate Unit #4 under a verbal operating agreement with the MRVCS Board of Trustees.

Expenditures for the school years ending June 30, 2003 and June 30, 2002 were \$343,800 and \$260,797, respectively. Revenues of \$355,131 and \$263,477, respectively, supporting these expenditures were derived from local, state, and other sources (see Summary of Charter School Revenue and Other Financial Sources, page 4). State revenue was received in the form of reimbursements for Health Services (see Appendix II Schedule of State Revenue, page 24).

The school derived the majority of its operating revenue from the school districts whose students attended the charter school. These sending school districts are required by Section 1725-A of the Public School Code of 1949, as amended (Public School Code),² and instructions from the Department of Education (DE) to provide the school with a calculation of allowable expenditures referred to as “selected expenditures” for non-special education students and special education students, based upon the school districts’ general fund budgeted expenditures and estimated average daily membership (ADM) for the immediately preceding school year. This funding calculation per ADM is to be paid to the school in 12 equal monthly installments (see Appendix I Schedule of Payments from Local School Districts, page 23).

It must be noted that when the MRVCS began its operations in July 2001, the MRVCS was subject to the requirements of the Charter School Law applicable to a regional charter school. However, after the enactment of Act 88 of 2002, which added a subdivision to the Charter School Law pertaining to cyber charter schools, the MRVCS became classified as a cyber charter school because the school provided instruction through the Internet and other electronic means and the school was required to undergo a review by DE to determine whether the school was in compliance with cyber charter school requirements prior to August 15, 2002.

¹ The MRVCS, which ceased operations effective June 30, 2006, never sought a renewal of this charter.

² 24 P.S. § 17-1725-A.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT
BACKGROUND (Continued)

SUMMARY OF CHARTER SCHOOL REVENUE

[UNAUDITED]

	<u>2003</u>	<u>2002</u>
<u>CHARTER SCHOOL REVENUES</u>		
Local Revenue	\$ -	\$ -
Federal Revenue	-	-
State Revenue	2,037	-*
Other Financial Sources (includes payments received from the sending school districts)	<u>353,094</u>	<u>263,477</u>
<u>TOTAL REVENUE</u>	<u>\$355,131</u>	<u>\$263,477</u>

***Given that this was the first school year of the MRVCS' existence, state funding applied for during that school year was not received until the following year.**

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT
OBJECTIVE, SCOPE AND METHODOLOGY

OBJECTIVE AND SCOPE

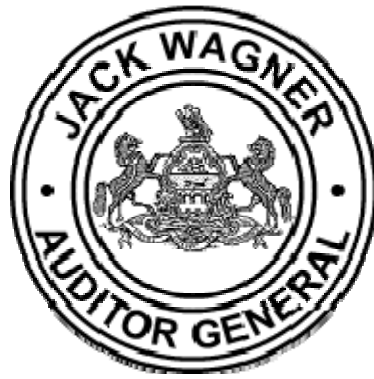
Our audit objective was to determine if the Midwestern Regional Virtual Charter School complied with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit.

The scope of our audit covered the years ended June 30, 2003 and 2002, and in certain areas extending beyond June 30, 2003.

METHODOLOGY

Our audit was conducted under authority of 72 P.S. § 403, and does not supplant the local annual audit as required by the Public School Code of 1949, as amended (Public School Code).

The proper administration of a charter school requires the charter school's board of trustees to establish and maintain internal controls to provide reasonable assurance that specific charter school objectives will be achieved. Charter school trustees are responsible for the adoption and use of policies and procedures that promote the economical and efficient conduct of assigned duties and responsibilities. In completing our audit, we obtained an understanding of the charter school's internal controls as they relate to the school's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit. We evaluated and tested documents, files, reports, agreements, and systems, and performed analytical procedures to the extent necessary to satisfy our audit objectives. Additionally, we interviewed selected administrators, board members, and operations personnel.



MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

CONCLUSION

The objective of our audit was to determine if the Midwestern Regional Virtual Charter School complied with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit.

The results of our tests indicate that, with respect to the items tested, the Midwestern Regional Virtual Charter School complied with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit, except for the internal control weaknesses as noted in the observation included in this report. The observation and recommendations was reviewed with representatives of the Midwestern Regional Virtual Charter School, and their comments have been included in this report.

Observation – Establishment and Operational Deficiencies Noted at Midwestern Regional Virtual Charter School

Our review of the Midwestern Regional Virtual Charter School (MRVCS) for the 2002-03 and 2001-02 school years found deficiencies in the following areas:

- establishment;
- funding;
- instructional time/pupil membership; and
- certification of professional staff.

MRVCS Not Established Legally

MRVCS was organized by 20 of 27 superintendents of school districts within the Midwestern Intermediate Unit #4 at a meeting held in November of 2000. According to the MRVCS Charter, Section 7, Timetable, the charter school application was submitted to all participating school districts on November 15, 2000, and required approval or denial of the application by the participating districts not later than 120 days after November 15, 2000.

The MRVCS application fact sheet, referred to as “a finger-tip summary” by the MRVCS in its application, notes that the “Midwestern Intermediate Unit IV (MIUIV) and its 27 member school districts will create a regional virtual charter school for students, K-12, in Butler, Lawrence, and Mercer Counties and others that may want to participate.” The MRVCS Charter, Section 2, Facility, states that the MRVCS is being sponsored by the school districts served by MIUIV.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

The establishment and operation of charter and cyber charter schools in Pennsylvania is governed by the Charter School Law (Law),³ which is in Article XVII-A of the Public School Code. The Law has three subdivisions: (a) relating to preliminary provisions; (b) relating to charter schools; and (c) relating to cyber charter schools. Subdivision (c), which comprises Sections 1741-A to 1751-A, was added by Act 88 of 2002, effective July 1, 2002. Thus, when the MRVCS was established in 2000, it was subject to the provisions of subdivisions (a) and (b) only.

Section 1703-A of the Law, which was in effect at the time that the MRVCS was established, provides the following definition of a regional charter school:

“Regional charter school” shall mean an independent public school established and operated under a charter from more than one local school board of directors and in which students are enrolled or attend. A regional charter school must be organized as a public, nonprofit corporation. Charters may not be granted to any for-profit entity.⁴

In addition, Section 1718-A(a) of the Law identifies the persons and entities that may establish a regional charter school:

. . . an individual; one or more teachers who will teach at the proposed charter school; parents or guardians of students who will attend the charter school; any nonsectarian college, university or museum located in this Commonwealth; any nonsectarian corporation not-for-profit . . . ; any corporation, association, or partnership; or any combination thereof.⁵

The Law requires that the application of the proposed regional charter school be approved by a vote of a majority of **all** of the directors of **each** of the school districts that are jointly establishing the school. Section 1718-A(b) provides as follows:

The boards of school directors of one or more school districts may act jointly to receive and consider an application for a regional charter school, except that any action to approve an application for a charter or to sign a written charter of an applicant **shall require an affirmative vote of a majority of all the directors of each of the school districts involved.** The applicant shall apply for a charter to the board of directors of any school district in which the charter school will be located.⁶ **[Emphasis added.]**

³ 24 P.S. § 17-1701-A *et seq.*, as enacted through Act 22 of 1997 and amended through Act 88 of 2002.

⁴ 24 P.S. § 17-1703-A.

⁵ 24 P.S. § 17-1718-A(a).

⁶ 24 P.S. § 17-1718-A(b).

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

Furthermore, Section 1718-A(c) of the Law provides the following:

The provisions in this article as they pertain to charter schools and the powers and duties of the local board of school directors . . . shall apply to regional charter schools, except as provided in subsections (a) and (b) or as otherwise clearly stated in this article.⁷

Moreover, Section 1717-A(e)(4) of the Law augments Section 1718-A(b) by providing further details about the approved procedure:

Formal action approving or denying the application [for a charter] shall be taken by the local board of directors at a public meeting, with notice or consideration of the application given by the board, under the “Sunshine Act.”⁸

Our review found that **only** 8 of the 27 school boards of all the school districts that participated in the MRVCS approved the charter via a public vote at public meetings. A majority of the school boards of all of the sending school districts or a minimum of 14 affirmative votes to be cast at public meetings were required to comply with the requirements of the Public School Code.⁹ Therefore, MRVCS was not a legally established regional charter school and operated without a valid charter from July of 2001 until June of 2006.

As noted earlier, if the MRVCS would still be in existence today, it would now be classified as a cyber charter school because the school provided instruction through the Internet and other electronic means and the charter school was required to undergo a review by the Department of Education (DE) to determine whether the school was in compliance with requirements applicable to cyber charter schools prior to August 15, 2002 through a provision added to the Law by Act 88 of 2002.¹⁰ In addition, the renewal of the MRVCS’ charter upon its expiration in July of 2006 would have required the approval of DE as a cyber charter school.¹¹

⁷ 24 P.S. § 17-1718-A(c).

⁸ 24 P.S. § 17-1717-A(e)(4).

⁹ In the case of the MRVCS, the Department’s auditors were not provided with any evidence that the other 6 school boards that were required to constitute a majority from which approval was necessary had approved the charter in any manner.

¹⁰ 24 P.S. § 17-1750-A(a); DE sent the MRVCS notification of its substantial compliance with the provisions of Act 88 of 2002 that DE chose to review by letter dated August 14, 2002. The only matter noted in the letter that the MRVCS was required to follow-up on was that it was to provide DE with verification of the enrollment of each existing student to the school district of residence. Although Act 88 (Section 17-1750-A(a)(1)) required DE to determine whether the charter school is in compliance with **all** of the provisions of subdivision (c) of Article XVIII-A pertaining to cyber charter schools, DE appears to have conducted a more narrowly defined review.

¹¹ 24 P.S. § 17-1750-A(e).

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
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Observation (Continued)

However, at the time the MRVCS was purportedly established in July of 2001, the school was properly classified as a regional charter school under the Law. Because the Law regarding regional charter schools has not changed since the time of the attempted establishment of the MRVCS, this has revealed a situation of considerable concern in which a regional charter school was permitted to operate for a total of about five years (July 2001 until June 2006) without being properly established. At minimum, this indicates that the Law, then as now, continues to be deficient in providing that DE exercise some level of oversight to ensure that regional charter schools as well as other charter schools (not having a cyber component¹²) meet the Law's legal requirements for proper establishment.

Funding

A charter school is financed by monthly payments, based on budgeted expenditures, from the districts where the students reside.¹³ Section 1725-A(a)(2) of the Law states the following:

For non-special education students, the charter school shall receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the budgeted expenditures of the district of residence for nonpublic school programs; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; and other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania School Systems established by the department. This amount shall be paid by the district of residence of each student. [Emphasis added.]

In addition, cyber charter schools, like the MRVCS was before going out of existence in June of 2006, may not provide discounts to school districts or waive payments for any student that is charged pursuant to Section 17-1725-A.¹⁴

Our review of the funding process of the MRVCS found that the charter school billed a flat fee of \$2,000 per student in school year 2001-02 and \$2,400 in the 2002-03 school year. These rates were set by the MIUIV's board of directors and did not include all administrative and overhead costs necessary to operate the MRVCS.

¹² Please note that, pursuant to Act 88 of 2002 as it amended the Law, DE rather than school districts must approve the charter of each cyber school.

¹³ 24 P.S. § 17-1725-A.

¹⁴ See 24 P.S. § 1743-A(a).

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

Our analyses revealed that the rates were not based upon the budgeted expenditures of the attending student's school districts as required by Section 1725-A(a)(2) of the Law. Therefore, the funding mechanism designed by the MIUIV was deficient in meeting the requirements of the Law. Additionally, because the flat fees do not cover the entire cost of the MRVCS, the MIUIV general fund subsidized the MRVCS, causing the 19 school districts in the MIUIV that did not formally approve of the creation of the charter school to indirectly subsidize the MRVCS, which is neither permitted nor even contemplated by the Law.

Instructional Time/Pupil Membership

Our review of the MRVCS instructional time and pupil membership for the 2002-03 school year found that MRVCS instructional time and membership reporting did not meet the mandates of the Public School Code, the Charter School Law, the regulations of the State Board of Education, and the MRVCS Charter.

Because our audit period occurred after DE completed its review to determine the MRVCS' compliance with the requirements of Act 88 of 2002, the MRVCS was a cyber charter school at this point in time. Pursuant to Section 1749-A of the Charter School Law, as added in 2002,¹⁵ a cyber charter school, like the MRVCS was prior to going out of existence in June of 2006, is subject to the average daily membership requirements that a charter school is subject to under Section 17-1715-A of the Law. Section 1715-A provides as follows:

A charter school shall provide a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours per year of instruction at the elementary level, or nine hundred ninety (990) hours per year of instruction at the secondary level. Nothing in this clause shall preclude the use of computer and satellite linkages for delivering instruction to students.¹⁶

Section 1749-A(b) of the Law also requires that a cyber charter school adhere to the provisions of 22 Pa. Code, Chapter 11, State Board of Education regulations, relating to student attendance. Section 11.3(a) of the regulations provides that all Commonwealth students must attain a minimum of 180 days of instruction per school year and a minimum of 900 hours of instruction for elementary students and 990 hours of instruction for secondary students per school year.¹⁷

¹⁵ 24 P.S. § 17-1749-A.

¹⁶ 24 P.S. § 17-1715-A.

¹⁷ 22 Pa. Code § 11.3(a).

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
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Observation (Continued)

With regard to compulsory school attendance, Section 17-1745-A(c) of the Law states, “Attendance at a cyber charter school shall satisfy requirements for compulsory attendance.” However, although cyber charter schools are not subject to the compulsory attendance requirements of the Public School Code, like charter schools, they must meet the requirements pertaining to pupil attendance contained in the Chapter 11 of the regulations of the State Board of Education.¹⁸ Section 11.24 of the regulations requires schools to remove students from active membership rolls if they are absent ten consecutive school days without a legal absence, unless compulsory attendance prosecution has been or is being pursued.¹⁹

According to DE, a cyber charter school must adhere to the attendance standards (i.e., the school calendar, the description of the school day and the explanation of the monitoring of attendance) as included in the cyber charter school’s application. In the case of the MRVCS, because DE did not raise any attendance compliance issues in its letter to the MRVCS notifying of its compliance with requirements applicable to cyber charter schools as required by Act 88 of 2002, the Department in effect ratified the provisions of the MRVCS’ application/charter relating to attendance.²⁰

Three distinct references to instructional time requirements for MRVCS students appear in the MRVCS application that became its charter. They include the following:

- Page 4, part 3, entitled: **Education Program**, Part C. states; “The Program logs the amount of time a student interacts with the program. A minimum of 900 hours will be required for elementary students and 990 hours will be required for secondary students which can be obtained from July 1st through June 30th.”
- Page 20, entitled: **Required Management of the Board**, noted: “School calendar (must include 990 hours in 180 days of instruction for secondary students (grades 7-12) and 900 hours or 180 for elementary students (grades 1-6).”
- Page 68, part 4, entitled: **Codes of Conduct**, Part C. stated: “All students are expected to meet 900 (for elementary) and 990 (for secondary) clock hours. The Midwestern Regional Virtual Charter School will be able to determine by date, time and area of work the student’s use of the computerized program.” In this section, daily school attendance is also encouraged via computer log-on procedures.

¹⁸ See 24 § 17-1749-A(c).

¹⁹ 22 Pa. Code § 11.24.

²⁰ 24 P.S. § 17-1750-A(a).

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

Additionally, at the MRVCS board meeting on October 10, 2001, the MRVCS Board of Trustees approved an instructional timeline. The timeline notes that elementary and secondary students must complete 900 and 990 hours, respectively, and that all students should complete four to seven hours of instruction per day.

However, a random sample test of instructional time (program logs) for the 2002-03 school year for 2 elementary students and 25 secondary students (one student from each member district) found that **NONE** of the students in our sample completed the minimum mandated hours of instruction. The following nine examples illustrate some of the discrepancies discovered from our review of the 27 students. The log-on records for 3 of the 27 students in our sample, who were reported as having been members of the MRVCS for 180 days, supported only 0, 7 and 30 hours of instruction, respectively. Three other students were reported as being members of MRVCS for 134, 44 and 54 days, respectively, yet had **no** instructional log-on time. An additional three students had membership days reported as 92, 12 and 31, but the documentation supporting actual log-on hours of instruction for these students showed instructional hours of only 3, 3 and 4, respectively.

The November 12, 2003 MRVCS Board of Trustee minutes indicated that the cyber charter school had no policy for absenteeism. MIUIV personnel disclosed to the auditors that the charter school's board of trustees was not willing to remove a student from the school's membership rolls for non-participation or poor academic performance. It is apparent that the students who met the standard of ten consecutive days illegal absence should have been removed from the membership rolls and the student's home school notified of the situation as required by the pupil attendance requirements of the State Board of Education's regulations.

The fact that the MRVCS did not have a policy for absenteeism and that **NONE** of the students whose records were sampled met the minimum instructional time requirements outlined in the school's own application/charter raises not only serious concerns about the management and operations of the school, which was obviously in need of oversight, but also about the quality (or lack thereof) of the education that these students received. In addition, the fact that DE had determined that the MRVCS was in compliance with the requirements of Act 88 of 2002 raises yet more questions about how the MRVCS could have operated for so long without meeting minimum pupil attendance requirements.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
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Observation (Continued)

Staff Certification

The MRVCS Charter provides that the school staff will include a director, a school principal, and three full-time “equivalent” teachers. The term “equivalent” is not defined in the charter. The MRVCS Charter also established that as a standard performance for their teachers, the staff is required to have a “comprehensive understanding of the content to be taught.” Additionally, the charter provides that the teacher-student ratio will be approximately 1 teacher to 50 students. Pursuant to Section 1724-A of the Law, to which cyber charter schools are subject, “At least seventy-five per centum of the professional staff members of a charter school shall hold **appropriate State certification.**”²¹ [Emphasis added.]

Our review of the MRVCS staff certification found that there were no teachers, but there were two “coordinators” who were certified in elementary education and special education, respectively. These two employees coordinated the students’ curriculum and tracked attendance and student billings. MRVCS offered course work in English, Social Studies, Science, Mathematics, Physical Education, and Health to 281 students (school year 2002-03). Because over 94 percent of the students were secondary students and the school had no special education students, the cyber charter school did not meet the requirement that its professional staff hold appropriate state certification to meet the educational needs of the school’s students. In addition, the MRVCS professional staff did not meet the charter teacher-to-student ratio or the charter curriculum teacher performance content standard, which requires that staff have a “comprehensive understanding of the content to be taught.”

Recommendations

It is apparent from our review of MRVCS that, without more direct DE oversight responsibility provided for in the Law, a regional charter school, which later became a cyber charter school, can function as what appeared to be a legitimate school for some five years without proper funding, without ensuring that students are receiving instruction, and, in this instance, without the consent of the majority of all of the school boards of all the school districts purportedly establishing the school. Additional DE oversight responsibility coupled with a more concerted effort by DE to monitor whether charter and cyber schools are meeting the requirements of the Law could have made certain of the commitment of all the school districts involved, could have helped to ensure that proper funding was received, and determined that the proper hours of instruction were provided by MRVCS.

²¹ 24 P.S. § 17-1724-A.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
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Observation (Continued)

Therefore, we recommend the following:

- . The Pennsylvania General Assembly should amend the Law to provide DE with the administrative authority and duty to ascertain that the requirements of establishing and operating a charter school, including a regional charter school, under Public School Code Article XVII-A, have been met;
- . Once DE has this legal authority and duty with respect to all charter schools, DE should ensure, that prior to operation, charter schools have documented that they have fulfilled all requirements in the Law for establishment;
- . DE should monitor annually, through a charter school Executive Director Affidavit, that the charter school as well as any cyber charter school has met: 1) the mandated student hours of instruction in accordance with the Law and the State Board of Education's regulations; 2) the professional staff certification requirements of the Law; and 3) the tuition requirements of Section 1725-A of the Law; and
- . The General Assembly should also consider amending the Law to specifically mandate that DE monitor the substantial compliance of charter schools (including regional charter schools) with all of the Law's requirements through, among other things, reviewing each charter school's annual report to identify and address problems with each school's management and providing assurance of such substantial compliance through a letter to be posted on DE's website.

With regard to the annual assessment that the Law currently requires DE to conduct to ensure that a cyber charter school is meeting all of the goals of its charter and is in compliance with the provisions of its charter, the General Assembly should consider amending the Law to specifically require that DE provide each cyber charter school with the results of that school's annual assessment in the form of a written report by a date certain each year that must be posted on DE's website. We also note that DE should make more of a concerted effort to exercise the statutory authority it currently has over the operations of cyber charter schools.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
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Observation (Continued)

Response of Management

Management provided a written response disagreeing with the finding, as follows:

Establishment/Operational Approval

On November 20, 2002, twenty-six (26) (not 21 as indicated in [the] report) indicated their support of the application being submitted to the Pennsylvania Department of Education for the establishment of a Regional Virtual Charter School.

The application, one of the best ever submitted according to Department of Education staff, was approved in terms of beginning the process.

Act 22 of 1997- Section 1703-A defines a “regional charter school” as an independent public school established and operated under a charter from more than one local board of directors and which students are enrolled to attend, etc.

The auditors claim that because only eight local boards of directors approved the charter via a public vote at a public meeting means that “The Midwestern Regional Virtual Charter School is not a legally established charter school” is wrong.

Funding

Act 88 of 2002-Section 1743-A-Cyber Charter School Requirements and Prohibitions (a) Special Financial Requirements Prohibited. A cyber school shall not:

- (1) provide discounts to a school district or waive payments under Section 1725-A for any student.

Section 1749-A-Applicability of other provisions of this act and of other acts and regulations (c) existing charter schools:

- (1) The charter of a charter school approved under Section 1717-A or 1718-A which provides instruction through the Internet or other electronic means shall remain in effect for the duration of the charter and be subject to the provisions of subdivision (b).

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
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Observation (Continued)

(2) In addition to subsections (a) and (b) the following provisions of this subsection shall apply to a charter school approved under section 1717-A or 1718-A which provides instruction through the Internet or other electronic means:

(1) Section 1743 –A (c) (d), (e) (h), and (i).

Note: Section 1743-A-(a)(i) is not included, therefore, because we are an existing charter school established prior to the passage of Act 88 of 2002, we are permitted to continue the established practice of special financial requirement until such time as the current charter expires.

The auditor’s claim that the funding mechanism designed by the intermediate unit (even though the intermediate unit did not design the funding mechanism, the MRVCS Board of Trustees did) does not meet the requirements of the charter school law is wrong.

Instructional Time/Pupil Membership

DE is well aware of the instructional time/pupil membership practices of the MRVCS by way of the annual reports submitted in a timely manner.

The following reports are submitted as required:

- P.D.E.-4035 (3-98) Public School Enrollment Report;
- P.D.E.-3611 (8-02) Supplemental Charter School Enrollment Report;
- P.D.E.-4002CS Summary Report of Aggregate Membership;
- P.D.E.-4059CS Instructional Time Summary; and
- P.D.E.-4062CS Annual Attendance Membership Report.

The auditor’s [sic] do not question the accuracy of any of these reports. Instead, they pass judgment based on the notion (not P.D.E’s) of what the results of these reports should indicate. They are wrong.

The notion that a student of compulsory school age should be “dropped” from the school because of poor attendance or academic performance is wrong.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

Teacher Certification

Questions presented by students that are outside of the certification of the two “coordinators” (who are certified in Elementary and Special Education) are referred to local school district staff with appropriate certification. These same two Distance Education Coordinators were listed as findings in the auditor’s most recent audit of the Midwestern Intermediate Unit IV. The findings were deleted by DE on the basis that the coordinators are properly certified in accordance with CSPG-76, 80, 80A. The auditor’s claim that the charter school does not meet the certification guidelines of the Pennsylvania Department of Education is wrong.

Recommendations

The recommendation that “the Pennsylvania Department of Education should revoke the MRVCS charter until such time as the MRVCS is legally established” is wrong.

It is legally established because it has met the requirements of Act 22 of 1997 and Act 88 of 2002, and the charter was approved by the Pennsylvania Department of Education.

There is always room for improvement in any educational operation. We are more than willing to implement changes that will lead to an improved educational program for the students that MRVCS serves.

Auditor’s Conclusion

Establishment/Operational Approval

The MRVCS charter was submitted to DE on March 2, 2001. Management’s response that, on November 20, 2002, 26 school districts indicated their support of the application being submitted is not accurate; there is no record of a MRVCS board meeting on that date. Further, November 20, 2002, is more than 20 months after the charter was submitted and more than 16 months after the MRVCS began operating.

While DE may have noted that the charter was one of the best ever submitted (an assertion of management that we cannot confirm), the fact remains that, now as then, the Charter School Law did not require DE approval of a regional charter school.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

We agree that the Law defines a “regional charter school” as an independent public school established under a charter from more than one local board of directors and which students are enrolled or attend (Section 1703-A).

However, Section 1717-A(e)(4) of the Law is explicit that formal approval must be granted at public meetings of a majority of the local school boards, and Section 1720-A of the Law requires, “This written charter . . . when duly signed by the local boards of directors of a school district in the case of a regional charter school. . . shall act as legal authorization for the establishment of a charter school.”

The charter school application submitted to DE notes that “Midwestern Intermediate Unit IV and *its 26 member school districts* will create a regional charter school for students, K-12, in Butler, Lawrence, and Mercer counties. . . .” (Emphasis added). Because the charter school application includes all 26 school districts as part of its makeup, and because Section 1717-A(e)(4) requires a majority of approval of these member districts, and because Section 1720-A requires that the charter be signed by the boards of directors, and because only eight of the member school districts formally approved the regional charter, we stand by our conclusion that MRVCS was not legally established.

Funding

Section 1725-A of the Law details the funding mechanism that *all* charter schools must follow. The section does not permit waivers, discounts, or any other funding mechanism. Act 88 of 2002 *reaffirmed* that funding mechanism in relation to cyber charter schools. There is no Pennsylvania charter school law that *ever* permitted any charter school, cyber or otherwise, to design its own funding mechanism. Therefore, there is no legal basis upon which the MRVCS could rely to justify having designed and implemented a funding mechanism other than the one detailed in Section 1725-A of the Law.

Further, in its Federal Grant Application Addendum to Commonwealth of Pennsylvania Charter School Application dated November 8, 2000, the MRVCS attested by signature of the MRVCS President, Vice-President, Secretary, and Treasurer that, once the MRVCS federal charter school grant expired, continued funding “will be generated in accordance with the provisions of Act 22-1997-Section 1725-A.” That, as we have found, was not done.

We stand by our position that the funding mechanism used by the MRVCS to bill for its students was improper.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

Instructional Time/Pupil Membership

The following is a chart of the results of our test of 27 students for day's membership, pupil instructional time, hours of instruction, and mandated hours of instruction. The day's membership is calculated from the charter school calendar beginning with the students' day of enrollment and date of withdrawal, if any. The hours of instruction were provided by the charter school computer program log-in records. The mandated hours of instruction were 5.5 hours daily per secondary student and 5 hours daily per elementary student. The total student population is 281.

<u>Student</u>	<u>Days Membership</u>	<u>Hours of Instruction</u>	<u>Mandated Hours of Instruction</u>
1	42	43	210
2	178	465	890
3	180	767	990
4	152	362	836
5	67	10	368
6	180	30	990
7	180	7	990
8	103	19	566
9	136	541	748
10	180	118	990
11	44	0	242
12	54	0	297
13	51	62	280
14	112	117	616
15	180	0	990
16	59	103	324
17	165	399	907
18	174	118	957
19	120	347	660
20	92	3	506
21	112	3	616
22	31	4	170
23	180	82	990
24	89	367	489
25	134	0	737
26	143	669	786
27	180	979	990

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

The test reveals that districts were billed for membership days and the days were submitted to DE on pupil membership reports even though 96 percent of the students tested were seriously short of the mandated hours as provided in the Public School Code. Even students who had zero or minimal instructional time were left on the membership rolls, in violation of Chapter 11 of the State Board of Education regulations.

While the State Board of Education regulations require schools to remove students from the membership rolls if they are more than ten days illegally absent, this requirement does not absolve the school from providing an education for the student. The school must take compulsory attendance prosecution action and ensure that the student receives a proper education. It is obvious from the test that little or no effort was made by the MRVCS to ensure the students attained the proper instructional hours. There was no compulsory prosecution taken by MRVCS. MRVCS did contact parents, but took no further action through the Pennsylvania legal system to ensure student attendance.

That enrollment, pupil membership, and instructional time summary reports were submitted to DE with mathematical accuracy is of little consequence. The instructional time summary is a form noting instructional time offered to students but not instructional time completed by students. Accordingly, the enrollment and pupil membership reports would have been adjusted by MRVCS if they had taken the proper steps and removed students from the rolls who were not attending or who had ten consecutive days of illegal absence.

Management's comment that: "The notion that a student of compulsory school age should be 'dropped' from the school because of poor attendance or academic performance is wrong" indicates that management was: 1) not familiar with the compulsory attendance requirements provided for in the State Board of Education regulations, which require schools to remove students from the membership rolls if they are more than 10 days illegally absent; and 2) misconstrues our report to erroneously conclude that we were advocating that students be removed from the rolls for poor academic performance.

We reiterate our comment that the MRVCS did not meet the instructional hours or pupil membership mandates of the Public School Code, DE, the State Board of Education, or the charter.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
PERFORMANCE AUDIT REPORT

Observation (Continued)

Teacher Certification

We do not challenge the certification of the two “coordinators.” Their certification in elementary and special education was proper for the 19 elementary school students who attended MRVCS in 2002-03 school year. However, these were the only instructional staff used by the charter school to instruct the 262 secondary students enrolled during that school year as well. These two professional staff members were clearly not appropriately certified to provide instruction to the secondary students. Furthermore, there was **no** evidence that, for any of the school years of the audit period: 1) MRVCS referred questions from students for a specific curriculum to appropriately certified teachers in local school districts; 2) MRVCS reimbursed local schools or teachers for their time; or 3) MRVCS employed other instructional staff that may not have been shown on the MRVCS organizational chart. As noted previously, the MRVCS Charter requires that the ratio of teachers to students shall be approximately 1 teacher to 50 students. Because the MRVCS had 281 students in 2002-03 school year and only the two “coordinators” (who were also responsible for administrative duties), such a ratio did not exist. We stand by our comment that the MRVCS did not meet the certification guidelines of the Bureau of Teacher Preparation and Certification, DE, Charter School Law, or the MRVCS charter.

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
APPENDIX I

[UNAUDITED]

Schedule of Payments from Local School Districts

Payments received from local school districts for the year ended June 30, 2003 and 2002 were as follows:

	<u>2003</u>	<u>2002</u>
<u>SENDING SCHOOL DISTRICTS'</u> <u>PAYMENTS</u>	<u>\$345,837</u>	<u>\$262,200</u>
<u>TOTAL OF PAYMENTS</u>	<u>\$345,837</u>	<u>\$ 262,200</u>

MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
APPENDIX II

[UNAUDITED]

Schedule of State Revenue

The charter school reported state revenue of \$2,037 and \$0, respectively, for the years ended June 30, 2003 and 2002, as detailed in the following schedule:

	<u>2003</u>	<u>2002</u>
<u>STATE REVENUE</u>		
Health Services	<u>\$2,037</u>	<u>\$ -</u>
<u>TOTAL STATE REVENUE</u>	<u>\$2,037</u>	<u>\$ -</u>

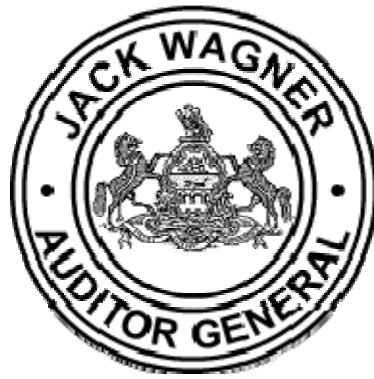
MIDWESTERN REGIONAL VIRTUAL CHARTER SCHOOL
APPENDIX III

[UNAUDITED]

Description of State Revenue

Health Services

Revenue received from the Commonwealth as subsidy for health services. Payments are made in accordance with Section 2505.1 of the Public School Code and include revenue for medical, dental, nurse and health services.



BUREAU OF SCHOOL AUDITS
AUDIT REPORT DISTRIBUTION LIST

This report was initially distributed to the chief administrative officer of the charter school, the board members, and the following:

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Secretary of Education
1010 Harristown Building #2
333 Market Street
Harrisburg, Pa 17126

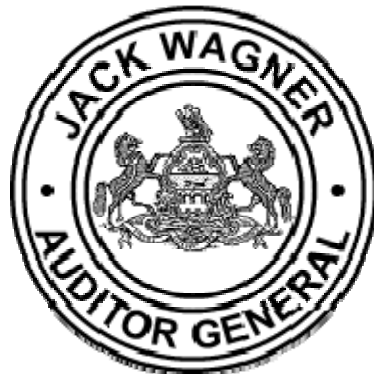
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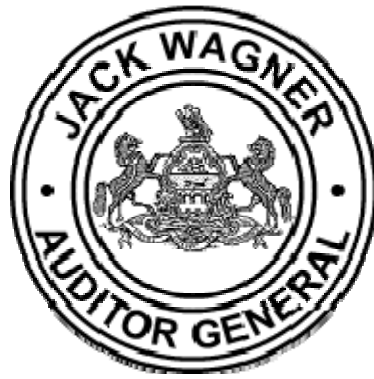
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Bureau of Special Education
333 Market Street, 7th Floor
Harrisburg, PA 17126

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BUREAU OF SCHOOL AUDITS

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