



SCHOOL LANE CHARTER SCHOOL
BUCKS COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT

MARCH 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL





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EUGENE A. DePASQUALE
AUDITOR GENERAL

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

Mr. Peter Hyams, Board President
School Lane Charter School
2400 Bristol Pike
Bensalem, Pennsylvania 19020

Dear Governor Corbett and Mr. Hyams:

We conducted a performance audit of the School Lane Charter School (Charter School) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period July 1, 2006 through December 30, 2010, except as otherwise indicated in the report. Additionally, compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2008 and June 30, 2007, as they were the most recent reimbursements subject to audit. 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.

Our audit found that the Charter School complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except as detailed in one finding noted in this report. In addition, we identified three matters unrelated to compliance that are reported as observations. A summary of these results is presented in the Executive Summary section of the audit report.

Our audit finding, observations, 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 and its willingness to implement our recommendations.

Sincerely,

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

EUGENE A. DEPASQUALE
Auditor General

March 7, 2013

cc: **SCHOOL LANE 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 School Lane Charter School (Charter School). Our audit sought to answer certain questions regarding the Charter School's compliance with applicable state laws, contracts, grant requirements, and administrative procedures.

Our audit scope covered the period July 1, 2006 through December 30, 2010, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidy and reimbursements was determined for the 2007-08 and 2006-07 school years, as they were the most recent reimbursements subject to audit. The audit evidence necessary to determine compliance specific to reimbursements is not available for audit until 16 months, or more, after the close of a school year.

Charter School Background

The Charter School, located in Bucks County, Pennsylvania, opened in August 1998. It was originally chartered on August 6, 1998, for a period of five years by the Bensalem Township School District. The Charter School's mission states: "[The Charter School] mission is to create a sanctuary where all members of the learning community are partners and show by example their commitment to School Lane Charter School[']s vision of high achievement, life-long and active learning, diversity and equity and collaborative problem solving." During the 2007-08 school year, the Charter School provided

educational services to 580 pupils from seven sending school districts through the employment of 46 teachers, 28 full-time and part-time support personnel, and 4 administrators. The Charter School received \$259,255 in tuition payments from school districts required to pay for their students attending the Charter School during the 2007-08 school year.

Adequate Yearly Progress

The Charter School made Adequate Yearly Progress (AYP) for the 2009-10 school year by meeting all AYP measures.

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

Audit Conclusion and Results

Our audit found that the Charter School complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures; however, as noted below, we identified one compliance-related matter reported as a finding and three matters unrelated to compliance that are reported as observations.

Finding: School Lane Charter School Improperly Received \$60,248 in State Lease Reimbursement. Our audit found that the Charter School improperly received \$60,248 in state lease reimbursements for school years 2006-07 through 2008-09, for one building that was ineligible for those payments because it was owned by the School Lane Foundation created by the Charter School. The other leased building whose use of the premises was a parking area for the Charter School was not used for educational purposes (see page 10).

Observation No. 1: Memorandum of Understanding Not Updated Timely. Our audit found that the current Memorandum of Understanding (MOU) between the Charter School and one police department was signed. However, we found that the MOU between the Charter School and another police department was not reviewed and updated in a timely manner (see page 14).

Observation No. 2: Unmonitored Vendor System Access and Logical Access Control Weaknesses. We noted that Charter School personnel should improve controls over remote access to its computers. In particular, controls should be strengthened over outside vendor access to the student accounting applications (see page 16).

Observation No. 3: Two Noncertified Staff Providing Core Content Instruction Were Not Highly Qualified. Our audit of professional employees' certification and assignments for the period July 1, 2006 through June 30, 2010, found two professional employees may not have had the proper certification for their teaching assignments and did not meet the "highly qualified teacher" requirements as of the end of the 2005-06 school year by holding at least a bachelor's degree and demonstrating subject matter competency in each core content area and grade level in which they teach (see page 20).

Status of Prior Audit Findings and Observations. This is our first audit of the Charter School. Therefore, there are no prior audit findings or observations.

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 (Law), enacted through Act 22 of 1997, as amended. In the preamble of the Law, the General Assembly stated its intent to provide teachers, parents, students, and community members with the opportunity to establish schools that were independent of the existing school district structure.¹ 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.²

The Law 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.³

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,⁴ and that board must hold at least one public hearing before approving or rejecting the application.⁵ If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,⁶ 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.⁷

¹ 24 P.S. § 17-1702-A.

² *Id.*

³ 24 P.S. § 17-1717-A(a).

⁴ *Id.* § 17-1717-A(c).

⁵ *Id.* § 17-1717-A(d).

⁶ *Id.* § 17-1717-A(f).

⁷ 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.⁸ 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.⁹

Act 88 of 2002 amended the Law 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.¹⁰ Unlike brick-and-mortar charter schools, cyber charter schools must submit their application to the Pennsylvania Department of Education (PDE), which determines whether the application for a charter should be granted or denied.¹¹ However, if PDE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.¹² In addition, PDE is responsible for renewing and revoking the charters of cyber charter schools.¹³ 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.¹⁴

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 Charter School Law, the sending school district must pay the charter/cyber charter school a per-pupil tuition rate based on its own budgeted costs, minus specified

⁸ 24 P.S. § 17-1720-A(a).

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

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

¹¹ 24 P.S. § 17-1745-A(d).

¹² *Id.* § 17-1745-A(f)(4).

¹³ 24 P.S. § 17-1741-A(a)(3).

¹⁴ 24 P.S. § 17-1750-A(e).

expenditures, for the prior school year.¹⁵ 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.¹⁶ The Charter School Law also requires that charter schools bill each sending school district on a monthly basis for students attending the charter school.¹⁷

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 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.¹⁸ 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.¹⁹

¹⁵ See 24 P.S. § 17-1725-A(a)(2).

¹⁶ See *Id.* §§ 17-1725-A(a)(3), 25-2509.5(k).

¹⁷ See 24 P.S. § 17-1725-A(a)(5).

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

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

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the 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, the Pennsylvania Department of Education, and other concerned entities.

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

Our audit covered the period July 1, 2006 through December 30, 2010.

Regarding state subsidy and reimbursements, our audit covered school years 2007-08 and 2006-07 because the audit evidence necessary to determine compliance, including payment verification from the Commonwealth's Comptroller Operations and other supporting documentation from the Pennsylvania Department of Education (PDE), is not available for audit until 16 months, or more, after the close of a school year.

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 applicable state laws, contracts, grant requirements, and administrative procedures. However, as we conducted our audit procedures, we sought to determine answers to the following questions, which serve as our audit objectives:

- ✓ Was the Charter School in overall compliance with the Public School Code of 1949²⁰ (PSC) and the Charter School Law²¹ (Law)?
- ✓ Did the Charter School have policies and procedures regarding the requirements to maintain student health records and perform required health services, and keep

²⁰ 24 P.S. § 1-101 *et seq.*

²¹ 24 P.S. § 17-1701-A *et seq.*

accurate documentation supporting its annual health services report filed with the Department of Health to receive state reimbursement?

- ✓ Did the Charter School receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program, was its lease agreement approved by its board of trustees, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act?²²
- ✓ Did the Charter School comply with the open enrollment and lottery provisions of the Law?
- ✓ Does the Charter School provide the services required for its special education students through outside agencies and/or through properly certified professional staff with the required instructional hours and/or training?
- ✓ Did the Charter School board of trustees and administrators, and the chartering school board members comply with the PSC, the Public Official and Employee Ethics Act, and the Sunshine Act?
- ✓ Were at least 75 percent of the Charter School’s teachers properly certified and did all of its noncertified teachers meet the “highly qualified teacher” requirements?
- ✓ Did the Charter School require its noncertified professional employees to provide evidence that they are at least 18 years of age, a U.S. citizen, and certified by a licensed Pennsylvania physician to be neither mentally nor physically disqualified from successful performance of the duties of a professional employee of the Charter School?
- ✓ Did the Charter School accurately report its membership numbers to PDE and were its average daily membership and tuition billings accurate?

²² 65 Pa.C.S. § 1101 *et seq.*

- ✓ Did the Charter School comply with the Law’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?²³
- ✓ Did the Charter School take appropriate steps to ensure school safety?
- ✓ Did the Charter School require that all of its employees enroll in the Public School Employees’ Retirement System at the time of filing Its Charter School application as required by the Law, unless the board of trustees had a retirement plan that covered the employees or the employees were already enrolled in another retirement program?
- ✓ Did the Charter School use an outside vendor to maintain its membership data, and if so, are internal controls in place related to vendor access?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties which warrant further attention during our audit?

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 applicable laws, 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 finding, observations, and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding, observations and conclusions based on our audit objectives.

Charter School management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Charter School is in compliance with applicable laws, contracts, grant requirements, and administrative procedures. Within the context of our audit objectives, we obtained an understanding of internal controls and assessed whether those controls were properly designed and implemented.

Any significant deficiencies found during the audit are included in this report.

²³ 22 Pa. Code § 11.24.

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 of trustees' meeting minutes, pupil membership records, IRS 990 forms, and reimbursement applications.
- Tuition receipts and deposited state funds.

Additionally, we interviewed selected administrators and support personnel associated with Charter School operations.

Findings and Observations

Finding

School Lane Charter School Improperly Received \$60,248 in State Lease Reimbursement

Relevant Public School Code provisions and related criteria:

Section 2574.3(a) of the Public School Code (PSC), 24 P.S. § 25-2574.3(a) states as follows:

“For leases of buildings or portions of buildings for charter school use which have been approved by the Secretary of Education on or after July 1, 2001, the Department of Education (DE) shall calculate an approved reimbursable annual rental charge.”

“Approved reimbursable annual rental for such approved leases of buildings or portions of buildings for charter school use shall be the lesser of (i) the annual rental payable under the provisions of the approved lease agreement, or (ii) the product of the enrollment, as determined by DE, times one hundred sixty dollars (\$160) for elementary schools, two hundred twenty dollars (\$220) for secondary schools, or two hundred seventy dollars (\$270) for area vocational-technical schools.”

“The Commonwealth shall pay, annually, for the school year 2001-2002 and each school year thereafter, to each charter school which leases, with the approval of DE, buildings or portions of buildings for charter school use under these provisions, an amount determined by multiplying the aid ratio of the charter school by the approved reimbursable annual rental.”

Our audit found that the School Lane Charter School (Charter School) improperly received \$60,248 in state lease reimbursements for school years 2006-07 through 2008-09, for two buildings that were ineligible for those payments. The reason for the ineligibility was because one building was owned by the School Lane Foundation (Foundation), which was a Pennsylvania nonprofit corporation created by the Charter School, and the other was a leased annex building that had a parking area for the Charter School and was not used for educational purposes.

Under the PSC and lease reimbursement guidelines established by the Pennsylvania Department of Education (PDE), the state agency responsible for administering the Reimbursement for Charter School Lease Program, a charter school may receive reimbursement from the Commonwealth for a portion of its costs associated with leasing building space for educational purposes. However, certain criteria must be met in order to be eligible to receive state lease reimbursements under the program.

Property Description

The Charter School has a two building campus located on what was formerly an elementary building owned by the Bensalem Township School District. The first of the two buildings is a permanent educational space that serves the Charter School’s students in grades Kindergarten through 8th grade. The second building is an annex building which is used for Charter School parking and before and after school day care services. Under the Commonwealth’s Reimbursement for Charter School Lease Program, the Charter School applied for and received payments of \$18,297, \$25,257, and \$16,694 for these buildings for school years 2008-09, 2007-08, and 2006-07, respectively, for a total of \$60,248.

Lease reimbursements for 2009-10 were not yet submitted to PDE at the conclusion of our audit.

The Foundation and Transfers of Property

Charter School Lease
Reimbursement Program Directives
from Bureau of Budget and Fiscal
Management, PDE, state, in part:

“Buildings owned by the charter school are not eligible for reimbursement under this program. Payments related to the acquisition of a building do not qualify for reimbursement under the program.”

“Lease rental costs for **land** and relocatable structures/trailers are not eligible for reimbursement under this program.”

“Under the legislation, a charter school is eligible for the program if:
. . . (2) the school has a signed lease agreement for rental of a building or portions of buildings and the leased building(s) is used for **educational use.**”

The Charter School has been located in its two building campus and annex since it was first chartered in 1998. In 2006, the Charter School created a related Foundation. The Charter School’s president of the board of trustees was also a member of the Foundation. On April 17, 2007, the main educational building was sold by the Charter School to the Foundation the Charter School created for the purpose of renting the building to the Charter School. On this same day, the Charter School and the Foundation entered into a lease agreement for the main building, which was to end, without the necessity for notice from either party to the other, on March 31, 2037. However, the main building was repurchased by the Charter School from the Foundation on June 24, 2010, for the sum of one dollar (\$1.00).

Consequently, starting in the 2010-11 school year, there was no lease agreement for the main building. Under PDE’s eligibility requirements, which are based on Section 2574.3 of the PSC, buildings owned by the Charter School do not qualify for compensation under the Reimbursement for Charter School Lease Program. Since the Charter School sold the main building to its Foundation to create a circular leasing arrangement to file for state lease reimbursement, we maintain that the Charter School maintained ownership interest in the building that it was essentially leasing to itself. Moreover, the Charter School regained direct ownership of the property when it repurchased the building from the Foundation three years later. Therefore, the Charter School has improperly received state lease reimbursement for this building.

The lease agreement for the annex building shows that it is owned by a separate entity consisting of a husband and wife. In addition, the first lease agreement for the annex building was signed on June 1, 2005, and terminated on May 30, 2006. The second lease agreement for the annex building was signed on September 18, 2006, and shall automatically renew for five (5) years absent written notification from either party. However, PDE’s eligibility requirements for the Reimbursement for Charter School Lease Program state that a building leased for land and not used for educational purposes are not eligible for reimbursement. Consequently, the Charter School has also improperly received reimbursement for its second building, which was a parking area for the Charter School and was not used for educational purposes. According to Charter

School administration, they were unaware that Charter School-owned buildings were ineligible for compensation from the Reimbursement for Charter School Lease Program. In addition, they noted that since PDE had never questioned their application, they had no reason to believe that there was a problem.

Recommendations

The *School Lane Charter School* should:

1. Cease applying for payment from the Reimbursement for Charter Schools Lease Program for the annex building because PDE's eligibility requirements for the Reimbursement for Charter School Lease Program state that a building leased for land and not used for educational purposes are not eligible for reimbursement under the program.
2. Ensure that its solicitor and business manager review and approve the eligibility terms of all and any reimbursements prior to submitting an application to PDE.
3. Request its solicitor to provide a detailed summary of all the Charter School's legal requirements under the PSC and the Charter School Law.

The *Pennsylvania Department of Education* should:

4. Require the Charter School to pay back the \$60,248 owed to the Commonwealth for the improper reimbursement it received from the Reimbursement for Charter Schools Lease Program.

Management Response

Management stated the following:

Section 25- 2574.3 of the Public School Code of 1949 states, in part:

“The Commonwealth shall pay, annually, for the school year 2001-2002 and each school year thereafter, to each charter school which leases, with the approval of the Department of Education, buildings or portions of buildings for charter school use under these provisions, an amount determined by multiplying the aid ratio of the charter school by the approved reimbursable annual rental.”

School Lane Charter School is located at 2400 Bristol Pike in Bensalem. It uses the entire building located there. On April 17, 2007, this property was sold by the school to a foundation. During the audit period (June 30, 2007 and 2008), School Lane Charter School leased the property from the foundation. School Lane Charter School was therefore entitled to lease reimbursement payments for this period.

Moreover, these payments have been approved by the Pennsylvania Department of Education as indicated in the attached letter dated September 17, 2010 from the Chief of the Division of School Facilities of the Bureau of Budget and Fiscal Management.

The auditor has failed to provide any legal or factual basis for concluding that School Lane Charter School is not entitled to lease reimbursement payments that have been approved by the Pennsylvania Department of Education. School Lane Charter School therefore disagrees with this observation.

Auditor Conclusion

The auditor provided the Charter School with the criteria presented in this finding. In addition, the Charter School's president of the board of trustees was also a member of the School Lane Foundation. The finding will stand since the foundation that was created was essentially the same entity as the Charter School.

As stated in the body of the finding, because the Charter School was leasing its permanent education building to itself, it is our opinion that ownership exists and that the Charter School was not entitled to the lease reimbursement. Moreover, the annex building is being used as a parking lot for employees. Buildings not used for educational purposes are clearly not eligible for reimbursement. Therefore, the finding will stand as presented for all of the four school years listed and will be referred to PDE for final determination. The Charter School should review the program's eligibility requirements and discuss any issues with PDE, which is the state agency responsible for administering the lease program and reimbursements.

Observation No. 1

Memorandum of Understanding Not Updated Timely

Criteria relevant to the observation:

Section 13-1303A-(c) of the Public School Code as amended, provides, in part:

“ . . . each chief school administrator shall enter into a memorandum of understanding with police departments having jurisdiction over school property of the school entity. Each chief school administrator shall submit a copy of the memorandum of understanding to the office by June 30, 2011, and biennially update and re-execute a memorandum of understanding with local law enforcement and file such memorandum with the office on a biennial basis. . . . ”

The “office” refers to the Office for Safe Schools within the Pennsylvania Department of Education. The term “biennially” means “an event that occurs every two years.”

Prior to enactment of the above statutory requirement on November 17, 2010, a Pennsylvania Department of Education Basic Education Circular on Safe Schools and Possession of Weapons and the Pennsylvania “All-Hazards” School Safety Planning Toolkit created by the Pennsylvania Safe Schools Advisory Committee contained a sample MOU for school entities indicating that the MOU should be re-executed every two years.

Our audit of the School Lane Charter School (Charter School) found that the current Memorandum of Understanding (MOU) between the Charter School and one police department was signed. However, we found that the MOU between the Charter School and another police department was not reviewed and updated in a timely manner.

The failure to update MOUs with all pertinent police departments could result in a lack of cooperation, direction, and guidance between Charter School employees and the police departments if an incident occurs on school property, at any school-sponsored activity, or on any public conveyance providing transportation to or from a school or school-sponsored activity. This internal control weakness could have an impact in police department notification and response, and ultimately the resolution of a problem situation.

Moreover, recently enacted amendments to the safe schools provisions of the Public School Code require public schools to biennially update and re-execute the MOU and file it with the Pennsylvania Department of Education’s (PDE) Office of Safe Schools on a biennial basis. Consequently, future failure to update and re-execute the MOU on a **biennial basis** will result in non-compliance with safe schools requirements of the Public School Code.

Recommendations

The *School Lane Charter School* should:

1. In consultation with the Charter School’s solicitor, review, update, and re-execute the current MOU between the Charter School and all the police departments 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 Public School Code to ensure compliance with amended Safe Schools provisions enacted November 17, 2010.
3. Adopt an official board policy requiring Charter School administration to biennially update and re-execute all MOUs with police departments and file a copy with the PDE's Office of Safe Schools on a biennial basis, beginning on June 30, 2011.

Management Response

Management stated the following:

Updating the MOU was the chief operating officer's duty. He is no longer working at SLCS. I was unaware of the 2 year time renewal. I have set up a reminder system so we are not out of compliance in the future.

Observation No. 2

Unmonitored Vendor System Access and Logical Access Control Weaknesses

What is logical access control?

“Logical access” is the ability to access computers and data via remote outside connections.

“Logical access control” refers to internal control procedures used for identification, authorization, and authentication to access the computer systems.

The School Lane Charter School (Charter School) uses software purchased from an outside vendor for its critical student accounting applications (membership and attendance). The software vendor has remote access into the Charter School’s network servers.

Based on our current year procedures, we determined that a risk exists that unauthorized changes to the Charter School’s data could occur and not be detected because the Charter School was unable to provide supporting evidence that they are adequately monitoring all vendor activity in their system. However, since the Charter School has adequate manual compensating controls in place to verify the integrity of the membership and attendance information in its database, that risk is mitigated.

Reliance on manual compensating controls becomes increasingly problematic if the Charter School would ever experience personnel and/or procedure changes that could reduce the effectiveness of the manual controls.

Unmonitored vendor system access and logical access control weaknesses could lead to unauthorized changes to the Charter School’s membership information and result in the Charter School not receiving the funds to which it was entitled from the state.

During our review, we found the Charter School had the following weaknesses over vendor access to the Charter School’s system:

1. The Charter School’s Acceptable Use Policy does not include provisions for violations/incidents (what is to be reported and to whom).
2. The Charter School does not have current information technology (IT) policies and procedures for controlling the activities of vendors/consultants, nor does it require the vendor to sign the Charter School’s Acceptable Use Policy.
3. The Charter School does not require written authorization before adding, deleting, or changing user data.

4. The Charter School does not maintain proper documentation to evidence that terminated employees were removed from the system in a timely manner.
5. The Charter School does not require users to have their own unique userIDs and passwords.
6. The Charter School has certain weaknesses in logical access controls. We noted that the Charter School's system parameter settings do not require all users, including the vendor, to change their passwords every 30 days; to use passwords that are a minimum length of eight characters and include alpha, numeric and special characters; to maintain a password history (i.e., approximately ten passwords); to lock out users after three unsuccessful attempts and to log off the system after a period of inactivity (i.e., 60 minutes maximum).
7. The vendor uses a group userID rather than requiring that each employee has a unique userID and password.
8. The vendor has unlimited access (24 hours a day/7 days a week) into the Charter School's system.
9. The Charter School does not require written authorization prior to the updating/upgrading of key applications.
10. The Charter School has certain weaknesses in environmental controls in the room that contains the server that houses all of the Charter School's data. We noted that the specific location does not have fire suppression equipment.

Recommendations

The *School Lane Charter School* should:

1. Include Acceptable Use Policy provisions for violations/incidents (what is to be reported and to whom).
2. Establish separate IT policies and procedures for controlling the activities of vendors/consultants and have the vendor sign this policy, or the Charter School should require the vendor to sign the Charter School's Acceptable Use Policy.

3. Develop policies and procedures to require written authorization when adding, deleting, or changing a userID.
4. Maintain documentation to evidence that terminated employees are properly removed from the system in a timely manner.
5. Require and assign a unique userID for each employee accessing the system.
6. Implement a security policy and system parameter settings to require all users, including the vendor, to change their passwords on a regular basis (i.e., every 30 days). Passwords should be a minimum length of eight characters and include alpha, numeric and special characters. Also, the Charter School should maintain a password history that will prevent the use of a repetitive password (i.e., last ten passwords); lock out users after three unsuccessful attempts and log users off the system after a period of inactivity (i.e., 60 minutes maximum).
7. Require the vendor to assign unique userIDs and passwords to vendor employees authorized to access the Charter School's system. Further, the Charter School should obtain a list of vendor employees with access to its data and ensure that changes to the data are made only by authorized vendor representatives.
8. Only allow access to their system when the vendor needs access to make pre-approved changes/updates or requested assistance. This access should be removed when the vendor has completed its work. This procedure would also enable the monitoring of vendor changes.
9. Make the upgrades/updates to the Charter School's system only after receipt of written authorization from appropriate Charter School officials.
10. Consider implementing additional environmental controls around the network server sufficient to satisfy the requirements of the manufacturer of the server and to ensure warranty coverage. Specifically, the Charter School should install fire extinguishers.

Management Response

Management stated the following:

SLCS will implement all recommendations as soon as possible.

Auditor Conclusion

The conditions and recommendations stated above represent the information communicated to the auditors during our fieldwork. Any subsequent improvements or changes in management representations will be evaluated in the subsequent audit.

Observation No. 3

Two Noncertified Staff Providing Core Content Instruction Were Not Highly Qualified

Charter School Law (CSL) and Pennsylvania regulations relevant to the observation:

Section 17-1724-A(a) of the Charter School Law, 24 P.S. § 17-1724-A(b), requires “. . . [a]t least seventy-five per centum of the professional staff members of a charter school shall hold appropriate State certification.”

Section 7801(23) of the federal No Child Left Behind Act (NCLB), 20 U.S.C. § 6301 et. seq., requires that all teachers who teach core academic subjects in public schools be “highly qualified.”

“Highly qualified” teacher status applies to all charter school teachers of “core content” subjects at all grade levels, including noncertified teachers allowed at charter and cyber charter schools.

In Pennsylvania, the NCLB **core content** subjects include English, Reading/Language Arts, Mathematics, Sciences, Foreign Languages, Music and Art, and Social Studies (History, Economics, Geography, and Civics and Government).

PDE is responsible for establishing the methods for Pennsylvania teachers to obtain “highly qualified” status.

Our audit of professional employees’ certification and assignments for the period July 1, 2006 through June 30, 2010 was conducted to determine compliance with the certification requirements of the Charter School Law (CSL), the Public School Code (PSC), Chapter 711 of the Pennsylvania Code (Chapter 711), the federal No Child Left Behind Act (NCLB), and the Pennsylvania Department of Education’s (PDE) Bureau of School Leadership and Teacher Quality’s (BSLTQ) Certification and Staffing Policies and Guidelines (CSPG). We found that two professional employees may not have had the proper certification for their teaching assignments and did not meet the “highly qualified teacher” requirements as of the end of the 2005-06 school year by holding at least a bachelor’s degree and demonstrating subject matter competency in each core content area and grade level in which they teach.

Non-Compliance with Highly Qualified Teacher Requirements

Appropriate state certification is required of 75 percent of charter school professional staff who are assigned to instructional or administrative functions during the school day, and 25 percent may be noncertified. At least 75 percent of the School Lane Charter School’s (Charter School) teachers were properly certified. However, all noncertified staff providing “core content” instruction must be “highly qualified” pursuant to NCLB. In Pennsylvania, the NCLB “core content” areas include English, reading/language arts, mathematics, sciences, foreign languages, music and art, and social studies (history, economics, geography, and civics and government). “Highly qualified” status is separate from and in addition to state certification. This requirement was not met because the Charter School employed two individuals teaching core content areas who were not “highly qualified” as required at some time during the audit period.

The first individual in question was a Spanish teacher, who may have been teaching without a valid certificate for the 2007-08 and 2006-07 school years. This individual was not

highly qualified in Spanish, but did have an Instructional I Elementary Education certificate.

The second individual in question was a Math and Science teacher, who may have been teaching without a valid certificate for the 2006-07 school year. The teacher taught math four periods daily and science two periods daily. This individual was not highly qualified in science, but did have an Instructional I Mathematics 7-12 certificate.

Certification deficiencies and “highly qualified teacher” credentials are determined by PDE and not this Department.

Certification Determination from PDE’s BSLTQ

Information pertaining to the certification deficiencies was submitted to PDE’s BSLTQ for review. On September 18, 2011, the BSLTQ determined that the Spanish teacher did not hold the proper certificate or emergency permit for the 2007-08 and 2006-07 school years, and the Math and Science teacher did not hold the proper Science certificate or emergency permit for part of the 2006-07 school year.

Unlike traditional school districts, charter schools are not subject to subsidy forfeitures for certification deficiencies. As such, the BSLTQ issued citations for these deficiencies, but no monetary penalties were imposed upon the Charter School.

The lack of properly certified or “highly qualified” teachers could result in the Charter School’s students not receiving a quality education to which they are entitled. In addition, certification and “highly qualified teacher” deficiencies may force the chartering school district to not renew or revoke a charter if the Charter School has not fulfilled its contractual obligations to provide the required certified instructors.

Recommendations

The *School Lane Charter School* should ensure that:

1. Teachers have the proper state certification and/or meet the “highly qualified teacher” requirements defined by NCLB.
2. Administrative personnel are provided with sufficient training in order to understand and manage certification requirements as defined by the CSL and PDE’s CSPGs.

As the authorizing school district, the *Bensalem Township School District* should:

3. Follow-up with the Charter School regarding these individuals’ future teaching assignments and certification and/or “highly qualified teacher” status.
4. Review the charter and determine whether the Charter School is violating certification terms of its approved charter with the District.

The *Pennsylvania Department of Education* should:

5. Review the CSL and bring changes to the legislator to hold charter schools accountable the same as traditional schools.

Management Response

Management stated the following:

The first “non-certified” staff member that was not “highly qualified” taught Spanish language to elementary school students once a week for 40 minutes sessions as a “special.” School Lane Charter School contends that Spanish as an elementary school special does not come under the heading of “core content.” The teacher was elementary certified and fluent in the Spanish language.

The second “non-certified” staff member that was providing “core content” instruction and was not “highly qualified” provided instruction in mathematics and science for the eighth grade level. Due to the lack of highly qualified candidates in which a teacher would have to be certified in both mathematics and science, School Lane Charter School hired a candidate who was certified in one subject area. As per School Lane Charter School’s action plan when we need to hire someone who is only highly qualified in one subject area rather than the two needed,

School Lane assisted this instructor in taking the middle school science Praxis exam. Unfortunately, the teacher left School Lane Charter School prior to getting the final results from the exam and updating her certificate.

Auditor Conclusion

As stated in the observation, PDE's BSLTQ confirmed the certification deficiencies noted by the Department. As such, the observation remains as presented.

Status of Prior Audit Findings and Observations

This is our first audit of the School Lane 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, our website address at www.auditorgen.state.pa.us, and the following:

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