

PERFORMANCE AUDIT

Roberto Clemente Charter School Lehigh County, Pennsylvania

July 2015



Commonwealth of Pennsylvania
Department of the Auditor General
Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Mr. Samuel Polanco, Chief Executive Officer
Roberto Clemente Charter School
136 South 4th Street
Allentown, Pennsylvania 18102

Dr. Lynn Columba, Board President
Roberto Clemente Charter School
136 South 4th Street
Allentown, Pennsylvania 18102

Dear Mr. Polanco and Dr. Columba:

We conducted a performance audit of the Roberto Clemente Charter School (Charter School) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period November 18, 2010 through November 6, 2014, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2009, 2010, 2011, and 2012. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the Charter School complied, in all material respects, with relevant requirements, except as detailed in one finding noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

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

Sincerely,

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

Eugene A. DePasquale
Auditor General

July 16, 2015

cc: **ROBERTO CLEMENTE CHARTER SCHOOL** Board of Trustees

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Executive Summary

Audit Work

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

Our audit scope covered the period November 18, 2010 through November 6, 2014, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

Charter School Background

The Charter School, located in Lehigh County, Pennsylvania, opened in September of 2000. It was originally chartered on September 7, 1999, for a period of five years by the School District of the City of Allentown. The Charter School's mission states: "The Charter School mission seeks to inspire and educate students; to provide each with a sense of belonging; to instill in each a generosity of spirit, cultural identity, and pride; to ensure physical and emotional safety; and to help students develop the values of integrity, fairness, honesty, responsibility, citizenship, and respect for other individuals." During the 2011-12 school year, the Charter School

provided educational services to 320 pupils from 1 sending school district through the employment of 25 teachers, 12 full-time and part-time support personnel, and 8 administrators. The Charter School received \$2.9 million in tuition payments from the school district required to pay for its students attending the Charter School in the 2011-12 school year.

Adequate Yearly Progress

The Charter School's academic performance is considered underperforming, as demonstrated by its low School Performance Profile (SPP) score of 69.1% in the 2012-13 school year. SPP is the Pennsylvania Department of Education's current method of providing a quantitative, academic score based upon a 100-point scale for all public schools. A score of 69.1% would be considered a "D" if using a letter grade system. Weighted data factors included in the SPP score are indicators of academic achievement, indicators of closing the achievement gap, indicators of academic growth, and other academic indicators such as attendance and graduation rates.

Previously, the Charter School made Adequate Yearly Progress (AYP) for the 2011-12 school year by meeting all AYP measures. AYP is a key measure of school performance established by the federal No Child Left Behind (NCLB) Act 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 determined whether a school was making sufficient annual progress towards statewide proficiency goals. On August 20, 2013, Pennsylvania was granted a waiver from the NCLB's requirement of achieving 100% proficiency in Reading and Math by 2014, so AYP measures were discontinued beginning with the 2012-13 school year¹.

Audit Conclusion and Results

Our audit found that the Charter School complied, in all material respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, except for one compliance related matter reported as a finding.

Finding: Improper State Lease Reimbursements of Nearly \$100,000 Paid to the Charter School. Our audit found that the Charter School improperly received \$99,123 for the school years 2010-11 and 2011-12 in state lease reimbursements for their building that was ineligible for those payments because it is owned by the organization that founded the Charter School and that shares a common officer in charge of both entities (see page 13).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the Charter School from an audit we released on March 7, 2013, we found the Charter School had not taken appropriate corrective action in implementing our recommendations pertaining to the Charter School improperly receiving state lease reimbursements (see page 16). However, the Charter School did take corrective action in implementing our recommendations pertaining to certification deficiencies and failure to comply with the 75 percent certified staff requirements (see page 17), possible conflict of interest transaction (see page 18), lack of Memorandum of Understanding, and continued failure of Board of Trustees' members and principal/CEO to file their Statements of Financial Interest (see page 19).

¹ In February 2013, Pennsylvania was one of many states that applied for flexibility from NCLB standards, which was granted by the U.S. Department of Education on August 20, 2013. This waiver eliminates AYP from all public schools and replaces it with a federal accountability system specific to Title I schools only (those with a high percentage of low-income students), which identifies Title I schools as "Priority," "Focus," "Reward," or "No Designation" schools. Beginning in 2012-13, all public school buildings received a SPP score.

Background Information on Pennsylvania Charter Schools

Description of Pennsylvania Charter Schools:

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

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

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

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

Pennsylvania Charter School Law

Pennsylvania's charter schools were established by the Charter School Law (CSL), enacted through Act 22 of 1997, as amended. In the preamble of the CSL, the General Assembly stated its intent to provide teachers, parents, students, and community members with the opportunity to establish schools that were independent of the existing school district structure.² In addition, the preamble provides that charter schools are intended to, among other things, improve student learning, encourage the use of different and innovative teaching methods, and offer parents and students expanded educational choices.³

The CSL permits the establishment of charter schools by a variety of persons and entities, including, among others, an individual; a parent or guardian of a student who will attend the school; any nonsectarian corporation not-for-profit; and any nonsectarian college, university or museum.⁴

Applications must be submitted to the local school board where the charter school will be located by November 15 of the school year preceding the school year in which the charter school will be established,⁵ and that board must hold at least one public hearing before approving or rejecting the application.⁶ If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,⁷ which is comprised of the Secretary of Education and six members appointed by the Governor with the consent of a majority of all of the members of the Senate.⁸

² 24 P.S. § 17-1702-A.

³ *Id.*

⁴ 24 P.S. § 17-1717-A (a).

⁵ *Id.* § 17-1717-A (c).

⁶ *Id.* § 17-1717-A (d).

⁷ *Id.* § 17-1717-A (f).

⁸ 24 P.S. § 17-1721-A (a).

With certain exceptions for charter schools within the School District of Philadelphia, initial charters are valid for a period of no less than three years and no more than five years.⁹ After that, the local school board can choose to renew a school's charter every five years, based on a variety of information, such as the charter school's most recent annual report, financial audits, and standardized test scores. The board can immediately revoke a charter if the school has endangered the health and welfare of its students and/or faculty. However, under those circumstances, the board must hold a public hearing on the issue before it makes its final decision.¹⁰

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

Funding of Pennsylvania Charter Schools:

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

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

Pennsylvania Charter School Funding

The Commonwealth bases the funding for charter schools on the principle that the state's subsidies should follow the students, regardless of whether they choose to attend traditional public schools or charter schools. According to the CSL, the sending school district must pay the charter/cyber charter school a per-pupil tuition rate based on its own budgeted costs, minus specified expenditures,

⁹ 24 P.S. § 17-1720-A.

¹⁰ PDE, Basic Education Circular, "Charter Schools," Issued 10/1/2004.

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

¹² 24 P.S. § 17-1745-A(d).

¹³ *Id.* § 17-1745-A(f)(4).

¹⁴ 24 P.S. § 17-1741-A(a)(3).

¹⁵ 24 P.S. § 17-1750-A(e).

for the prior school year.¹⁶ For special education students, the same funding formula applies, plus an additional per-pupil amount based upon the sending district's special education expenditures divided by a state determined percentage specific to the 1996-97 school year.¹⁷ The CSL also requires that charter schools bill each sending school district on a monthly basis for students attending the Charter School.¹⁸

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

Under the Public School Code of 1949 (PSC), as amended, the Commonwealth also pays a reimbursement to each sending school district with students attending a charter school that amounts to a mandatory percentage rate of total charter school costs.¹⁹ Commonwealth reimbursements for charter school costs are funded through an education appropriation in the state's annual budget. However, the enacted state budget for the 2011-12 fiscal year eliminated funding of the Charter School reimbursement previously paid to sending school districts.²⁰

¹⁶ See 24 P.S. § 17-1725-A(a)(2).

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

¹⁸ See 24 P.S. § 17-1725-A(a)(5).

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

²⁰ Please note that the general funding provision referenced above (24 P.S. § 25-2591.1) has not been repealed from the PSC and states the following: "For the fiscal year 2003-2004 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 Pennsylvania Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each local education agency (LEA). The results of these audits are shared with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

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

Our audit covered the period November 18, 2010 through November 6, 2014, except for the verification of professional employee certification which was performed for the period July 1, 2010 through April 15, 2014.

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

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

Objectives

What is the difference between a finding and an observation?

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

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

- ü Was the Charter School in overall compliance with the Public School Code of 1949²¹ (PSC) and the CSL?²²
- ü Did the Charter School have policies and procedures regarding the requirements to maintain student health records and perform required health services, and keep accurate documentation supporting its annual health services report filed with the Pennsylvania Department

²¹ 24 P.S. § 1-101 *et seq.*

²² 24 P.S. § 17-1701-A *et seq.*

of Health to receive state reimbursement as required by law?²³

- To address this objective, the auditors reviewed the Charter School's annual health services reports and supporting documentation for the 2009-10, 2010-11, and 2011-12 school years' policies and procedures regarding student health services and the wellness policy.

ü 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?²⁴

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

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

- To address this objective, the auditors reviewed the approved charter and any amendments, admission policies and procedures, wait lists, lottery results, and other supporting documentation for the audit period.

ü Did the Charter School provide the services required for its special education students through outside agencies and/or through properly certified professional staff with the required instructional hours and/or training pursuant to Chapter 711 of Pennsylvania's Special Education Regulations?²⁵

²³ Article XIV, School Health Services, 24 P.S. § 14-1401 (2006), is applicable to charters and cyber charters in its entirety through its incorporation in 24 P.S. § 17-1749-A(a)(1), respectively, of the CSL.

²⁴ 65 Pa.C.S. § 1101 *et seq.*

²⁵ 22 Pa. Code § 711 *et seq.*

- To address this objective, the auditors reviewed the approved charter and any amendments, relevant policies and procedures, special education service contracts, special education certification results, and annual reports for the audit period.

Ü Did the Charter School’s Board of Trustees and administrators comply with the CSL, the PSC, the Public Official and Employee Ethics Act, and the Sunshine Act?

To address this objective:

- The auditors reviewed Statements of Financial Interest for all board members and administrators for the 2009, 2010, 2011, and 2012 calendar years.
- In addition, the auditors reviewed board meeting minutes, management company contract(s), and other documentation related to any known outside relationships with the Charter School and/or its authorizing school district for the audit period.

Ü Were at least 75 percent of the Charter School’s teachers properly certified pursuant to Section 1724-A of the CSL, and did all of its noncertified teachers in core content subjects meet the “highly qualified teacher” requirements under the federal NCLB Act of 2001?

- To address this objective, the auditors reviewed and evaluated certification documentation and teacher course schedules for all teachers and administrators for the certification audit period covering the 2010-11, 2011-12, and 2012-13 school years.

Ü Did the Charter School require its noncertified professional employees to provide evidence that they are at least eighteen years of age, a U.S. citizen pursuant to Section 1724-A(b) of the CSL and that they have a pre-employment medical examination certificate pursuant to Section 1418 (a) of the PSC?

- To address this objective, the auditors reviewed personnel files and supporting for all noncertified professional employees for the 2009-10, 2010-11, and 2011-12 school years.

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

To address this objective:

- The auditors conducted interviews and completed an internal control questionnaire to determine whether the stated controls regarding membership data reported to PDE through the Pennsylvania Information Management System were implemented as part of our membership review for the 2009-10, 2010-11, and 2011-12 school years.
- Additionally, the auditors reviewed charter school tuition rates and tuition billings for all sending school districts for the 2009-10, 2010-11, and 2011-12 school years.
- Furthermore, the auditors reviewed the Charter School's membership reports, instructional time summaries, entry/withdrawal procedure, and supporting documentation.

Ü Did the Charter School comply with the CSL's compulsory attendance provisions and, if not, did the Charter School remove days in excess of ten consecutive unexcused absences from the Charter School's reported membership totals pursuant to the regulations?²⁶

²⁶ 22 Pa. Code § 11.24.

- To address this objective, the auditors reviewed student attendance reports, notification letters, and supporting documentation for the 2009-10, 2010-11, and 2011-12 school years.

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

To address this objective:

- The auditors reviewed a variety of documentation including MOU(s), safety plans, training schedules, anti-bullying policies, and after action reports for the audit period to assess whether the Charter School is in compliance with relevant safe schools requirements in the PSC²⁷ and with best practices for ensuring school safety. Generally, the auditors evaluate the age of the safety plan, whether it is being practiced through training, whether the Charter School has an after action process for trying to improve on the results of its training exercises, and whether the Charter School has a current MOU with local law enforcement.
- In addition, the auditors conducted an on-site review of the Charter School's building to assess whether it had implemented basic physical safety practices based on national best practices.

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

²⁷ 24 P.S. § 13-1301-A.

- To address this objective, the auditors reviewed the approved charter and any amendments, board meeting minutes, personnel listings, payroll reports, and PSERS wage reports for all employees for the 2009-10, 2010-11, and 2011-12 school years.

Ü Did the Charter School take appropriate corrective action to address recommendations made in our prior audits?

- To address this objective, the auditors interviewed Charter School administrators to determine whether they had taken corrective action. The auditors then reviewed documentation to verify that the administration had implemented the prior audit report’s recommendations.

Methodology

What are internal controls?

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

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

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

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

Our audit examined the following:

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

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

To determine the status of our audit recommendations made in a prior audit report released on March 7, 2013, we reviewed the Charter School's response to PDE dated July 30, 2013. We then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding

Improper State Lease Reimbursements of Nearly \$100,000 Paid to Charter School

Criteria relevant to the finding:

Section 2574.3 of the PSC states that:

“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, PDE 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 PDE, 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 2001-02 and each school year thereafter, to each charter school which leases, with the approval of PDE, 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.”

We found that the Charter School improperly received \$99,123 in state lease reimbursements for the 2010-11 and 2011-12 school years. The Charter School was ineligible for those payments because the permanent education building is owned by the organization (Founding Organization) that founded the Charter School. Additionally, the chief executive officer (CEO) of the Founding Organization is also the chief administrative officer (CAO) of the Charter School; therefore, the same individual is in charge of both the Charter School and the Founding Organization from which the Charter School is leasing its building.

The Charter School has one building that formerly housed the Founding Organization. The building is a permanent education space that serves the Charter School’s students in grades 6 through 12. The Charter School has been located in this building since it was first chartered in 2000. Under the Commonwealth’s Charter School Lease Reimbursement Program, the Charter School applied for and received the following:

| School Year | Lease Reimbursement Amount |
|--------------|----------------------------|
| 2010-11 | \$48,492 |
| 2011-12 | \$50,631 |
| Total | \$99,123 |

According to the permanent education building’s deed, the Charter School’s founder has owned it since December 28, 1995. In addition, the lease agreement for that building, which was first signed on March 27, 2000 and then renewed annually up through June 30, 2012, lists the founder as the landlord. 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 state reimbursement under the *Charter School Lease Reimbursement Program*. Since the Charter School and the Founding Organization are related entities that also share the same individual as CEO and CAO, the Charter School

had ownership interest in the building that is essentially leasing to itself. Therefore, the Charter School has improperly received rental reimbursement for this building for the 2010-11 and 2011-12 school years.

We identified this lease reimbursement issue in our prior audit. Specifically, we found that the Charter School improperly received \$191,267 in state lease reimbursement for the 2006-07 through 2009-10 school years. Our position remains the same. Because the Charter School was leasing its permanent education building to itself, it is our opinion that ownership exists. Therefore, the Charter School is not eligible for lease reimbursements from the state.

The improper lease reimbursement identified in the prior audit was reported to PDE. However, as of the time of this current audit, PDE had not made a final determination on the propriety of those lease reimbursement payments. Therefore, the Charter School continued to apply for and receive lease reimbursement for two more school years.

According to Charter School officials, after we questioned the reimbursements in our prior audit, the Charter School stopped applying for state lease reimbursements beginning with the 2012-13 school year. Furthermore, the individual who held the position of CAO of the Charter School resigned from that position before the start of the 2013-14 school year. Therefore, the administrator is no longer in charge of both the Founding Organization and the Charter School.

Recommendations

The *Roberto Clemente Charter School* should:

Request a determination from PDE regarding its eligibility for lease reimbursement due to changes in the Charter School's management structure.

The *Pennsylvania Department of Education* and specifically the *Division of Budget and School Facilities* should:

Require the Charter School to pay back the \$99,123 owed to the Commonwealth for the improper reimbursement it received from the Charter School Lease Reimbursement Program.

Management Response

Management stated the following:

“Management does not agree with the Auditor General’s position on this matter. Roberto Clemente Charter School leases its facility. Because, it leases its facility, it is entitled to receive lease reimbursement under 24 P.S. § 25-2574.3. The finding appears to conclude that if a school leases its facility from a founding organization that this prohibits the school from receiving lease reimbursement. But nothing in 24 P.S. § 25-2574.3 or in the Pennsylvania Department of Education’s guidance provides such a limitation. RCCS appropriately completed the forms required by the Pennsylvania Department of Education to receive lease reimbursement, and believed at the time and still believes that it qualified to receive lease reimbursement under the terms contained in those forms and in 24 P.S. § 25-2574.3.

The Pennsylvania Department of Education approved each lease reimbursement paid to RCCS, and the school made additional requests in good faith based on that approval. That the school did not request lease reimbursements after the Auditor General’s last audit report does not imply that the school agrees with the Auditor General’s analysis or its findings.”

Auditor Conclusion

As stated above, because of the common ownership interests between the Founding Organization and the Charter School, the finding will stand as presented for the two years listed and will be referred to PDE for final determination because PDE, and specifically the Division of Budget and School Facilities, is responsible for administering the Charter School Lease Reimbursement Program.

Status of Prior Audit Findings and Observations

Our prior audit of the Charter School released on March 7, 2013, resulted in five findings. As part of our current audit, we determined the status of corrective action taken by the Charter School to implement our prior recommendations. We performed audit procedures and interviewed the Charter School's personnel regarding the prior findings. As shown below, we found that the Charter School did not implement recommendations related to State Lease Reimbursement. However, the Charter School did implement recommendations related to certification deficiencies, a possible conflict of interest transaction, the lack of a Memorandum of Understanding, and the failure of the Board of Trustees' members and principal/CEO to file their Statements of Financial Interest forms.

Auditor General Performance Audit Report Released on March 7, 2013

Finding No. 1: Roberto Clemente Charter School Improperly Received \$191,267 in State Lease Reimbursement

Finding Summary: Our prior audit found that the Charter School improperly received \$191,267 for the 2006-07 through 2009-10 school years in state lease reimbursements for their building that was ineligible for those payments because it is owned by the organization that founded the Charter School. It also shared a common administrator in charge of both entities.

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

1. End the practice of leasing its permanent education building to itself, and cease applying for payment from the Charter School Lease Reimbursement Program for the permanent building.
2. Ensure that its solicitor and business manager review and approve the terms of all and any reimbursement prior to submitting an application.
3. Request its solicitor to provide a detailed summary of all the Charter School's legal requirements under the PSC and the CSL.

We also recommended that PDE should:

4. Require the Charter School to pay back the \$191,267 owed to the Commonwealth for the improper reimbursement it received from the Charter School Lease Reimbursement Program.

Current Status: During our current audit, we found that the Charter School did not implement our recommendations. The Charter School applied for and received state lease reimbursement subsidy for the 2010-11 and 2011-12

school years, but did stop applying for the reimbursement in the 2012-13 school year. (See continued finding on page 13 of this report.)

Finding No. 2: Certification Deficiencies and Failure to Comply with the 75 Percent Certified Staff Requirements of the Charter School Law

Finding Summary: Our prior audit of the professional employees' certification and assignments for the period September 1, 2006 through June 30, 2010, found the Charter School did not meet the 75 percent certification requirement for its professional staff during the 2009-10 school year.

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

1. Require at least 75 percent of the professional employees be properly certified for their assigned positions, for the entire school year, in compliance with the CSL.
2. Require the Charter School's principal to obtain proper certification to perform the duties reserved to a principal's certification or cease performing those duties.
3. Require the Charter School's special education professional staff to obtain proper certification to perform the duties reserved to a special education certification or cease performing those duties.
4. Ensure administrative personnel be provided with sufficient training in order to understand and manage certification requirements as defined by the CSL and PDE's Certification and Staffing Policies and Guidelines.

As the authorizing school district, the School District of the City of Allentown (District) should:

5. Follow up with the Charter School regarding these individuals' future teaching assignments and certification status.
6. Ensure that the Charter School is meeting the CSL's requirement to employ at least 75 percent certified staff.
7. Verify that all special education staff are properly state certified.
8. Review the charter of the Charter School and determine whether the Charter School is violating certification terms of its approved charter with the District.

Current Status: During our current audit, we found that the Charter School did implement our recommendations.

Finding No. 3: Possible Conflict of Interest Transaction

Finding Summary: Our prior review of lease agreements, the property deed, Board of Trustees' meeting minutes, and an interview with Charter School personnel found a possible conflicts of interest involving the approval and administration of a lease agreement between the Charter School and the organization that founded the Charter School and the actual ownership of the building being leased. The Charter School and the Founding Organization are related entities that also share the same individual as the CEO and CAO. Furthermore, there are two Charter School Board of Trustees' members on the Founding Organization's board. The common officers noted approved and signed the leases between these related entities.

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

1. Seek the advice of its solicitor regarding the Board of Trustees' responsibility for Charter School employees associated with contracts the Charter School administers.
2. Require Charter School administration to strengthen controls over its contract award process to help ensure detection of potential conflicts of interest.
3. Strengthen controls to help ensure compliance with state laws regarding Charter School employees who conduct business with the Charter School.
4. Require that the Charter School strengthen controls regarding the review process of the State Ethics Commission financial disclosure statements to help ensure detection of any potential conflicts of interest.
5. Ensure public disclosure of all contracts awarded during board meetings.

The State Ethics Commission should determine if the Ethics Act has been violated by:

6. Reviewing the contracts for lease agreements with the CEO of the Charter School to determine if additional ethics violation have occurred.

7. Reviewing items purchased by the Charter School to determine if more Ethics Act violation have occurred.

Current Status: During our current audit, we found that the Charter School did implement our recommendations. The CEO of the founding organization and CAO of the Charter School resigned her position with the Charter School on May 13, 2013. Also, the two Board of Trustees' members that were on both the Founding Organization's board and the Charter School Board of Trustees resigned their positions on May 15, 2013 and May 17, 2013.

Finding No. 4: Lack of Memorandum of Understanding

Finding Summary: Our prior audit of the Charter School's records found the Charter School did not have a signed Memorandum of Understanding from the local law enforcement agency available for audit.

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

1. Continue to develop a MOU with all local law enforcement agencies having jurisdiction over school property pursuant to the terms prescribed by law.
2. In consultation with its solicitor, review new requirements for a MOU and other school safety areas under the PSC to ensure compliance with amended Safe Schools provisions enacted November 17, 2010.
3. Adopt an official board policy requiring administration to develop a MOU with all local law enforcement agencies having jurisdiction over school property and biennially update and re-execute each MOU and file a copy with PDE's Office of Safe Schools on a biennial basis, beginning with the first filing deadline of June 30, 2011.

Current Status: During our current audit, we found that the Charter School did implement our recommendations.

Finding No. 5: Continued Failure of Board Members and Principal/CEO to File their Statements of Financial Interests during the Audit Period

Finding Summary: Our prior audit of the Charter School's records for the calendar years ended December 31, 2007, 2008, and 2009 found continued errors in the filing of their Statements of Financial Interest forms. During the 2007 calendar year, three board members and the school principal/CEO failed to file their Statements of Financial Interest form.

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

1. Seek the advice of its solicitor with regard to the Board of Trustees' responsibility when a member fails to file a Statements of Financial Interest form.
2. Develop procedures to ensure that all individuals required to file a Statements of Financial Interest form do so in compliance with the Ethics Act.

Current Status: During our current audit, we found that the Charter School did implement our recommendations.

Distribution List

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

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