

PERFORMANCE AUDIT

Montessori Regional Charter School Erie County, Pennsylvania

September 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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AUDITOR GENERAL

Mr. Anthony Pirrello, CEO
Montessori Regional Charter School
2910 Sterrettania Road
Erie, Pennsylvania 16506

Mr. Craig Palmer, Board President
Montessori Regional Charter School
2910 Sterrettania Road
Erie, Pennsylvania 16506

Dear Mr. Pirrello and Mr. Palmer:

We conducted a performance audit of the Montessori Regional Charter School (Charter School) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). We also evaluated the application of best practices in the area of school safety. Our audit covered the period April 20, 2011 through October 9, 2014, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2011 and June 30, 2012. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found significant noncompliance with relevant requirements, as detailed in the two audit findings within this report. A summary of the results is presented in the Executive Summary section of the audit report. These findings include recommendations aimed at the Charter School and a number of different government entities, including the Pennsylvania State Ethics Commission.

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

Sincerely,

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

Eugene A. DePasquale
Auditor General

September 24, 2015

cc: **MONTESSORI REGIONAL CHARTER SCHOOL** Board of Trustees

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Executive Summary

Audit Work

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

Our audit scope covered the period April 20, 2011 through October 9, 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 2010-11 and 2011-12 school years.

Charter School Background

The Charter School, located in Erie County, Pennsylvania, opened in August 2004. It was originally chartered on January 20, 2004, for a period of five years by the Millcreek Township School District and The School District of the City of Erie. The Charter School's mission states: "Our mission is to provide a superior Montessori program of study that will develop lifelong learners. Our children will be prepared academically, emotionally, and socially by creating a love of learning through meaningful and fulfilling educational experiences." During the 2011-12 school year, the Charter School provided

educational services to 331 pupils from 9 sending school districts through the employment of 32 teachers, 13 full-time and part-time support personnel, and 5 administrators. The Charter School received approximately \$2.8 million in tuition payments from school districts required to pay for their students attending the Charter School in the 2012-13 school year.

Adequate Yearly Progress

The Charter School's academic performance as measured by its School Performance Profile (SPP) score was 78.5 percent in the 2013-14 school year. SPP is the Pennsylvania Department of Education's (PDE) current method of providing a quantitative, academic score based upon a 100-point scale for all public schools. A score of 78.5 would be considered a C (70-79) if using a letter grade system. Weighted data factors included in the SPP score are indicators of academic achievement, 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 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 by 2014.

Audit Conclusion and Results

Our audit found significant noncompliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, as detailed in the two audit findings within this report.

Finding No. 1: School Management and Members of the Board of Trustees Failed to File Statements of Financial Interest or Failed to File Timely and/or Filed Incomplete Statements in Noncompliance with the Public Official and Employee Ethics Act. Our audit of the Charter School found that employees and members of the Board of Trustees (Board) failed to file, filed Statements of Financial Interest (SFI) that were not complete, and/or failed to file SFIs on a timely basis for the 2010, 2011, 2012, and 2013 calendar years (see page 13).

Finding No. 2: Board Secretary and Treasurer Did Not Obtain Surety Bond as Required by the Public School Code. Our audit of the Charter School found that the Board Secretary and Treasurer did not obtain surety bonds as required by the Public School Code (PSC) (see page 17).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the Charter School, we found the Charter School had taken appropriate corrective action in implementing our recommendations pertaining to the noncompliance of attendance requirements (see page 19).

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.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 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.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 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.¹⁰ Unlike brick-and-mortar charter schools, cyber charter schools must submit their application to PDE, which determines whether the application for a charter should be granted or denied.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 CSL requires a school district to pay a per-pupil tuition rate for its students attending a charter or cyber charter school.

Pennsylvania Charter School Funding

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

⁸ 24 P.S. § 17-1720-A.

⁹ PDE, 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).

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 CSL 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 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.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 PSC and not in the CSL.

¹⁹ 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 the LEA's management, the Governor, PDE, and other concerned entities.

Our audit, conducted under the authority of Section 403 of The Fiscal Code, 72 P.S. § 403, is not a substitute for the local annual audit required by the PSC, 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 April 20, 2011 through October 9, 2014. In addition, the scope of each individual audit objective is detailed below.

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

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

Objectives

What is the difference between a finding and an observation?

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

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws, regulations, third-party studies, and best business practices. Our audit focused on assessing the Charter School's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures. Our audit focused primarily on whether the Charter School was in compliance with the PSC²⁰ and CSL.²¹ More specifically, we sought to determine answers to the following questions, which serve as our audit objectives:

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

To address this objective:

- Auditors reviewed the approved charter and any amendments.

²⁰ 24 P.S. § 1-101 *et seq.*

²¹ 24 P.S. § 17-1701-A *et seq.*

- In addition, auditors reviewed board policies and procedures for the 2010-11, 2011-12, and 2012-13 school years, IRS 990 forms for the 2010, 2011, 2012, and 2013 calendar years, and charter school annual reports for the 2010-11, 2011-12, and 2012-13 school years.

- ü Were the Charter School’s Board and administrators free from apparent conflicts of interest and in compliance with the CSL, the PSC, the Public Official and Employee Ethics Act (Ethics Act), and the Sunshine Act?
 - To address this objective, auditors reviewed Statements of Financial Interest for all board members and administrators, board meeting minutes, management company contract(s), and any known outside relationships with the Charter School and/or its authorizing school district for the period 2010 through 2013 calendar years.

- ü Were at least 75 percent of the Charter School’s teachers properly certified pursuant to Section 1724-A of the CSL, and did all of its noncertified teachers in core content subjects meet the “highly qualified teacher” requirements under the federal NCLB of 2001?
 - To address this objective, auditors reviewed and evaluated certification documentation and teacher course schedules for all teachers and administrators for the period July 1, 2013 through September 29, 2014.

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

professional employees for the period
July 1, 2013 through September 29, 2014.

- 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:

- Auditors reviewed charter school tuition rates and tuition billings for all sending school districts for the 2011-12 school year.
- In addition, auditors reviewed the Charter School's membership reports, instructional time summaries, entry/withdrawal procedures, and supporting documentation for the 2011-12 school year.

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

To address this objective:

- Auditors randomly selected 10 out of 313 total registered students from the vendor software listing and verified that each child was appropriately registered with the Charter School.
- In addition, auditors verified the school days reported on the Instructional Time Membership Report and matched them to the School Calendar Fact Template.

- Ü Did the Charter School provide its employees with a retirement plan, such as the Public School Employees' Retirement System (PSERS), as required by Section 1724-A(c) of the CSL,²² and were employees enrolled in PSERS eligible to receive plan benefits?

²² 24 P.S. § 17-1724-A(c).

To address this objective:

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

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:

- Auditors reviewed a variety of documentation including MOU(s), safety plans, anti-bullying policies, and after action reports to assess whether the Charter School is in compliance with relevant safe schools requirements in the PSC²³ and with best practices for ensuring school safety.
- In addition, 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 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?²⁴

- To address this objective, auditors reviewed the approved charter and any amendments, relevant policies and procedures, special education service contracts for the 2011-12 school year, special education certification

²³ 24 P.S. § 13-1301-A *et seq.*

²⁴ 22 Pa. Code §§ 711.1 - 711.62.

results for the period July 1, 2013 through September 29, 2014, and charter school annual reports for the 2010-11, 2011-12, and 2012-13 school years.

ü Did the Charter School have policies and procedures regarding the requirements to maintain student health records, perform required health services, and keep accurate documentation supporting its annual health services report filed with the Pennsylvania Department of Health to receive state reimbursement as required by law?²⁵

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

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

- To address this objective, auditors reviewed the approved charter and any amendments, admission policies and procedures, wait lists, lottery results, and other supporting documentation for the 2011-12 school year.

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

To address this objective:

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

²⁵ Article XIV, School Health Services, 24 P.S. § 14-1401 (2006), is applicable to charters and cyber charters in its entirety through its incorporation in 24 P.S. § 17-1732-A(a) and 24 P.S. § 17-1749-A(a)(1), respectively, of the CSL.

recommendations and/or physically observed these changes in person.

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 conclusion based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our results and conclusions based on our audit objectives.

The Charter School's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Charter School is in compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). In conducting our audit, we obtained an understanding of the Charter School's internal controls, including any information technology controls, as they relate to the Charter School's compliance with relevant requirements that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal controls that were identified during the conduct of our audit and 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, open enrollment, vendor contracts, and student enrollment.
- Items such as board meeting minutes, pupil membership records, IRS 990 forms, and reimbursement applications.
- Tuition receipts and deposited state funds.

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

To determine the status of our audit recommendations made in a prior audit report released on January 20, 2012, we reviewed the Charter School's response and then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding No. 1

Charter School Management and Members of the Board of Trustees Failed to File Statements of Financial Interest or Failed to File Timely and/or Filed Incomplete Statements in Noncompliance with the Public Official and Employee Ethics Act

Criteria relevant to the finding:

Section 1715-A of the CSL, 24 P.S. § 17-1715-A, states that:

“Charter schools shall be required to comply with the following provisions . . . :

(11) Trustees of the charter school shall be public officials.

(12). . . A person who serves as an administrator for a charter school shall be a public official under 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure). A violation of this clause shall constitute a violation of 65 Pa.C.S. § 1103(a) (relating to restricted activities), and the violator shall be subject to the penalties imposed under the jurisdiction of the State Ethics Commission.”

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

Our audit of the Charter School found that charter school management and members of the Board failed to file Statements of Financial Interest (SFIs), filed SFIs that were not complete, and/or failed to file SFIs on a timely basis for the calendar year ending December 31, 2010, 2011, 2012, and 2013.

It should be noted that our prior audit found similar issues for the calendar years ending December 31, 2008 and 2009. A verbal comment was presented to the Charter School at that time. The Chief Executive Officer stated that he was surprised with the exceptions found in this audit since Charter School employees and members of the Board received detailed letters from the Pennsylvania State Ethics Commission after our last audit. We later learned that there are written procedures for tracking SFIs. It is apparent that oversight of these written procedures is necessary to ensure SFIs are filed, and/or filed timely and are complete.

The chart below details the exceptions noted in the current audit.

Calendar Year	# of Trustees	Board of Trustees		
		Failed to File	Filed Late	Filed Incomplete
2010	9	7	0	0
2011	9	5	0	1
2012	9	3	2	0
2013	9	1	1	0

*Criteria relevant to the finding
(continued):*

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

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

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

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

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

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

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

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

Calendar Year	Management*		
	Failed to File	Filed Late	Filed Incomplete
2010	2	0	0
2011	2	0	0
2012	2	0	0
2013	2	0	0
*- Includes Chief Executive Officer, Business Manager, and Director of Operations			

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

Statements of Financial Interest are intended to provide the Board, Charter School management, and the public with information about the existence or nonexistence of relationships between public officials and parties with whom the charter school transacts business.

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

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

The Ethics Act specifically requires public officials and certain public employees to disclose matters on the Statements of Financial Interest that currently or potentially

*Criteria relevant to the finding
(continued):*

Section 1109(f), 65 Pa.C.S. § 1109(f), of the Ethics Act states:

“Provides, in pertinent part that any person who is required to file a Statement of Financial Interests but fails to do so in a timely manner or who files a deficient Statement of Financial Interests may be subject to a civil penalty at a rate of not more than \$25 for each day such statement remains delinquent or deficient, with a maximum penalty under this chapter or \$250.”

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

A copy of this finding will be forwarded to the Pennsylvania State Ethics Commission for additional review.

Recommendations

The *Montessori Regional Charter School* should:

1. Seek the advice of its solicitor and the Pennsylvania State Ethics Commission in regard to the Board’s responsibility when administrators and board members fail to file or file incomplete Statements of Financial Interest.
2. Develop a review process of established procedures to ensure that all individuals required to file their Statements of Financial Interest forms do so in compliance with the Ethics Act.

Management Response

Management stated the following:

“The Charter School recognizes the obligation of its Trustees and Public Officials to file statements of financial interest. However, the Commonwealth Court has determined that the failure to file Statements of Financial Interest is a failure of the individuals involved that is not attributable to the Charter School itself. School District of City of York v. Lincoln Charter School, 889 A.2d 1286, 1287 n.7 (Pa. Commw. 2006).

The Charter School recognizes the need to have an effective process for filing and maintaining the Statements of Financial Interest. Going forward, the task of collecting Statement of Financial Interest from Trustees and Public

Officials is being assigned to the School's Solicitor for oversight."

Auditor Conclusion

While filing SFI forms is the individual's responsibility, we believe that it would be a good management practice for the Charter School to implement procedures to determine whether all of those required to submit a SFI has done so, and we commend the Charter School for planning to implement procedures to ensure that all required Statements of Financial Interest will be collected in the future.

We will follow up on the Charter School's efforts to do so during our next cyclical audit of the Charter School.

The results of our audit will be forwarded to the Pennsylvania State Ethics Commission for final determination.

Finding No. 2

Board Secretary and Treasurer Did Not Obtain Surety Bonds as Required by the Public School Code

Criteria relevant to the finding:

Sections 1732-A of the CSL, 24 P.S. § 17-1732-A, subjects charter schools to specified provisions of the PSC including Sections 24 P.S. 4-431 and 4-436.

Section 431 of the PSC, 24 P.S. § 4-431, states, in part:

“Before he enters upon duties of his office the secretary of the board of school directors shall furnish to the school district, for the faithful performance of his duties, a bond, in such amount and with such surety or sureties as may be required of him, and approved by the board of directors”

Section 436 of the PSC, 24 P.S. § 4-436, states, in part:

“Every person elected treasurer . . . shall, before entering the duties of his office, furnish the school district a proper bond, in such amount and with such corporate surety as the board of school directors therein may approve, conditioned for the faithful performance of his duties as school treasurer. . . .”

Our audit of the Charter School found that the Board Secretary and the Treasurer did not obtain surety bonds, as required by the PSC.

A requirement for being elected to the position of Board Secretary and/or Treasurer is to operate in a manner that is honest and integral to the Charter School. If they violate that agreement, the bond holds them accountable for restitution and legal expenses.

The failure to have these two positions appropriately bonded was due to the Charter School’s belief that the positions could be covered by provisions included in their commercial crime insurance policy and that no other requirement was needed.

By not having the positions properly bonded, the Charter School may not be able to recoup any financial loss to the Charter School as a result of improper conduct by the persons serving in these positions.

Recommendation

The *Montessori Regional Charter School* should:

Obtain the bonds for the Board Secretary and Treasurer in accordance with the CSL.

Management Response

Management stated the following:

“The Charter School disagrees with this finding because the required liability coverage which could otherwise be obtained by the bond specified in Sections 4-431 and 4-436 of the Public School Code is provided under the School’s Liability Insurance Policy and Directors and Officers Insurance Policy. In many school districts, the secretary and treasurer are separate for the Board of Directors. They are either employees of the School District performing tasks not covered by the liability insurance policy, or a (*sic*) financial resources are tight, charter schools should be

private CPA (*sic*) who provides services to the School District who is also not covered by the School District's insurance policy.

With respect to the Montessori Regional Charter School, the Board Secretary and Board Treasurer are members of the Board of Trustees. As such, they are covered under the School's Director and Officers Insurance. Nothing in the Charter School law requires charter schools to obtain duplicate insurance coverage for the same acts or omissions. In this environment in which public school permitted to obtain the necessary insurance coverage in a cost effective manner, even if the insurance has a different name than the name stated in the statute."

Auditor Conclusion

The PSC specifically provides that before entering the duties of office each official position shall furnish faithful performance bonds.

A fidelity bond (sometimes called fidelity insurance, but often referred to in governing documents as a bond) provides coverage for "loss of money, securities, or any other property due to acts of dishonesty committed by employee acting alone or in collusion with other persons . . ." Directors and Officers coverage, on the other hand, provides coverage for "mismanagement or [intentionally] wrongful acts." The covered wrongful acts may have been intended, but if the intent was to steal from the Charter School, the Directors and Officers coverage will not be there to help.

Additionally, the Charter School did not provide evidence from the underwriters or agent ensuring that the Secretary and Treasurer positions were covered by the current policies in lieu of specific bond to ensure the faithful performance of his duties.

Therefore, the finding will stand as written.

Status of Prior Audit Findings and Observations

Our prior audit of the Charter School released on January 20, 2012, resulted in one finding. The finding pertained to the Charter School's noncompliance with the State's attendance requirements. As part of our current audit, we determined the status of corrective action taken by the Charter School to implement our prior recommendations. We performed audit procedures and interviewed the Charter School's personnel regarding the prior finding. As shown below, we found that the Charter School did implement recommendations related to attendance requirements.

Auditor General Performance Audit Report Released On January 20, 2012

Finding: **Noncompliance with the State's Compulsory Attendance Requirements**

Finding Summary: Our prior audit of the Charter School's attendance and membership records for the 2008-09 school year found that the Charter School did not comply with state requirements, or its own policies, regarding the reporting of unlawful absences. Specifically, the Charter School's records indicated that at various times during the 2008-09 school year, there were 43 students with at least three or more unlawful absences. However, the Charter School did not report these absences to the students' district of residence.

Recommendations: Our audit finding recommended that the Charter School:

1. Enforce the provisions of the CSL and its own parent handbook and report three or more unlawful absences to the student's district of residence.
2. Aggressively implement its truancy elimination plan to decrease the amount of unlawful absences.

Current Status: During our current audit procedures, we found that the Charter School did implement the recommendations. The Charter School has implemented procedures to notify student's district of residence of three or more unlawful absences and continued to implement its truancy elimination plans. Evidence provided to the auditors noted that beginning in April 2011, letters were being sent to the student's district of residence.

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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This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email: news@PaAuditor.gov.