

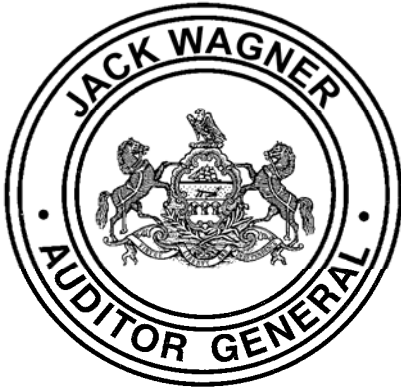
BEAR CREEK COMMUNITY CHARTER SCHOOL  
LUZERNE COUNTY, PENNSYLVANIA  
PERFORMANCE AUDIT REPORT

NOVEMBER 2008



BEAR CREEK COMMUNITY CHARTER SCHOOL  
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The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120

Mr. Dave Blazejewski, Board President  
Bear Creek Community Charter School  
2000 Bear Creek Boulevard  
Wilkes-Barre, Pennsylvania 18702

Dear Governor Rendell and Mr. Blazejewski:

We have conducted a performance audit of the Bear Creek Community Charter School for the years ended June 30, 2006 and 2005, and in certain areas extending beyond June 30, 2006. 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.

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

The results of our tests indicated that, in all significant respects, the Bear Creek Community Charter School was in compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit, except as noted in the following finding.

Independent Auditor's Report (Continued)

The finding is discussed in detail in the Conclusion section of this report:

Finding – In Violation of the Public Official and Employee Ethics Act,  
Two Principals Failed to File Their Statement of Financial  
Interests Form at Some Time During the Audit Period

We believe that our recommendations, if implemented by the school, will help ensure compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit.

Sincerely,

/s/

JACK WAGNER  
Auditor General

November 14, 2008

cc: Ms. Wendy Lutchko, Board Vice-President  
Mr. Jim Smith, Board Secretary  
Mr. Bob Hawkins, Board Treasurer  
Ms. Kim Popple, Board of Trustees  
Ms. Sue Barry, Board of Trustees  
Mr. Scott Sherwood, Board of Trustees  
Mr. Frank Butry, Board of Trustees

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
HISTORY OF CHARTER SCHOOLS IN PENNSYLVANIA

### **History of Charter Schools in Pennsylvania**

Pennsylvania's charter schools were established by the Charter School Law (Law), enacted through Act 22 of 1997. In the preamble of the Law, the General Assembly stated its intent to provide teachers, parents, pupils, and community members with the opportunity to establish schools that were independent of the existing school district structure.<sup>1</sup> In addition, the preamble provides that charter schools are intended to, among other things, improve pupil learning, encourage the use of different and innovative teaching methods, and offer parents and students expanded educational choices.<sup>2</sup>

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.<sup>3</sup> 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 school will be established,<sup>4</sup> and that board must hold at least one public hearing before approving or rejecting the application.<sup>5</sup> If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,<sup>6</sup> which is comprised of the Secretary of Education and six members appointed by the Governor.<sup>7</sup>

Initial charters are valid for a period of no less than three years and no more than five years.<sup>8</sup> 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.<sup>9</sup>

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<sup>1</sup> 24 P.S. § 17-1702-A.

<sup>2</sup> Id.

<sup>3</sup> 24 P.S. § 17-1717-A (a).

<sup>4</sup> 24 P.S. § 17-1717-A (c).

<sup>5</sup> 24 P.S. § 17-1717-A (d).

<sup>6</sup> 24 P.S. § 17-1717-A (f).

<sup>7</sup> 24 P.S. § 17-1721-A (a).

<sup>8</sup> 24 P.S. § 17-1720-A.

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

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
HISTORY OF CHARTER SCHOOLS IN PENNSYLVANIA

**History of Charter Schools in Pennsylvania (Continued)**

Act 88 of 2002 amended the Law to allow for the establishment of cyber charter schools, which conduct a significant portion of their curriculum and instruction through the Internet or other electronic means.<sup>10</sup> Unlike charter schools, cyber charter schools must submit their application to the Department of Education (DE), which determines whether the application for charter should be granted or denied. However, if DE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board. In addition, DE is responsible for renewing and revoking the charters of cyber charter schools.<sup>11</sup> There are 125 charter schools operating in Pennsylvania, 11 of which are cyber charter schools.<sup>12</sup> According to DE, nearly 50,000 children are enrolled in these schools.<sup>13</sup>

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<sup>10</sup> 24 P.S. § 17-1703-A.

<sup>11</sup> 24 P.S. § 17-1745-A (a), (f).

<sup>12</sup> DE expects the total number of charter schools to increase by five to seven for the 2007-08 school year based on new charter school applications pending final approval.

<sup>13</sup> Department of Education Web site at [http://www.pde.state.pa.us/charter\\_schools/site/default.asp](http://www.pde.state.pa.us/charter_schools/site/default.asp).



BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
BACKGROUND

**Background**

The Bear Creek Community Charter School, located in Luzerne County, opened in September of 2004. The Bear Creek Community Charter School was originally chartered on September 6, 2004 for a period of five years by the Wilkes-Barre Area School District.

According to the charter school's mission statement, the Bear Creek Community Charter School seeks to embrace a diverse student body and to inspire student success through curriculum innovation, the cultivation of environmental stewardship, and by holding students, family, school, and community accountable for the educational results.

During the school year ended June 30, 2006, the Bear Creek Community Charter School provided educational services to 252 students from 8 sending school districts through the employment of 2 administrators, 22 teachers, and 10 full-time and part-time support personnel. The charter school also provided educational services to 156 students during the 2004-05 school year.

Expenditures for the school years ending June 30, 2006 and June 30, 2005 were \$1,833,743 and \$1,209,683, respectively. Revenues of \$2,416,039 and \$1,479,152 supporting these expenditures were derived from local, state, and federal sources for the 2005-06 and 2004-05 school years, respectively (see Summary of Charter School Revenue, page 6). State revenue was received in the form of reimbursements for Social Security and Medicare Taxes, and retirement obligations (see Appendix III Schedule of State Revenue, page 16).

The charter school derives the majority of its operating revenue from the school districts whose students attend the charter school. These sending school districts are required by Section 1725-A of the Charter School Law<sup>14</sup> and instructions from the Department of Education to provide the charter school with a calculation of allowable expenditures referred to as "selected expenditures" for non-special education students and special education students,<sup>15</sup> based upon the school districts' general fund budgeted expenditures and average daily membership (ADM) for the immediately preceding school year. ADM refers to the number of days each student is enrolled at the charter school or school district over the course of the school year. This average is used to calculate various subsidies and reimbursements for school districts and charter schools). This funding calculation is to be paid to the charter school by the sending school districts, based on the actual ADM of their students who attend the charter school.

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<sup>14</sup> 24 P.S. § 17-1725-A.

<sup>15</sup> Charter schools receive additional funding for special education students as calculated on the basis of 24 P.S. § 17-1725-A(a)(3).

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
BACKGROUND

SUMMARY OF CHARTER SCHOOL REVENUE

	<u>2006</u>	<u>2005</u>
<b><u>CHARTER SCHOOL REVENUES</u></b>		
Local Revenue*	\$2,099,648	\$1,165,273
Federal Revenue	28,593	26,048
State Revenue	<u>287,798</u>	<u>287,831</u>
<b><u>TOTAL REVENUE</u></b>	<u><u>\$2,416,039</u></u>	<u><u>\$1,479,152</u></u>

\*Local revenue represents both local and state taxpayer dollars paid through the sending school district.

Note: Refer to Appendices for support schedules of all dollar figures.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
OBJECTIVES, SCOPE AND METHODOLOGY

**OBJECTIVES AND SCOPE**

The objectives of our audit were to determine if the Bear Creek Community Charter School complied with applicable state laws, regulations, contracts, grant requirements, and administrative procedures pertaining to charter schools in Pennsylvania. The objectives included in our audit of the Bear Creek Community Charter School were:

- to determine overall compliance with the Public School Code of 1949<sup>16</sup> (Code) and the Charter School Law (Law);<sup>17</sup>
- to determine whether at least 75 percent of the charter school's professional staff members, including teachers and administrators, were properly certified and, if applicable, teaching in their areas of certification in accordance with Section 1724-A(a) of the Law;<sup>18</sup>
- to determine whether the charter school complied with Sections 1109 and 1209 of the Code,<sup>19</sup> to which charter schools are made subject by Section 1724-A(b) of the Law,<sup>20</sup> requiring that noncertified professional employees of the charter school present evidence that they are at least 18 years of age, a U.S. citizen, and certified by a licensed Pennsylvania physician to be neither mentally nor physically disqualified from successful performance of the duties of a professional employee of the charter school;
- to verify membership numbers reported to DE and determine whether ADM and tuition billings were accurate;
- to determine whether the charter school complied with the compulsory attendance provisions in accordance with both Section 1327 of the Code<sup>21</sup> and Chapter 11 of the State Board of Education Regulations<sup>22</sup> and, if not, whether the charter school removed days in excess of ten consecutive unexcused absences from the school's reported membership totals pursuant to Section 11.24 of the regulations;<sup>23</sup>

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<sup>16</sup> 24 P.S. § 1-101 *et seq.*

<sup>17</sup> 24 P.S. § 17-1701-A *et seq.*

<sup>18</sup> 24 P.S. § 17-1724-A(a).

<sup>19</sup> 24 P.S. §§ 11-1109 and 12-1209.

<sup>20</sup> 24 P.S. § 17-1724-A(b).

<sup>21</sup> 24 P.S. § 13-1327 (Charter schools are subject to the compulsory school attendance requirements of the Code pursuant to Section 17-1732-A(a) of the Law, 24 P.S. § 17-1732-A(a).)

<sup>22</sup> 22 Pa. Code, Chapter 11.

<sup>23</sup> 22 Pa. Code § 11.24.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
OBJECTIVES, SCOPE AND METHODOLOGY

**OBJECTIVES AND SCOPE (Continued)**

- . to determine whether each of the charter school's trustees and administrators and each of the school board members of the host school district complied with the Code and the Public Official and Employee Ethics Act<sup>24</sup> (Ethics Act) by filing their Statement of Financial Interests Forms and to determine whether any violations of the Ethics Act occurred or any potential conflicts of interests exist;
- . to determine whether the charter school complied with Section 1303-A of the Code<sup>25</sup> requiring the charter school to obtain a Memorandum of Understanding with their local law enforcement agency;
- . to determine whether the charter school is in compliance with Section 1724-A(c) of the Law<sup>26</sup> requiring that all employees of the charter school be enrolled in the Public School Employees' Retirement System at the time of filing the charter school application unless the board of trustees has a retirement plan that covers the employees or the employees are enrolled in another retirement program; and
- . to determine whether the charter school is in compliance with Section 1728-A of the Law<sup>27</sup> requiring each charter school to assess whether it is meeting the goals of its charter and to submit a report of its assessment to DE no later than August 1 of each year.

Unless otherwise indicated, the scope of our audit covered the years ended June 30, 2006 and 2005.

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<sup>24</sup> 65 Pa.C.S. § 1101 *et seq.*

<sup>25</sup> 24 P.S. § 13-1303-A(c).

<sup>26</sup> 24 P.S. § 17-1724-A(c).

<sup>27</sup> 24 P.S. § 17-1728-A.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT  
OBJECTIVES, SCOPE AND METHODOLOGY

**METHODOLOGY**

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

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

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT

**CONCLUSION**

The results of our tests indicate that, with respect to the audit objectives and items tested, the Bear Creek Community Charter School complied with some of the applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit. For example, we determined that the Bear Creek Community Charter School met the following provisions:

- the charter school demonstrated that at least 75 percent of the charter school's professional staff members, including administrators and teachers, were properly certified and, if applicable, teaching in their areas of certification in accordance with Section 1724-A(a) of the Law;<sup>28</sup>
- the charter school validated membership numbers reported to DE and that ADM and tuition billings were accurate;
- the charter school complied with the compulsory attendance provisions in accordance with both Section 1327 of the Public School Code<sup>29</sup> and Chapter 11 of the State Board of Education Regulations; and<sup>30</sup>
- the charter school complied with Section 1303-A of the Code<sup>31</sup> requiring the charter school to obtain a Memorandum of Understanding with their local law enforcement agency;
- the charter school is in compliance with Section 1724-A(c) of the Law<sup>32</sup> requiring that all employees be enrolled in the Public School Employees' Retirement System unless at the time of filing the charter school application the sponsoring school district or the board of trustees of the charter school has a retirement plan that covers the employees or the employees are currently enrolled in another retirement program.
- the charter school submitted its annual reports assessing whether or not it met the goals of its charter to DE as required by Section 1728-A of the Law.<sup>33</sup>

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<sup>28</sup> 24 P.S. § 17-1724-A(a).

<sup>29</sup> 24 P.S. § 13-1327; Please note that charter schools are subject to the compulsory school attendance requirements of the Public School Code pursuant to Section 17-1732-A(a) of the Law, 24 P.S. § 17-1732-A(a).

<sup>30</sup> 22 Pa. Code, Chapter 11.

<sup>31</sup> 24 P.S. § 13-1303-A(c).

<sup>32</sup> 24 P.S. § 17-1724-A(c).

<sup>33</sup> 24 P.S. § 17-1728-A.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT

**Conclusion (Continued)**

However, we determined that the Bear Creek Community Charter School did not comply with other applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit, as noted in finding listed on the next page. The finding and recommendations were reviewed with representatives of the Bear Creek Community Charter School, and their comments have been included in this report.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT

**Finding – In Violation of the Public Official and Employee Ethics Act, Two Principals Failed to File Their Statement of Financial Interests Form at Some Time During the Audit Period**

Our audit of charter school records for the calendar years ended December 31, 2006, and 2005 found that two principals failed to file their Statements of Financial Interests forms with the State Ethics Commission for the calendar year December 31, 2005. Management was unaware that principals needed to file Statements of Financial Interests forms.

Public office is a public trust sustained by assuring the people of the impartiality and honesty of public officials and public employees. Accordingly, the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. § 1101 *et seq.*, 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 1<sup>st</sup> of each year they hold their positions and of the year after leaving such positions.<sup>34</sup>

The Ethics Act specifically requires public officials and certain public employees to disclose matters on the Statement of Financial Interests that currently or potentially create conflicts of interest with their public duties. When a public official does not properly file a required disclosure, the public cannot examine the disclosure in order to determine whether conflicts of interest exist. This in turn erodes the public's trust. In addition, the board members' failure to file the Statement of Financial Interests constituted a violation of the Ethics Act.

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 interests . . .<sup>35</sup>

Likewise, Section 1109(b), 65 Pa.C.S. § 1109(b) provides, in pertinent part that any person who is required to file a Statement of Financial Interests but fails to do so may be found guilty of a misdemeanor and may be fined not more than \$1,000 or imprisoned for not more than one year.

Finally, Section 1109(f), 65 Pa.C.S. § 1109(f) 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 of \$250.

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<sup>34</sup> 65 Pa. C.S § 1101 et seq.

<sup>35</sup> 65 Pa. C.S. § 1104(d).



BEAR CREEK COMMUNITY CHARTER SCHOOL  
PERFORMANCE AUDIT REPORT

**Finding No. 2 (Continued)**

A copy of this finding will be forwarded to the State Ethics Commission for additional review and investigation, as it deems necessary.

Recommendations

The board of trustees should:

- seek the advice of its solicitor in regard to the board of trustees' responsibility when administrators and/or members fail to file Statements of Financial Interests forms; and
- develop procedures to ensure that all individuals required to file Statements of Financial Interests do so in compliance with the Ethics Act.

Response of Management

Management provided the following response agreeing with the finding:

Management agrees that two interim Principals, both employees of Mosaica Education, Inc. and not employees of the Bear Creek Community Charter School, did not file the required Statement of Financial Interests Form for the school's first year of operation (2004-2005). Each individual served in this interim capacity for approximately six months, and Management was unaware such a requirement existed at that time. All members of the Board of Trustees have filed the required forms for the audit period.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
APPENDIX I

[UNAUDITED]

**Schedule of Local Revenue**

The charter school reported local revenue for the years ended June 30, 2006 and 2005, as follows:

	<u>2006</u>	<u>2005</u>
<b><u>LOCAL REVENUE</u></b>		
Earnings on Investments	\$ 774	\$ 381
Food Service Revenue	30,343	7,519
Contributions and Donations From Private Sources	-	19,228
Receipts from Other LEAS in PA - Education <sup>36</sup>	2,064,815	1,138,145
All Other Local Revenues Not Specified	<u>3,716</u>	<u>-</u>
<b><u>TOTAL LOCAL REVENUE*</u></b>	<u><u>\$2,099,648</u></u>	<u><u>\$1,165,273</u></u>

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<sup>36</sup> These dollar amounts represent actual payments made to the Bear Creek Community Charter School from the sending school districts.

BEAR CREEK COMMUNITY CHARTER SCHOOL  
APPENDIX II

[UNAUDITED]

**Schedule of Federal Revenue**

The charter school reported federal revenue of \$28,593 and \$26,048, respectively, for the years ended June 30, 2006 and 2005, as detailed in the following schedule:

	<u>2006</u>	<u>2005</u>
<b><u>FEDERAL REVENUE</u></b>		
NCLB (1), Title I, Improving Basic Programs and Program Improvement Set-Aside	\$27,626	\$22,498
NCLB (1), Title II, Improving Teacher Quality and Education Technology	736	3,550
NCLB (1), Title V, Innovative Education	<u>231</u>	<u>-</u>
<b><u>TOTAL FEDERAL REVENUE</u></b>	<u>\$28,593</u>	<u>\$26,048</u>

BEAR CREEK COMMUNITY CHARTER SCHOOL  
APPENDIX III

[UNAUDITED]

**Schedule of State Revenue**

The charter school reported state revenue of \$287,798 and \$287,831, respectively, for the years ended June 30, 2006 and 2005, as detailed in the following schedule:

	<u>2006</u>	<u>2005</u>
<b><u>STATE REVENUE</u></b>		
Charter Schools	\$261,000	\$286,000
Social Security and Medicare Taxes	14,268	-
Retirement	<u>12,530</u>	<u>1,831</u>
<b><u>TOTAL STATE REVENUE</u></b>	<b><u>\$287,798</u></b>	<b><u>\$287,831</u></b>

BEAR CREEK COMMUNITY CHARTER SCHOOL  
APPENDIX IV

*Description of State Revenue (Source: Pennsylvania Accounting Manual)*

Charter Schools

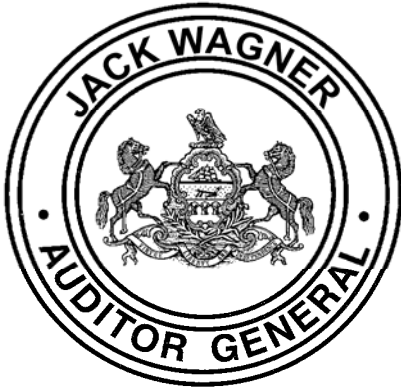
Revenue received from the Commonwealth to fund the Charter Schools initiative. The state subsidy received includes revenue for startup funding, nonpublic transfers, and transitional grants.

Social Security and Medicare Taxes

Revenue received from the Commonwealth as subsidy designated as the Commonwealth's matching share of the employer's contribution of the Social Security and Medicare taxes for covered employees who are not federally funded.

Retirement

Revenue received from the Commonwealth as subsidy designated as the Commonwealth's matching share of the employer's contribution of retirement contributions for active members of the Public School Employees' Retirement System.



## BUREAU OF SCHOOL AUDITS

### AUDIT REPORT 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](http://www.auditorgen.state.pa.us), and the following:

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

The Honorable Gerald Zahorchak, D.Ed.  
Secretary of Education  
1010 Harristown Building #2  
333 Market Street  
Harrisburg, PA 17126

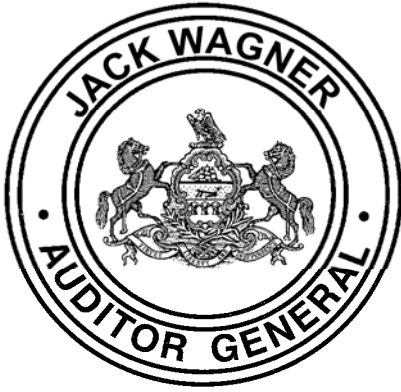
The Honorable Robin L. Wiessmann  
State Treasurer  
Room 129 - Finance Building  
Harrisburg, PA 17120

Mr. John Godlewski  
Director, Bureau of Budget and Fiscal Management  
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Department of Education  
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Harrisburg, PA 17126





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State Ethics Commission  
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Dr. Jeffrey T. Namey  
Superintendent  
Wilkes-Barre Area School District  
730 South Main Street  
Wilkes-Barre, PA 18711

Representative Dwight Evans  
Chair, House Appropriations Committee  
512 Main Capitol Building  
Harrisburg, PA 17120

Representative Mario Civera, Jr.  
Republican Chair House Appropriations Committee  
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Representative James Roebuck  
Chair, House Education Committee  
208 Irvis Office Building  
Harrisburg, PA 17120

Representative Eddie Pashinski  
27A East Wing  
Harrisburg, PA 17120

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, Pennsylvania 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).