



**BEAVER AREA ACADEMIC CHARTER SCHOOL
BEAVER COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT**

AUGUST 2013

COMMONWEALTH OF PENNSYLVANIA
EUGENE A. DEPASQUALE - AUDITOR GENERAL
DEPARTMENT OF THE AUDITOR GENERAL



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EUGENE A. DePASQUALE
AUDITOR GENERAL

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

Dr. Curtis Feldmeier, Board President
Beaver Area Academic Charter School
Gypsy Glen Road
Beaver, Pennsylvania 15009

Dear Governor Corbett and Dr. Feldmeier:

We conducted a performance audit of the Beaver Area Academic Charter School (Charter School) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period December 4, 2007 through December 18, 2012, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2010, 2009, 2008, and 2007. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the Charter School complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except as detailed in the 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 response is 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

August 20, 2013

cc: **BEAVER AREA ACADEMIC 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 Beaver Area Academic Charter School (Charter School). Our audit sought to answer certain questions regarding the Charter School's compliance with applicable state laws, contracts, grant requirements, and administrative procedures 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 December 4, 2007 through December 18, 2012, 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 2009-10, 2008-09, 2007-08, and 2006-07 school years.

Charter School Background

The Charter School, located in Beaver County, Pennsylvania, opened in August 2005. It was originally chartered on July 1, 2005, for a period of five years by the Beaver Area School District. The Charter School's mission states: "to provide student's individualized academic opportunities based on their needs and abilities." During the 2009-10 school year, the Charter School provided educational services to 88 pupils from 4 sending school districts through the employment of 4 teachers, 2 full-time and part-time support personnel, and 2 administrators.

For the 2009-10 school year, the Charter School received approximately \$616,007 in tuition payments from school districts required to pay for their students attending the Charter School.

Adequate Yearly Progress

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

AYP is a key measure of school performance established by the federal No Child Left Behind Act 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 that the Charter School complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except for one compliance-related matter reported as a finding.

Finding: The Charter School Lacks a Separate Building, and Students are Commingled with District Students in Violation of the Charter School Law. Our audit found that the Charter School did not educate its Enhanced Academic Program students in a building that is separate from the Beaver Area School District (District), as required by the Charter School Law (CSL). We further found that the Charter School's students were commingled in classrooms with the District's students, also in violation of the CSL (see page 10).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the Charter School from an audit released on September 19, 2008, we found that the Charter School had taken appropriate corrective action in implementing our recommendations pertaining to the inaccurate reporting of membership for sending districts (see page 14).

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 the Pennsylvania Department of Education (PDE), which determines whether the application for a charter should be granted or denied.¹¹ However, if PDE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.¹² In addition, PDE is responsible for renewing and revoking the charters of cyber charter schools.¹³ Cyber charter schools that had their charter initially approved by a local school district prior to August 15, 2002, must seek renewal of their charter from PDE.¹⁴

Funding of Pennsylvania Charter Schools:

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

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

Pennsylvania Charter School Funding

The Commonwealth bases the funding for charter schools on the principle that the state's subsidies should follow the students, regardless of whether they choose to attend traditional public schools or charter schools. According to the 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 Pennsylvania Department of Education, Basic Education Circular, "Charter Schools," Issued 10/1/2004.

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

¹¹ 24 P.S. § 17-1745-A(d).

¹² *Id.* § 17-1745-A(f)(4).

¹³ 24 P.S. § 17-1741-A(a)(3).

¹⁴ 24 P.S. § 17-1750-A(e).

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 Public School Code of 1949, as amended, the Commonwealth also pays a reimbursement to each sending school district with students attending a charter school that amounts to a mandatory percentage rate of total charter school costs.¹⁸ Commonwealth reimbursements for charter school costs are funded through an education appropriation in the state's annual budget. However, the enacted state budget for the 2011-12 fiscal year eliminated funding of the Charter School reimbursement previously paid to sending school districts.¹⁹

¹⁵ See 24 P.S. § 17-1725-A(a)(2).

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

¹⁷ See 24 P.S. § 17-1725-A(a)(5).

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

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

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each Local Education Agency (LEA). The results of these audits are shared with the LEA's management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

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

Our audit covered the period December 4, 2007 through December 18, 2012, except for the verification of professional employee certification which was performed for the period July 1, 2008 through March 23, 2012.

Regarding state subsidies and reimbursements, our audit covered school years 2009-10, 2008-09, 2007-08, and 2006-07.

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

- ✓ Was the Charter School in overall compliance with the Public School Code of 1949²⁰ (PSC) and the Charter School Law (CSL)?²¹
- ✓ 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

²⁰ 24 P.S. § 1-101 *et seq.*

²¹ 24 P.S. § 17-1701-A *et seq.*

services report filed with the Pennsylvania Department of Health to receive state reimbursement?

- ✓ Did the Charter School receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program, was its lease agreement approved by its Board of Trustees, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act?²²
- ✓ Did the Charter School comply with the open enrollment and lottery provisions of the CSL?
- ✓ 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?
- ✓ 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?
- ✓ Were at least 75 percent of the Charter School's teachers properly certified, and did all of its noncertified teachers meet the "highly qualified teacher" requirements?
- ✓ Did the Charter School require its noncertified professional employees to provide evidence that they are at least 18 years of age, a U.S. citizen, and certified by a licensed Pennsylvania physician to be neither mentally nor physically disqualified from successful performance of the duties of a professional employee of the Charter School?
- ✓ Did the Charter School accurately report its membership numbers to PDE, and were its average daily membership and tuition billings accurate?
- ✓ Did the Charter School have sufficient internal controls to ensure that the membership data it reported to PDE through the Pennsylvania Information

²² 65 Pa.C.S. § 1101 *et seq.*

Management System was complete, accurate, valid, and reliable?

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

Methodology

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 applicable laws, contracts, grant

²³ 22 Pa. Code § 11.24.

What are internal controls?

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

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

requirements, and administrative procedures. 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 applicable state laws, contracts, grant requirements, and administrative procedures 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 control 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, special education, lease agreements, open enrollment, vendor contracts, and student enrollment.
- Items such as board of trustees' meeting minutes, pupil membership records, and tuition receipts.

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

Lastly, to determine the status of our audit recommendations made in a prior audit report released on September 19, 2008, we reviewed the Charter School's response and then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding

The Charter School Lacks a Separate Building, and Students are Commingled with District Students in Violation of the Charter School Law

Criteria relevant to the finding:

Section 1702-A of the Charter School Law (CSL), 24 P.S. § 17-1702-A, explains that the legislative intent of the General Assembly in enacting the CSL is to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate **independently from the existing school district structure**.

Section 1703-A of the CSL, 24 P.S. § 17-1703-A, defines a “charter school” as an **independent** public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend.

The Pennsylvania Department of Education’s Basic Education Circular entitled “Charter Schools” issued on October 1, 2004, further defines the requirement for a charter school to be a separate and distinct entity by stating:

“A charter school, including a conversion charter school, must be a separate and distinct entity from the school district that grants the charter. Students enrolled in any charter school must be educated: (1) in a building that is separate from buildings used by the school district to educate school district students, or (2) in the case of a partial conversion, in an area of a building that is completely separate from any area that is used to educate school district students.”

Our audit found that the Beaver Area Academic Charter School (Charter School) did not educate its Enhanced Academic Program students in a building that is separate from the Beaver Area School District (District), the authorizing school district, as required by the Charter School Law (CSL). We further found that the Charter School’s students were commingled in classrooms with District students, also in violation of the CSL.

The CSL defines a “charter school” as an *independent* public school. Under the CSL, charter schools must operate differently and independently from regular school districts.

Furthermore, the Pennsylvania Department of Education’s (PDE) Basic Education Circular (BEC) pertaining to charter schools requires that students enrolled in a charter school must be educated in a building that is separate from the buildings used by the school district to educate school district students, or in the case of a partial conversion, in an area that is completely separate from an area that is used to educate school district students. As such, we found that the Charter School’s practices of not having a separate and distinct area of the building for the Charter School’s students, and of commingling the Charter School’s students and the District’s students in the same classrooms, are violations of the Charter School Law and PDE’s Basic Education Circular.

Specifically, the Charter School leases space from the District to operate its charter, which consists of three academic programs as follows:

1. The Core Academic Program, an alternative education program, is located in a 1,040 square foot modular classroom located on the District’s property.

2. The Developmental Kindergarten Program is located in a classroom at College Square Elementary School, which is leased by the Charter School from the District.
3. The Enhanced Academic Program is located in the District's high school building and is not in an area separate and distinct from the District's operations or students.

We concluded that the Charter School's Enhanced Education Program was operating in a public area of the authorizing District's high school, and that the Charter School's students were attending courses in classrooms with the District's students. This commingling appears to be due to the Charter School's misinterpretation of PDE's Basic Education Circular and the Charter School Law.

Further, while the Charter School has its own Board of Trustees, policies and procedures, and bank accounts, we questioned whether it is following the letter and spirit of the CSL related to operating as a separate and distinct entity from the District that grants its charter. For example, the following facts bring rise to our concerns about the overall independence of the Charter School's operations:

- The Charter School's Enhanced Academic Program was located in a regular operating area of the public high school building of the authorizing District.
- The Charter School's Enhanced Academic Program students and the District's students were combined in the same classes.
- The Charter School's reports and documents required to be filed with PDE were completed and filed by the authorizing District's personnel and administrators, and not by the Charter School.
- The Chief Administrative Officer and Comptroller for the Charter School were also the Director of Curriculum and the Director of Business Services for the District, respectively.

Recommendations

The *Beaver Area Academic Charter School* should:

1. Maintain an area of the building to educate the Charter School's students that is completely separate from the area used to educate the District's students.
2. Ensure that leased areas of a shared building are used for the distinct purpose of educating the Charter School's students.
3. Cease commingling its Enhanced Academic Program's students in classrooms with the District's students.
4. Take action to entirely separate itself from the daily operations of the authorizing District, its officers, and its staff.

Management Response

Management stated the following:

“Beaver Area Academic Charter School (BAACS) disagrees with the audit finding that our enhanced students attend the same classes and are co-mingled with Beaver Area School District (BASD) students in violation of the BEC. We disagree because:

- Section 12 of BEC, Charter School that is referenced in the finding actually refers to borrowing, building, lease and construction of facilities and does describe an operational requirement contained in the law.
- The enhanced program is not conducted exclusively with BASD. BAACS's enhanced program includes partnerships with BASD, Beaver County Community College, Beaver Falls Beauty Academy, and Beaver County Career and Technology Institute. BAACS tailors enhanced student classes into a comprehensive approach to fulfill student needs through the above partnerships and pays each on a per unit charge.
- The enhanced program mimics the Regional Choice Initiative.
- The BAACS enhanced program provides the only portal for students from Midland to attend a traditional secondary school in Pennsylvania.”

Auditor Conclusion

As presented in the finding, Sections 1702-A and 1703-A of the CSL require a charter school to operate independently from the existing school district structure and as an independent school. Further, we disagree with management's assertion that Section 12 of PDE's BEC is not applicable to operations. Section 12 of PDE's BEC is entitled "Facilities" and is further defined by sub-sections. The "Facilities" sub-section referenced in this finding is entitled "Separate and Distinct," and specifically states that students enrolled in any charter school must be educated in a building that is separate from buildings used by the school district to educate school district students.

Based on the facts in our finding, the Charter School has clearly failed to maintain a separate and distinct building, and to educate the Charter School's students separate from the District's students, a clear violation of the Charter School Law and PDE's Basic Education Circular. Moreover, we continue to question the Charter School's overall independence from the District due to its combined educational space, shared staff, and District staff completing reports and documents on behalf of the Charter School. The finding will remain as written.

Status of Prior Audit Findings and Observations

Our prior audit of the Beaver Area Academic Charter School (Charter School) released on September 19, 2008, resulted in one reported finding. The finding pertained to the inaccurate reporting of membership for sending districts. As part of our current audit, we determined the status of corrective action taken by the Charter School to implement our prior audit recommendations. We performed audit procedures and interviewed Charter School personnel regarding the prior finding. As shown below, we found that the Charter School did implement our recommendations related to the inaccurate reporting of membership for sending districts.

Auditor General Performance Audit Report Released on September 19, 2008

Finding

Inaccurate Reporting of Membership for Sending Districts

Finding Summary:

Our prior review of pupil membership records for the 2005-06 school year found that the Charter School incorrectly reported membership to the Pennsylvania Department of Education (PDE).

Recommendations:

Our audit finding recommended that the Charter School should:

Review PDE's instructions for reporting membership and ensure that final membership data is reported to PDE.

The Pennsylvania Department of Education should:

Adjust the membership data of sending districts and recalculate any effected subsidies and reimbursements.

Current Status:

During our current audit, we found that the Charter School did implement our prior recommendations. No problems were noted during our membership testing.

Distribution List

This report was initially distributed to the Chief Executive Officer of the Charter School, the Board of Trustees, our website at www.auditorgen.state.pa.us, and the following stakeholders:

The Honorable Tom Corbett
Governor
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This report is a matter of public record and is available online at www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.

