



**CHESTER COMMUNITY CHARTER SCHOOL
DELAWARE COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT**

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

Judge Spencer Seaton, Board President
Chester Community Charter School
302 East 5th Street
Chester, Pennsylvania 19013

Dear Governor Corbett and Judge Seaton:

We conducted a performance audit of the Chester Community Charter School (Charter School) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period May 20, 2012 through April 22, 2013, 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, 2010, and 2009. 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 significant noncompliance with applicable state laws, contracts, grant requirements, and administrative procedures, as detailed in the 11 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 Department of Education, the Pennsylvania Department of Health, and the 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

August 20, 2013

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

Our audit scope covered the period May 20, 2012 through April 22, 2013, 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, 2009-10, and 2008-09 school years.

Charter School Background

The Charter School, located in Delaware County, Pennsylvania, opened in September 1998. It was originally chartered on September 9, 1998, for a period of three years by the Chester Upland School District. The Charter School's mission states: "[The Charter School seeks to] empower students as learners through the development of a learning community." During the 2010-11 school year, the Charter School provided educational services to 2,664 pupils from 11 sending school districts through the employment of 170 teachers, 195 full-time and part-time support personnel, and 12 administrators. The Charter School received approximately \$34 million in tuition payments from school districts required to pay for their students attending the Charter School in the 2010-11 school year.

Adequate Yearly Progress

The Charter School did not make Adequate Yearly Progress (AYP) for the 2011-12 school year and is in a warning status level. Warning means that the Charter School fell short of the AYP targets but has another year to achieve them before any consequences are imposed. A school that misses only one measure will not meet AYP. This is the first year that the Charter School did not meet all AYP measures. Specifically, the Charter School fell short of the AYP targets/goals for Academic Performance. If the Charter School meets all AYP measures next year, it will be considered on track to meet the goal of all students attaining proficiency in Reading and Math by the year 2014.

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 significant noncompliance with applicable state laws, contracts, grant requirements, and administrative procedures, as detailed in the 11 audit findings within this report.

Finding No. 1: Charter School Improperly Received \$1,276,660 in State Lease Reimbursement.

Our audit found that between June 30, 2008 and June 30, 2011, the Chester Community Charter School (Charter School) improperly received \$1,276,660 in state lease reimbursements for buildings that were ineligible for those payments. We question these buildings eligibility since one of the Charter School's Founders previously owned them and later transferred them to a related nonprofit organization (Nonprofit) established for the sole purpose of supporting the Charter School. We also found that the Charter School's Founder was the buildings' landlord until October 2010. Furthermore, this same individual started a for profit Management Company for which he is currently its Chief Executive Officer (CEO). This Management Company runs the Charter School, and the Management Company and the Nonprofit are located at the same address. These ownership transfers and questionable transactions among associated individuals and entities created circular lease arrangements among related parties sharing ownership interest in the buildings. Buildings owned by charter schools are not eligible for the state lease reimbursement (see page 12).

Finding No. 2: Charter School Failed to Comply with the Teacher Certification Provisions of the Federal No Child Left Behind Act. Our audit of the Chester Community Charter School's (Charter School) professional employees'

certification and assignments for the period July 1, 2008 through June 30, 2012, found that while all special education teachers held appropriate state certification, several special education teachers were employed during the 2008-09, 2009-10, 2010-11, and 2011-12 school years without being "highly qualified" pursuant to federal No Child Left Behind requirements (see page 16).

Finding No. 3: Weaknesses in School Board Meeting Minutes. Our audit of the Chester Community Charter School's (Charter School) board meeting minutes from June 9, 2008 through April 18, 2013, found inadequacies in the recording and documenting of board actions. The Charter School's failure to adequately record and document board actions resulted in violations of the Charter School Law and the Sunshine Act, and it lessens public transparency and accountability (see page 19).

Finding No. 4: Failure to Develop and to Timely File a Memorandum of Understanding with Local Law Enforcement. Our audit of the Chester Community Charter School (Charter School) found that the Charter School failed to submit a Memorandum of Understanding (MOU) with local law enforcement to the Pennsylvania Department of Education's (PDE) Office for Safe Schools (Office) by June 30, 2011, as required in the Public School Code (PSC). While the Charter School did execute MOUs with two local law enforcement agencies on July 11, 2011 and August 8, 2011, it did not meet the filing deadline for submitting these agreements to PDE's Office. Moreover, prior to these dates, the Charter School did not have MOUs with local law enforcement outlining agreed upon procedures for responding to an emergency on school property. The safety provisions of the PSC

have required such agreements since 1995 (see page 21).

Finding No. 5: Charter School Failed to Comply with Open Enrollment and Lottery Provisions of the Charter School Law.

Our audit of the Chester Community Charter School (Charter School) found the Charter School failed to comply with open enrollment and lottery selection provisions under Section 1723-A(a) of the Charter School Law (see page 23).

Finding No. 6: Charter School Out of Compliance with Retirement Requirements.

Our audit of the Chester Community Charter School (Charter School) found that it did not offer a retirement plan to **all** employees as required by the Charter School Law (CSL). In addition, the Charter School's retirement provisions were not included in its original charter application and had not been added to the charter during its renewal process. Consequently, the Charter School is not in compliance with Section 1724-A(c) of the CSL pertaining to retirement (see page 26).

Finding No. 7: Improper Reporting of Certified School Nurse on Health Services Reimbursement Form Submitted for State Reimbursement.

Our audit found that the Chester Community Charter School (Charter School) incorrectly reported an employee to the Pennsylvania Department of Health as a certified school nurse for the 2010-11 and 2009-10 school years. This employee had a lapsed nursing certificate, so the Charter School should have reported her in a supplemental staff category at a lower state reimbursement rate (see page 28).

Finding No. 8: Inaccurate Reporting of Child Accounting Data to the Pennsylvania Information Management System.

Our audit of the Chester Community Charter School's (Charter School) child accounting data for the 2010-11 and 2009-10 school years found significant errors, potentially negatively impacting the membership reporting of the Charter School's sending school districts (see page 30).

Finding No. 9: Internal Control Weaknesses in Tuition Billing Procedures.

Our audit of the Chester Community Charter School's (Charter School) tuition revenue found significant errors, including the failure to bill for some students, the failure to prepare year-end tuition billing reconciliations for all sending districts, the failure to prepare accurate year-end tuition billing reconciliations, and the failure to collect tuition as billed. As a result of these errors, the Charter School did not accurately bill some of its sending school districts in the 2010-11 school year (see page 33).

Finding No. 10: Charter School Lacks Sufficient Internal Controls Over Its Student Record Data.

Our audit of the Chester Community Charter School's (Charter School) data integrity found that internal controls over student record data entered into the Pennsylvania Information Management System (PIMS) need to be improved (see Finding No. 8 for further explanation of PIMS) (see page 37).

Finding No. 11: Charter School's Original Charter Lacks Important Requirements and Has Never Been Updated to Reflect Its Current Operations.

Our audit of the Chester Community Charter School (Charter School) found that the contents of its original charter

never met the application requirements specified in Section 1719-A of the Charter School Law (CSL) and that the original charter was never amended. This deficiency has a direct effect on the Charter School's governance structure because the charter is a legally binding contract under Section 1720-A(a) of the CSL. As a result, the Charter School must reflect its operational changes through amendments to its original charter. In addition, our audit found that the Charter School did not provide required updates to its charter through its renewal applications and did not develop policies and procedures to notify the authorizing school district when it made changes to its approved charter (see page 39).

Status of Prior Audit Findings and Observations. This is our first audit of the Chester Community Charter School. Therefore, there are no prior audit findings or observations (see page 42).

Appendix

The Chester Community Charter School (Charter School) provided a lengthy response to the conclusions included in the audit report. The Charter School's responses are to the summary of findings provided by the Pennsylvania Department of the Auditor General. The Charter School's management responses are included in their entirety in the Appendix at the end of this report. Our auditor's conclusions in response to the Charter School's responses are also included in this section (see pages 43-74).

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 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 2011-12.” December, 2011.

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

Our audit, conducted under 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 May 20, 2012 through April 22, 2013, except for the verification of professional employee certification which was performed for the period July 1, 2008 to July 30, 2012.

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

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

Objectives

What is the difference between a finding and an observation?

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

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the Charter School's compliance with 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 the 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 have sufficient internal controls to ensure that the membership data it reported to PDE through the Pennsylvania Information Management System was complete, accurate, valid, and reliable?

²² 65 Pa.C.S. § 1101 *et seq.*

- ✓ 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, were internal controls in place related to vendor access?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties, which warrant further attention during our audit?

Methodology

What are internal controls?

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

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

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

The Charter School’s management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Charter School is in compliance with applicable laws, contracts, grant 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

²³ 22 Pa. Code § 11.24.

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

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

Findings and Observations

Finding No. 1

Charter School Improperly Received \$1,276,660 in State Lease Reimbursement

Public School Code (PSC) and criteria relevant to the finding:

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

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

Charter School Lease Reimbursement Program Directives from the Pennsylvania Department of Education’s Bureau of Budget and Fiscal Management, Division of School Facilities, state, in part:

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

All public schools, including charters schools, must file annual financial reports with the Pennsylvania Department of Education Comptroller’s Office in accordance with minimum standards of and guidelines for financial accounting and reporting, which are based on generally accepted accounting principles (GAAP) for governmental entities.

Source: Manual of Accounting and Financial Reporting for Pennsylvania Public Schools.

Our audit found that between June 30, 2008 and June 30, 2011, the Chester Community Charter School (Charter School) improperly received \$1,276,660 in state lease reimbursements for buildings that were ineligible for those payments. We question these buildings’ eligibility since one of the Charter School’s Founders previously owned them and later transferred them to a related nonprofit organization (Nonprofit) established for the sole purpose of supporting the Charter School. We also found that the Charter School’s Founder was the buildings’ landlord until October 2010. Furthermore, this same individual started a for profit Management Company for which he is currently its Chief Executive Officer (CEO). This Management Company runs the Charter School, and the Management Company and the Nonprofit are located at the same address. These ownership transfers and questionable transactions among associated individuals and entities created circular lease arrangements among related parties sharing ownership interest in the buildings. Buildings owned by charter schools are not eligible for the state lease reimbursement.

Ownership Transfers

Our audit found that one of the Charter School’s Founders obtained the Charter School’s original charter on March 20, 1998. In 1999, this same founder established a Management Company and became its CEO. The Management Company took over the Charter School’s financial management, administration, teaching staff, and educational curriculum. To date, the Charter School has been the only charter school receiving these management services. Since the Charter School’s creation and through October 2010, this same Charter School Founder/Management Company CEO owned the Charter School’s buildings and acted as the landlord. In October 2010, the Charter School Founder/Management Company CEO sold the buildings to a newly created Nonprofit that he and some associates created with the primary purpose of leasing the properties back to the Charter School. The buildings were sold to the Nonprofit for

Public School Code and criteria relevant to the finding (continued):

GAAP requires that related party relationships and transactions be identified on financial statements.

Related parties are defined by accounting principles to include:

“Other parties that can significantly influence **the management of operating policies of the transacting parties or that have an ownership interest** in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.”

Source: Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 850-10-50.

Section 1720-A(a) of the Charter School Law, 24 P.S. § 17-1720-A(a), provides that, “[t]he written charter shall be legally binding on both the local board of school directors of a school district and the charter school’s board of trustees.”

\$50.7 million and financed through a municipal bond.²⁴ While we requested copies of the deeds for the building transfers to the Nonprofit, the Charter School only provided this information for three of its buildings.

At that time, a new 30-year lease agreement was created between the Charter School and the Nonprofit effective October 9, 2010 to August 31, 2040. According to the Nonprofit’s Internal Revenue Service tax returns (2010, 2011, and 2012), all of the Nonprofit’s reported income and expenses have been related to the Charter School’s leased buildings.

It should also be noted that the Charter School’s facilities are not accurately described in its original charter application. As discussed in Finding 11, the Charter School lacks charter renewals or amendments to the charter updating this information. The charter is a legally binding contract under Section 1720-A(a) of the Charter School Law and by not updating it, the Charter School is maintaining a contract with its authorizing school district that contains out-of-date and/or inaccurate information. These updates should have been reported through the renewal process or at any other time. In addition, while the Charter School’s Board of Trustees appeared to have approved the lease agreements, we were unable to verify the reported lease payments on the forms submitted to the Pennsylvania Department of Education (PDE) for state lease reimbursements. Further, there was also no mention of the lease payments in the Charter School’s board meeting minutes.

Ineligibility for Lease Reimbursement

Under the Public School Code (PSC) and lease reimbursement guidelines established by PDE, a charter school may receive reimbursement from the Commonwealth for a portion of its costs associated with leasing building space for educational purposes. However, the charter schools’ buildings must meet certain eligibility criteria in order to qualify for reimbursement. One of those criteria is that the buildings eligible for state reimbursement cannot be owned by the charter school.

²⁴ According to Official Bond Statement, dated October 13, 2010, obtained through public resources and not provided by the Charter School.

From the Charter School's inception until October 2010, the Charter School was leasing its buildings from the Charter School's Founder/Management Company CEO. Annual lease payments received by the Charter School's Founder/Management Company CEO totaled approximately \$3.6 million during the 2008-09 and 2009-10 school years. In October 2010, the buildings were sold to the Nonprofit resulting in the Charter School and the Nonprofit entering into a 30-year lease agreement. The lease agreement requires the Charter School to pay approximately \$340,000 per month or approximately \$4 million annually.

The lease also requires the Charter School to make its lease payments to the trustee of the municipal bond obtained by the Nonprofit and not to the Nonprofit itself. According to the lease, the lease payments are to be used to fund the bond to the Nonprofit, and the Nonprofit has assigned all of its rights to the properties to the bond issuer until the bond is paid in full. The Nonprofit paid \$50.7 million to the Charter School's Founder/Management Company CEO to acquire the buildings, and the Charter School is required to make lease payments totaling \$120.6 million over the 30-year lease agreement to the Nonprofit.

Given the leasing arrangements both prior to and after 2010, we believe the Charter School was/is essentially leasing the buildings to itself. Prior to October, 2010, the Charter School was leasing from its Founder/Management Company CEO. After October, 2010, the Charter School was/is leasing from a related Nonprofit created for the sole purpose of leasing the buildings to the Charter School. In both instances, leasing arrangements were between related parties. We maintain that circular lease arrangements such as these are not eligible for reimbursement.

Additionally, since the Charter School is a public school funded primarily by taxpayer dollars, the transfer of real estate valued at over \$50 million²⁵ to the related Nonprofit resulted in assets intended for public education being transferred to and controlled by a nonprofit entity, thus lacking accountability to the Charter School, the authorizing school district, and the taxpayers.

The Charter School applied for and received \$396,960 in state lease reimbursements for the 2008-09 school year,

²⁵ Ibid.

\$418,620 in 2009-10, and \$461,080 in the 2010-11 school year. Thus, during our years of audit, the Charter School received lease reimbursements totaling \$1,276,660.

According to the Charter School's administration, the Charter School's Founder/former property owner/Management Company CEO does not hold an official role with the Nonprofit, so it does not believe that the Charter School is ineligible to receive the state lease reimbursements. We disagree based on the facts presented. This finding will be forwarded to PDE's Division of School Facilities, the division responsible for administering the Reimbursement for Charter School Lease Program, for its review and final determination regarding the Charter School's eligibility to receive state lease reimbursements.

Recommendations

The *Chester Community Charter School* should:

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

The *Pennsylvania Department of Education* should:

4. Take immediate steps to require the Charter School to repay the \$1,276,660 owed to the Commonwealth for the improper reimbursement it received from the Reimbursement for Charter School Lease Program.
5. Cease from making future payments to the Charter School under the Reimbursement for Charter School Lease Program if the Charter School continues to lease space from a related-party entity.

Charter School's Response begins on page 44.

Auditor's Conclusion begins on page 44.

Finding No. 2

Charter School Failed to Comply with the Teacher Certification Provisions of the Federal No Child Left Behind Act

Charter School Law and other criteria relevant to the finding:

Section 17-1732-A of the Charter School Law, 24 P.S. § 17-1732-A, requires charter schools to comply with Chapter 711 of the *Pennsylvania Code*, 22 Pa. Code § 711 *et seq.*, specific to special education services and programs at charter and cyber charter schools.

Chapter 711 regulations require:

“Persons who provide special education or related services to children with disabilities in charter schools and cyber charter schools shall have appropriate certification ...” (22 Pa. Code § 711.5(a))

Section 7801(23) of the Elementary and Secondary Education Act of 1965, as amended by the federal No Child Left Behind Act (NCLB), 20 U.S.C. § 6301 *et seq.* (specifically 20 U.S.C. § 6319) requires that all teachers who teach core academic subjects in public schools be “highly qualified.”

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

In Pennsylvania, the NCLB core content subjects include English, reading/language arts, mathematics, sciences, foreign languages, music and art, and social studies (history, economics, geography, and civics and government).

The Pennsylvania Department of Education is responsible for establishing the methods for Pennsylvania teachers to obtain “highly qualified” status.

We reviewed Chester Community Charter School’s (Charter School) professional employees’ certification and assignments for the period July 1, 2008 to June 30, 2012. Our examination included compliance with the certification requirements of the Charter School Law (CSL), the Public School Code (PSC), Chapter 711 of the *Pennsylvania Code* (Chapter 711), the federal No Child Left Behind Act (NCLB), and the Pennsylvania Department of Education’s (PDE) Bureau of School Leadership and Teacher Quality’s (BSLTQ) Certification and Staffing Policies and Guidelines (CSPG).

Our audit found that all administrators and regular education teachers were properly certified for their teaching assignments. However, while all special education teachers were properly certified for their special education assignments, they were also teaching elementary education or core content subjects without being “highly qualified” as required by the federal NCLB. The chart below outlines these findings:

School Year	Number of Special Education Teachers Not “Highly Qualified”	Total Special Education Teachers	Percentage of Total
2011-12	3	35	10%
2010-11	7	33	20%
2009-10	7	27	30%
2008-09	5	22	25%

Additionally, the Charter School could not provide us with schedules for its itinerant certified special education teachers. Due to the lack of documentation, the auditors could not determine if the itinerant teachers were assigned outside their area of certification or if they were in violation of the certification requirements.

All special education professional staff must hold appropriate State certification and cannot be part of the 25 percent noncertified professional staff allowed at charter and cyber charter schools. Further, all individuals

teaching core content subjects must be “highly qualified” pursuant to the federal NCLB. In Pennsylvania, the NCLB core content subjects include English, reading/language arts, mathematics, sciences, foreign languages, music and art, and social studies (history, economics, geography, and civics and government). NCLB’s “highly qualified” status is separate from, and in addition to, appropriate State certification.

These deficiencies appear to stem from the Charter School personnel’s lack of a clear understanding of the State certification and “highly qualified” requirements under the CSL, PDE’s CSPGs, and the federal NCLB. Further, the Charter School’s management described these special education teachers as assistants and not the teachers of record, so management felt they did not need to be “highly qualified.” However, this explanation was contrary to the documentation provided during the audit and to the classroom settings that the auditors observed during fieldwork and building safety inspections.

A lack of properly qualified teachers could result in the Charter School’s students not receiving the quality education or the special education services they are entitled. In addition, certification deficiencies could make it more difficult for the Charter School to renew its charter, or, if severe enough, become a reason for its authorizing school district to revoke its charter. Further, noncompliance with the federal NCLB could make the Charter School ineligible for federal funding and/or grants.

PDE is responsible for regulating State certification requirements and “highly qualified” teacher credentials. As such, the auditors submitted the information in this finding to PDE for review. PDE will notify the Charter School when it confirms that the individuals were not “highly qualified” to teach in their assignments and request that the Charter School correct this deficiency.

Recommendations

The *Chester Community Charter School* should:

1. Immediately review the credentials of all of its special education staff and ensure that the special education staff who provide core content instruction are “highly qualified” in fundamental subjects content knowledge as required by the federal NCLB and are in compliance with PDE’s CSPGs.
2. Prepare schedules or other documentation for all itinerant teachers outlining the teaching responsibilities.
3. Provide administrative personnel with sufficient training to understand and manage certification requirements as defined by the CSL, PDE’s CSPGs, and the federal NLCB.

The *Chester Upland School District*, as the authorizing school district, should:

4. Review the approved charter of the Charter School and verify that the Charter School is not violating any terms of its charter.

Charter School’s Response begins on page 51.

Auditor’s Conclusion begins on page 52.

Finding No. 3

Weaknesses in School Board Meeting Minutes

Charter School Law (CSL), Public School Code (PSC), and other criteria relevant to the finding:

Section 17-1732-A(a) of the CSL, 24 § 17-1732-A(a), requires charter schools to comply with specific provisions of the PSC, including Section 518 of the PSC, 24 P.S. § 5-518, which requires the board of trustees to retain as **permanent record** of a charter school, **the minute book**, each annual auditor's report, and each annual financial report.

Section 17-1716-A(c) of the CSL, 24 § 17-1716-A(c), requires charter schools to comply with the Sunshine Act, 65 Pa.C.S. § 701 *et seq.*, which requires written minutes to be kept of all open meetings of agencies and that the minutes shall include the **substance of all official actions** and a record by individual member of the roll call votes taken.

Chapter 4 - Preparing Board Minutes of *The School Board Secretary's Handbook* published by the Pennsylvania School Board Secretaries Association identifies items that should be included in official minutes, including:

- Monthly bills, with an account code number and what was/is to be paid.
- Election of all members, who were elected and length of term.
- Secretary must sign all minutes, regular, adjourned, and special meetings.

Our audit of the Chester Community Charter School's (Charter School) board meeting minutes from June 9, 2008 through April 18, 2013, found inadequacies in the recording and documenting of board actions, as follows:

1. Approval of monthly bill listings detailing the payee and amounts was not noted in the minutes.
2. Appointment of board members and their length of term was not included in the minutes.
3. Minutes were not properly signed and dated by the board secretary.
4. Minutes were presented either in a stack with rubber bands around and/or loose leaf binders and were not permanently bound.
5. Minutes did not have sequentially numbered pages.

Under the Sunshine Act, the Charter School's Board of Trustees' (Board) approval of a list of all bills and the appointment of board members are considered official actions to be included in the board meeting minutes. The permanent documentation of these important actions assures the public that the Board is approving these activities and its members are appropriately involved in the operations of the Charter School.

As required by Section 518 of the Public School Code, the Charter School should ensure the permanence and accuracy of these records by requiring that the Board Secretary sign and date the minutes, binding them, and sequentially numbering their pages. According to *The School Board Secretary's Handbook*, these steps are also best practices for keeping board minutes. For example, the Board Secretary's signature provides assurance that the minutes have been prepared accurately and have board approval. Moreover, permanently binding minutes ensures that pages cannot be removed and replaced. Sequential page numbering ensures the minutes are complete and that nothing has been removed. Without these internal controls,

there is an increased risk that this important information will not be maintained accurately or completely.

Charter School officials did not believe they had a responsibility to include bill listings or appointments of board members in the minutes. They also did not believe that the law required the minutes to be bound, sequentially numbered, and signed by the Board Secretary. While these items are not specifically required by law, they are examples of official action and indicators of permanence and accuracy, which are required. Further, these items are consistent with best practices for keeping board minutes. As such, the Charter School's failure to adequately record and document board actions lessens the Charter School and its Board of Trustees' transparency and accountability to the public and resulted in violations of the CSL and the Sunshine Act.

Recommendations

The *Chester Community Charter School* should:

1. Require the Board Secretary to record all the official actions of the Board of Trustees in the meeting minutes that should be retained as a permanent record of the Charter School.
2. Make certain that the meeting minutes are a permanent and complete record of all official board activity by requiring the minutes to be signed, bound, and sequentially numbered.
3. Follow best practices for keeping board meeting minutes to ensure the permanence and accuracy of these records.

Charter School's Response begins on page 53.

Auditor's Conclusion begins on page 53.

Finding No. 4

Failure to Develop and to Timely File a Memorandum of Understanding with Local Law Enforcement

Public School Code (PSC) and criteria relevant to the finding:

Section 1303-A(c) of the PSC, 24 P.S. § 13-1303-A(c), amended November 17, 2010, with an effective date of February 15, 2011, provides, in part:

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

The “office” refers to the Office for Safe Schools established within the Pennsylvania Department of Education through Section 1302-A(a) of the PSC, 24 P.S. § 13-1302-A(a). The term “biennially” means an event that occurs every two years.

Prior to the effective date of the above referenced enactment of the MOU requirements, all public schools were required to **develop** a MOU with local law enforcement.

Our audit of the Chester Community Charter School (Charter School) found that the Charter School failed to submit a Memorandum of Understanding (MOU) with local law enforcement to the Pennsylvania Department of Education’s (PDE) Office for Safe Schools (Office) by June 30, 2011, as required in the Public School Code (PSC). While the Charter School did execute MOUs with two local law enforcement agencies on July 11, 2011 and August 8, 2011, it did not meet the filing deadline. Prior to these dates, the Charter School did not have MOUs with local law enforcement outlining agreed upon procedures for responding to an emergency on school property. The safety provisions of the PSC have required such agreements since 1995.

According to Charter School personnel, they missed the June 30, 2011 filing deadline due to difficulties in getting the MOUs signed by the appropriate local law enforcement agencies. Charter School personnel also stated that they failed to develop MOUs with local law enforcement prior to July 11, 2011 and August 8, 2011, because prior to the enactment of the additional MOU requirements on November 17, 2010, they were unaware that the MOU requirement applied to all public schools.

By not timely developing and filing MOUs with all necessary local law enforcement agencies, the Charter School was in violation of the PSC. This noncompliance could have negatively impacted local law enforcement’s notification and response to an emergency at the Charter School. Additionally, if an emergency had occurred, not having a properly executed MOU for so many years prior to 2011 could have resulted in a lack of cooperation, direction, and guidance between Charter School employees and local law enforcement.

The amendments to the PSC that set the June 30, 2011 filing deadline for MOUs also expanded the requirements of the safe schools provisions. Specifically, those provisions now require all public schools to biennially update and re-execute their MOUs with local law enforcement and then re-file them with PDE’s Office on a

biennial basis. Consequently, the Charter School's management should be informed of all safety requirements, and the Charter School should adopt policies and procedures to ensure the biennial re-execution and re-filing of MOUs timely takes place.

Recommendations

The *Chester Community Charter School* should:

1. In consultation with the Charter School's solicitor, review the requirements for a MOU and other school safety areas under the PSC to ensure compliance with amended safe schools provisions enacted on November 17, 2010.
2. Adopt an official board policy requiring the Charter School's administration to biennially update and re-execute all MOUs with police departments having jurisdiction over school property and to file a copy with PDE's Office by the due date on a biennial basis.

Charter School's Response begins on page 55.

Auditor's Conclusion begins on page 56.

Finding No. 5

Charter School Failed to Comply with Open Enrollment and Lottery Provisions of the Charter School Law

Charter School Law (CSL) and criteria relevant to the finding:

Section 17-1723-A(a) of the CSL, 24 P.S. § 17-1723-A(a) states:

“(a) All resident children in this Commonwealth qualify for admission to a charter school within the provisions of subsection (b). If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.”

Section 1720-A(a) of the CSL, 24 P.S. § 1720-A(a), states, in part:

“ . . . This written charter, when duly signed by the local board of school directors of a school district, or by the local boards of school directors of a school district in the case of a regional charter school, and the charter school's board of trustees, shall act as legal authorization for the establishment of a charter school. This written charter shall be legally binding on both the local board of school directors of a school district and the charter school's board of trustees. . . .”

Our audit of the Chester Community Charter School (Charter School) found that the Charter School failed to comply with the open enrollment and lottery selection provisions of Section 1723-A(a) of the Charter School Law (CSL). In particular, the Charter School did not:

- include student admissions policies in its original charter and subsequent renewals,
- hold public lotteries to determine which students would be placed on its wait lists, and
- publically post its enrollment policies and procedures.

The absence of these policies and procedures prevented the Charter School from demonstrating that Pennsylvania students had an equal opportunity to enroll in its facility.

The auditors reviewed the Charter School's original charter application from 1997 and found it did not contain an admissions policy and criteria for evaluating the admission of students, as required by Section 1723-A of the CSL. Moreover, the Charter School failed to update its original application regarding minimum enrollment. As a result, the original charter application still contained outdated information, such as an enrollment priority to K-4 grade students who are residents of Old Franklin Community School District and a lottery for the admission of students who live within other sections of Chester.

The auditors did not receive any documentation to demonstrate that this old policy had been revised through the Charter School's renewal process or otherwise. Moreover, the Charter School did not have any policies and procedures in place to notify the authorizing school district when it made changes to the policies that it had outlined in its original charter.

Since a charter is a legally binding contract under Section 1720-A(a) of the CSL, any changes to the original terms must be documented and approved by both parties. Accordingly, changes should be documented through amendments to the charter, and revisions must be approved

CSL and criteria relevant to the finding (continued):

The Pennsylvania Department of Education's Basic Education Circular on "Charter Schools" specific to renewal procedures states, in part:

"Charter schools that wish to change a portion of the Charter agreement due to changes in the charter school's educational program during the renewal process or anytime while the charter is in effect, should request that the chartering school district board of directors approve an amendment to the Charter. Except as otherwise provided in subsection (b), the charter shall be for a period of no less than three (3) nor more than five (5) years and may be renewed for five (5) year periods upon reauthorization by the local board of school directors of a school district or the appeal board. . . ."

Section 17-1732-A(b) of the CSL, 24 § 17-1732-A(b), requires charter schools to comply with Chapter 11 of the *Pennsylvania Code*, 22 Pa. Code § 11 *et seq.*, relating to pupil attendance.

Chapter 11 regulations require:

"Each school board shall adopt written policies concerning district child accounting, attendance, admission, excusal and program procedures as necessary to implement this chapter. The policies shall be a matter of public record." (22 Pa. Code § 11.41(a))

by the Charter School's Board of Trustees and the authorizing school district. According to the Pennsylvania Department of Education's Basic Education Circular (BEC) on Charter Schools, these amendments can be made during the renewal process or anytime while the charter is in effect.

The audit also found that the Charter School violated Section 1723-A (a) of the CSL because it failed to conduct an enrollment lottery in order to determine which students would be placed on an admission waiting list. The CSL establishes enrollment criteria and requires a random selection process for charter schools with more applicants than openings. In addition, PDE's "Summary of Charter School Legislation" further states that "capacity issues will be settled by the use of a lottery."²⁶ According to the Charter School's annual reports, it consistently operates with a wait list of over 100 students. However, for the years of audit, the auditors found no evidence that the Charter School held a lottery as required. Since the Charter School has more students than openings, it is required to hold a lottery to determine which students will be admitted.

Finally, the auditors also found that the Charter School did not publically post student enrollment policies and procedures on its website or elsewhere. Section 11.41(a) of the *Pennsylvania Code* requires that all school entities, including charter schools, develop written policies governing student admissions and make these policies available to the public. PDE's BEC on the "Enrollment of Students" recommends that charter schools post their admission policies and procedures on their website.

As a public school, the Charter School must not discriminate in its admissions. Without proper enrollment policies and practices, the Charter School cannot assure prospective students and their parents that it is making fair and impartial decisions about who attends the school. The Charter School negatively impacted the transparency of its operations when it did not appropriately revise its original charter to reflect changes in its operations related to

²⁶ PDE's interpretation has also been upheld by Pennsylvania case law. Specifically, in 2004, the Commonwealth Court recognized in *Central Dauphin School District v. Founding Coalition, Infinity Charter School*, 847 A.2d 195, 200 (Pa. Cmwlth. 2004), appeal denied 860 A.2d 491, 580 Pa. 707 (Pa. 2004), "a **lottery** will be held if applications exceed openings" in charter schools under the Charter School Law. (Emphasis added.)

enrollment, publically post its current enrollment procedures, or conduct student lotteries.

Recommendations

The *Chester Community Charter School* should:

1. Immediately review, update, and re-execute the policies and procedures for enrollment and lottery processes, in cooperation with the Charter School's Board of Trustees, administrators, and in consultation with the Charter School's solicitor.
2. Amend the terms of its original charter to reflect any changes to the Charter School's educational program, including updated enrollment and lottery processes and expanded grade levels and buildings, and obtain approval from the authorizing school district.
3. Request its solicitor to provide a summary of all the Charter School's legal requirements under the CSL and its associated regulations, the Public School Code, and PDE guidelines and ensure compliance with these obligations.

Charter School's Response begins on page 57.

Auditor's Conclusion begins on page 57.

Finding No. 6

Charter School Out of Compliance with Retirement Requirements

Charter School Law (CSL) and Public School Employees' Retirement Code provisions relevant to the finding:

Retirement included as required by Section 1724-A (c) of the CSL, 24 P.S. § 17-1724-A(c), which states:

“(c) All employees of a charter school shall be enrolled in the Public School Employees’ Retirement System in the same manner as set forth in 24 Pa.C.S. 8301(a) (relating to mandatory and optional membership) unless at the time of **the application** for the school the sponsoring district or board of trustees of the charter school has a retirement program which covers the employees or the employee is enrolled in another retirement system.” [Emphasis added.]

Section 8301(a) of the Public School Employees' Retirement Code, 24 Pa.C.S. § 8301(a), states:

“(a) Mandatory membership – Membership in the system shall be mandatory as of the **effective date of employment** for all school employees . . . “ [Emphasis added.]

Our audit of the Chester Community Charter School (Charter School) found that it did not offer a retirement plan to **all** employees as required by the Charter School Law (CSL). In addition, the Charter School’s retirement provisions were not included in its original charter application and had not been added to the charter during its renewal process. Consequently, the Charter School is not in compliance with Section 1724-A(c) of the CSL pertaining to retirement.

Under Section 1724-A(c) of the CSL, charter schools must offer **all** of their employees enrollment in the Public School Employees’ Retirement System (PSERS) **or** another retirement program. The retirement provisions must be in place at the time of the charter application. Our audit found no evidence that the Charter School offered its employees enrollment in PSERS or another retirement program at the time of its charter application. Although the Charter School currently offers a 401K plan, **all** employees do not immediately qualify for the plan because it includes eligibility criteria. In order for an employee to be eligible, he/she must be at least 21 years of age, with at least a minimum of one year of work history which includes at least 500 hours at the Charter School. In addition, there are only four entry dates when an employee can join the 401K (4 quarters) plan after meeting eligibility requirements. Moreover, the Charter School has failed to amend its original charter to reflect current retirement options. As explained in Finding No. 5, a charter is a legally binding contract that must be updated and approved.

The Charter School violated the retirement provisions of the CSL because its management stated that it views the eligibility requirements associated with its retirement plan as a threshold specific to the plan itself. Therefore, it asserts that the plan is open to all of its employees. However, the eligibility requirements of the Charter School’s retirement plan and its quarterly enrollment waiting periods prevent some employees from participating in it. For example, the Charter School prevents its new employees from participating in the retirement plan for at least one year, and then the employee must wait for an open

enrollment quarter. Further, the Charter School's failure to revise its original charter to reflect its current 401K plan reduces transparency related to its employees' retirement plan.

Recommendations

The *Chester Community Charter School* should:

1. Review, update, and re-execute the policies and procedures for employee retirement, in consultation with the Charter School's Board of Trustees, administrators, and its solicitor to ensure compliance with Section 1724-A(c) of the CSL.
2. Update its original charter to ensure that it reflects all of the Charter School's current operational activities, including retirement plans.
3. Request its solicitor to provide a summary of all the Charter School's legal requirements under the PSC and the CSL, including retirement requirements.

Charter School's Response begins on page 59.

Auditor's Conclusion begins on page 59.

Finding No. 7

Improper Reporting of Certified School Nurse on Health Services Reimbursement Form Submitted for State Reimbursement

Public School Code (PSC) and other criteria relevant to the finding:

Section 2505.1 of the PSC, 24 P.S. § 25-2505.1, requires the Commonwealth to reimburse all public schools, including charter schools, for a portion of its costs related to medical, dental, and school nurse services as certified to the Secretary of Health.

This provision requires a reimbursement rate of \$7.00 per average daily membership for a certified school nurse and \$1.60 for supplemental staff.

According to the Pennsylvania Department of Health's *Request for Reimbursement and Report of School Health Services Instruction Manual*, a registered nurse, licensed practical nurse, or unlicensed personnel assisting the certified school nurse must be reported under the billing category of "supplemental staff."

Our audit found that the Chester Community Charter School (Charter School) incorrectly reported an employee to the Pennsylvania Department of Health (PDH) as a certified school nurse for the 2010-11 and 2009-10 school years. This employee had a lapsed nursing certificate, so the Charter School should have reported her in a supplemental staff category at a lower state reimbursement rate.

To receive state health services reimbursement from PDH, all public schools, including charter schools, must submit a Health Services Reimbursement Form three months after the end of the school year. This reimbursement form must include totals of itemized costs by category for medical, dental, and nursing services. According to PDH's Health Services Reimbursement Form Instructions Manual, individuals assisting the certified school nurse, such as a registered nurse, licensed practical nurse, or unlicensed personnel, must be reported as supplemental staff.

Based on our review of the Charter School's health services documentation for the 2010-11 and 2009-10 school years, we found one employee who the Charter School personnel incorrectly reported as a certified school nurse, even though she had a lapsed nursing certificate. The Pennsylvania Department of Education had issued the employee a temporary nursing certificate in August 2003, but it expired in August 2009, and the employee did not receive a permanent nursing certificate until January 2011. Therefore, Charter School personnel should not have reported her as a certified school nurse on the PDH Health Services Reimbursement Forms from September 2009 through December 2010. Consequently, the Charter School received state reimbursement at a higher rate than it should have for the 2010-11 and 2009-10 school years, which is in violation of the Public School Code.

The Charter School's management was unaware that this employee's nursing certificate had lapsed for the period stated, so the staff continued to report her to PDH as a certified school nurse. Simple internal controls for verifying these certifications, such as an annual review of medical staff's certification status, would have caught this error

before the Charter School reported its health services information to PDH. PDH pays state health reimbursement based solely on the information reported on the Health Services Reimbursement Form. Therefore, it is management's responsibility to ensure that the Charter School has appropriate internal controls in place to ensure the data on the form is complete and accurate.

This finding will be forwarded to PDH for its review and determination about whether the Charter School received reimbursements to which it was not entitled.

Recommendations

The *Chester Community Charter School* should:

1. Establish a process for annually verifying the credentials and state certifications of all health services staff.
2. Ensure that health services staff, including certified school nurses and any supplemental staff, are reported under the proper billing categories on the Health Services Reimbursement Form.

The *Pennsylvania Department of Health* should:

3. Review the Health Services Reimbursement Forms submitted by the Charter School for the 2010-11 and 2009-10 school years and make any necessary adjustments to the Charter School's state reimbursements.

Charter School's Response begins on page 60.

Auditor's Conclusion begins on page 61.

Finding No. 8

Inaccurate Reporting of Child Accounting Data to the Pennsylvania Information Management System

Criteria relevant to the finding:

According to the Pennsylvania Department of Education's (PDE) annual *Pennsylvania Information Management System (PIMS) User Manuals*, all Pennsylvania local education agencies must submit data templates as part of the year-end child accounting data collection. One such template is the Student Calendar Fact Template.

This template is used to associate a student's membership days with a unique calendar uploaded in the School Calendar file. Students will have more than one record in the Student Calendar Fact file if they were withdrawn and reentered due to a change in one of the following fields: Calendar ID, District Code of Residence, Funding District Code, Residence Status Code, or Sending Charter School Code.

Days Enrolled is used to calculate average daily membership, which is an integral element of subsidy calculations for each of the Charter School's sending districts. Additionally, since each sending district is responsible for the payment of tuition for its resident students, Days Enrolled, as reported to PDE through PIMS, should agree with tuition invoicing for each sending district.

Our audit of the Chester Community Charter School's (Charter School) child accounting data for the 2010-11 and 2009-10 school years found significant errors, potentially negatively impacting the membership reporting of the Charter School's sending school districts. These errors were caused by the Charter School's failure to appropriately follow the requirements of the Pennsylvania Information Management System (PIMS) User Manual and a failure to reconcile the Charter School's Student Information System (SIS) reports and PIMS reports.

The Pennsylvania Department of Education (PDE) collects all student record data through PIMS. PIMS is a statewide longitudinal data system or "data warehouse" designed to manage and analyze individual student data for each student served by Pennsylvania's Pre-K through Grade 12 public education systems. PDE began calculating the school districts' state subsidy using the data in PIMS beginning in the 2009-10 school year. While Pennsylvania charter schools do not receive payments directly from PDE, the information they enter into PIMS impacts the state subsidies paid to their sending school districts, which ultimately impacts the tuition they receive.

The auditors reviewed the Charter School's PIMS reports, SIS reports, and tuition billings for the 2009-10 and 2010-11 school years and found the following significant child accounting errors:

Child Accounting Errors for the 2010-11 School Year

- Seven student records appearing on the printout from the SIS were not uploaded to PIMS because those students were not assigned a PA Secure ID in the SIS. The PA Secure ID is the student record's key field under which all other data is accessible. Student records without a PA Secure ID cannot be uploaded to PIMS.

Criteria relevant to the finding (continued):

According to the federal Government Accountability Office's (GAO) (formerly the General Accounting Office) *Standards for Internal Control in the Federal Government*, internal controls are key factors in an agency's ability to meet its mission, improve performance, and "minimize operational problems."

In addition, this guidebook states that an "Internal control is not an event, but a series of actions and activities that occur throughout an entity's operations and on an ongoing basis . . . In this sense, internal control is management control that is built into the entity as a part of its infrastructure to help managers run the entity and achieve their aims on an ongoing basis." U.S. General Accounting Office. *Standards for Internal Control in the Federal Government*. (November 1999),

- The membership days reported in PIMS for 31 students did not reconcile with the Charter School's tuition billing reports. Membership days reported through PIMS and credited to the sending school district should agree to the days invoiced to that district for each student attending the Charter School. There was not enough information available to determine the correct membership days or tuition amounts for these students.
- Students who withdrew from the Charter School at the beginning of the school year were not deleted from the SIS. Those records were uploaded to PIMS. Membership days were credited to sending school districts, and subsequently, those districts received state subsidy in error based on incorrect membership. However, the Charter School did not bill these affected districts for these students.

Child Accounting Errors for the 2010-11 School Year

The auditors attempted to reconcile the information contained in the Charter School's summary year-end PIMS reports with the membership reports from its SIS. None of the reports matched, so the auditors could not continue their evaluation of the Charter School's membership information for the 2009-10 school year.

The child accounting errors in both of the years reviewed occurred because the Charter School's child accounting staff did not have a sufficient working knowledge of PIMS procedures. For example, in the 2010-11 school year, Charter School personnel failed to properly follow PDE's procedures for assigning PA Secure IDs and entering/withdrawing students when their sending school district changed. In addition, if the Charter School had put basic internal controls in place, such as reconciling its SIS reports to its PIMS summary reports, it would have caught many of the errors we identified before the data was sent to PDE.

Errors in the Charter School's PIMS reporting affects its sending school districts' membership totals, and subsequently, those school districts' subsidy calculations. This in turn could impact the tuition the Charter School receives from those districts. It is the Charter School management's responsibility to have the proper internal

controls in place to ensure that student data is accurately collected and reported.

Recommendations

The *Chester Community Charter School* should:

1. Ensure that current child accounting staff is properly trained on PIMS procedures, including assigning a PA Secure ID and handling entry and withdrawal.
2. Immediately develop procedures to ensure that all students educated by the Charter School have been assigned a PA Secure ID in the Charter School's SIS.
3. Immediately develop procedures to ensure that each student is assigned to the correct sending district in the SIS. That assignment should agree with tuition billing.
4. Delete student records from the SIS at the beginning of each year for students who have enrolled at another public school.
5. Immediately reconcile the printouts from the SIS with the printouts from PIMS to ensure that all student records have been accurately uploaded.

Charter School's Response begins on page 61.

Auditor's Conclusion begins on page 61.

Finding No. 9

Internal Control Weaknesses in Tuition Billing Procedures

Charter School Law (CSL) and other criteria relevant to the finding:

Section 17-1725-A(a)(5) of the CSL, 24 P.S. § 17-1725-A(a)(5), states:

“(a) Funding for a charter school shall be provided in the following manner: . . . (5) Payments shall be made to the charter school in twelve (12) equal monthly payments, by the fifth day of each month, within the operating school year. A student enrolled in a charter school shall be included in the average daily membership of the student’s district of residence for the purpose of providing basic education funding payments and special education funding pursuant to Article XXV. If a school district fails to make a payment to a charter school as prescribed in this clause, the secretary shall deduct the estimated amount, as documented by the charter school, from any and all State payments made to the district after receipt of documentation from the charter school.”

The Pennsylvania Department of Education’s (PDE) Basic Education Circular on *Charter Schools* further requires that invoices must be sent to sending school districts in sufficient time for the sending districts either to make payments by the fifth day of the following month or to decide that payments will not be made to the requesting charter school.

The charter school funding section of PDE’s website (www.education.state.pa.us) provides the format for the documentation required from a charter school to substantiate its claim to funding.

Our audit of the Chester Community Charter School’s (Charter School) tuition revenue found significant errors, including the failure to bill for some students, the failure to prepare year-end tuition billing reconciliations for all sending districts, the failure to prepare accurate year-end tuition billing reconciliations, and the failure to collect tuition as billed. These errors were caused by the Charter School’s lack of knowledge about the tuition billing process, a failure to verify the information coming from its authorizing school district, which handles its child accounting functions, and a failure to maintain basic internal controls over its billing process. As a result of these errors, the Charter School did not accurately bill some of its sending school districts in the 2010-11 school year.

Failure to Bill Tuition for Certain Students

Our audit found that the Charter School did not bill the sending school districts for three students during the 2010-11 school year, even though the students’ membership was reported correctly via the Pennsylvania Information Management System (PIMS). All three of these students were ultimately withdrawn due to nonattendance. Since tuition is based on enrollment, not attendance, the Charter School should have billed the sending school districts for tuition until the students withdrew. The Charter School’s administration indicated that these errors occurred because the staff lacked knowledge concerning billing procedures for truant students. As a result of this error, the Charter School lost potential revenue, and the sending school districts received basic education funding for charter school students for which they did not pay tuition.

Failure to Prepare Accurate Year-End Billing Reconciliations for All Sending Districts

For the 2010-11 school year, our audit found that the Charter School only prepared year-end billing reconciliations for 5 of its 11 sending school districts. The remaining six sending school districts received only a final monthly billing report.

*Criteria relevant to the finding
(continued):*

According to the federal Government Accountability Office's (GAO) (formerly the General Accounting Office) *Standards for Internal Control in the Federal Government*, internal controls are key factors in an agency's ability to meet its mission, improve performance, and "minimize operational problems."

In addition, this guidebook states that an "Internal control is not an event, but a series of actions and activities that occur throughout an entity's operations and on an ongoing basis . . . In this sense, internal control is management control that is built into the entity as a part of its infrastructure to help managers run the entity and achieve their aims on an ongoing basis." U.S. General Accounting Office. *Standards for Internal Control in the Federal Government*. (November 1999), pg 1.

For the 2009-10 school year, our audit found that the Charter School did not prepare year-end billing reconciliations for any of its 11 sending districts. According to the Charter school's administration, they did not believe that they were required to prepare year-end reconciliations for all of their sending school districts.

The Charter School Law (CSL) requires tuition payments to be made in twelve equal monthly installments during the period a student is enrolled. However, this method of billing does not reflect actual membership days. As such, there is the need for a year-end billing reconciliation. The reconciliation process provides a mechanism to align tuition billing with membership reporting and to ensure that sending school districts pay tuition only for the actual number of days a student is enrolled at the Charter School.

As a result of the Charter School's failure to prepare reconciliations, the sending school districts paid tuition to the Charter School which did not reflect actual membership days. Consequently, the tuition paid by these districts is inherently inaccurate. It should also be noted that our review found disagreements between tuition payments and membership reporting through PIMS (see Finding No. 8), resulting in the sending districts not receiving the correct amount of basic education funding to offset their tuition payments.

Therefore, charter schools must conduct a year-end billing reconciliation to align their monthly tuition billings with their membership reporting. Only through this process are sending school districts assured that they are paying tuition for the actual number of days a student was enrolled at the Charter School.

Inaccurate Year-End Billing Reconciliations

Of the five year-end tuition billing reconciliations that the Charter School prepared for the 2010-11 school year, only one was billed for the correct calendar days of 165 days of kindergarten and 167 days for first through eighth grades. All four of the other reconciliations incorrectly reported 171 days in session for kindergarten and 173 days in session for first through eighth grades. In addition, these four reconciliations had proportionally inflated individual student membership.

According to the Charter School's administration, incorrect data came from the authorizing school district, which currently performs the majority of its child accounting functions. However, the fact that the Charter School uses a third-party vendor for these activities does not relieve it of its responsibility to ensure that its membership data is valid, complete, and accurate. If Charter School staff had simply compared the days in session on all five of the reconciliations they prepared, they would have seen that some of the data was inaccurate.

These errors resulted in an incorrect calculation of average daily membership, which is an integral element of the overall tuition calculation. Consequently, the Charter School also likely billed these sending school districts incorrectly.

Failure to Collect Tuition as Billed

As part of their review, the auditors compared the Charter School's reports for tuition billed and tuition collected for the 2010-11 school year. They found that one sending school district underpaid the Charter School, while two other sending school districts overpaid. Neither of the two districts that overpaid received a refund or a credit to a future bill. Exact amounts of under/overpayments cannot be provided due to membership reporting errors and/or inaccurately prepared year-end billing reconciliations that could not be corrected.

The Charter School obtained the money owed to it by the one sending school district that underpaid through a Settlement Agreement between the Charter School and PDE. However, since the Charter School's administration indicated that it was not aware of the tuition overpayments, they did not attempt to refund money to those sending school districts that overpaid. Tuition for the 2009-10 school year was not analyzed since membership could not be reconciled (see Finding No. 8).

In conclusion, the Charter School did not follow proper billing procedures and it over relied on student information entered by the authorizing school district. Moreover, the Charter School's staff lacked adequate training to identify and correct potential billing errors.

Recommendations

The *Chester Community Charter School* should immediately:

1. Educate its staff about how the tuition billing process works, so that they can develop effective internal controls for monitoring this process.
2. Prepare a year-end billing reconciliation for all sending school districts.
3. Review and verify the child accounting membership information provided to it by its authorizing school district.
4. Collect exactly the amount of tuition due as calculated on the year-end billing reconciliation. Any excess tuition collected should be refunded or credited to a future bill.

Charter School's Response begins on page 64.

Auditor's Conclusion begins on page 64.

Finding No. 10

Charter School Lacks Sufficient Internal Controls Over Its Student Record Data

Criteria relevant to the finding:

Pupil membership classifications must be maintained and reported in accordance with the Pennsylvania Department of Education's (PDE) guidelines and instructions, since membership is a major factor in determining state subsidies and reimbursements. Beginning in 2009-10, PDE required that child accounting data be collected in a database called the Pennsylvania Information Management System (PIMS).

According to PDE's *PIMS User Manual*, all Pennsylvania local education agencies must submit data templates in PIMS to report child accounting data. PIMS data templates define fields that must be reported. Four important data elements from the Child Accounting perspective are: District Code of Residence; Funding District Code; Residence Status Code; and Sending Charter School Code. In addition, other important fields used in calculating state education subsidies are: Student Status; Gender Code; Ethnic Code Short; Poverty Code; Special Education; Limited English Proficiency Participation; Migrant Status; and Location Code of Residence. Therefore, PDE requires that student records are complete with these data fields.

Our audit of the Chester Community Charter School's (Charter School) data integrity found that internal controls over student record data entered into the Pennsylvania Information Management System (PIMS) need to be improved (see Finding No. 8 for further explanation of PIMS). Specifically, our review found that the Charter School:

1. Maintains insufficient internal controls over the authorizing school district's involvement in its child accounting function. This is especially true given the tuition and membership reporting errors noted in Findings No. 8 and No. 9. For example, the sending school district provided incorrect days-in-session information.
2. Does not reconcile the membership report produced from its Student Information System (SIS) with the PIMS accuracy statement report or other PIMS reports. This activity is a basic internal control procedure that should catch errors before the Charter School reports its membership information to PDE.
3. Lacks adequate procedures to ensure continuity over its PIMS data submission in the event of a sudden change in personnel or child accounting vendors.
4. Does not maintain complete and accurate cumulative student files.
5. Fails to follow its procedures for addressing illegal absences. Of the student cumulative files made available for review, not one contained any information on absences or truancy proceedings. As a result, it was unclear whether the Charter School had removed children with more than ten consecutive unexcused absences from its roles and or if it had taken steps to address truancy.

Criteria relevant to the finding (continued):

Additionally, according to the *Federal Information Systems Control Audit Manual*, a business entity should implement procedures to reasonably assure that: all data input is done in a controlled manner; (2) data input into the application is complete, accurate, and valid; (3) incorrect information is identified, rejected, and corrected for subsequent processing; and (4) the confidentiality of data is adequately protected.

According to the federal Government Accountability Office's (GAO) (formerly the General Accounting Office) *Standards for Internal Control in the Federal Government*, internal controls are key factors in an agency's ability to meet its mission, improve performance, and "minimize operational problems."

In addition, this guidebook states that an "Internal control is not an event, but a series of actions and activities that occur throughout an entity's operations and on an ongoing basis . . . In this sense, internal control is management control that is built into the entity as a part of its infrastructure to help managers run the entity and achieve their aims on an ongoing basis." U.S. General Accounting Office. *Standards for Internal Control in the Federal Government*. (November 1999), pg 1.

The Charter School's management staff could not explain why it had missing or incomplete student data. Nevertheless, management stated that the Charter School maintained adequate controls over its data integrity. This assertion seems contradictory and lacks merit, given the significant errors identified by the audit.

Internal controls are the responsibility of management. Weaknesses in the Charter School's internal controls resulted in the Charter School's student records data not being collected, recorded, and reported accurately. As stated earlier in this report, without such controls, the Charter School's management cannot be assured it correctly billed and received tuition payments. (Please see Findings No. 8 and No. 9.)

The *Chester Community Charter School* should immediately:

1. Improve internal control procedures governing the involvement of Chester Upland School District in its child accounting function.
2. Reconcile membership reports from its SIS with the PIMS accuracy statement report and other PIMS reports.
3. Establish procedures to ensure continuity over its PIMS data submission in the event of a sudden change in personnel or child accounting vendors.
4. Ensure that student cumulative files are complete and the data contained therein agrees with the SIS.
5. Ensure that information relevant to illegal absences and truancy proceedings is properly maintained for each student, when necessary.

Charter School's Response begins on page 67.

Auditor's Conclusion begins on page 67.

Finding No. 11

Charter School’s Original Charter Lacks Important Requirements and Has Never Been Updated to Reflect Its Current Operations

Charter School Law (CSL) relevant to the finding:

Section 1719-A of the CSL, 24 P.S. § 17-1719-A, specifies 17 items that must be included in an application to establish a charter school.

Section 1720-A(a) of the CSL, 24 P.S. § 17-1720-A(a), states, in relevant part:

“ . . . a written charter shall be developed which shall contain the provisions of the charter application and which shall be signed by the local board of school directors of a school district, by the local boards of school directors of a school district in the case of a regional charter school or by the chairman of the appeal board pursuant to section 1717-A(i)(5) and the board of trustees of the charter school. This written charter, when **duly signed by the local board of school directors** of a school district, or by the local boards of school directors of a school district in the case of a regional charter school, and the charter school's board of trustees, shall act as **legal authorization** for the establishment of a charter school. **This written charter shall be legally binding on both the local board of school directors of a school district and the charter school's board of trustees. . . .**”
[Emphases added.]

Our audit of the Chester Community Charter School (Charter School) found that the contents of its original charter never met the requirements of Section 1719-A of the Charter School Law (CSL) and that the original charter was never subsequently updated. This deficiency has a direct effect on the Charter School’s governance structure because the charter is a legally binding contract under Section 1720-A(a) of the CSL. As a result, the Charter School must reflect its operational changes through amendments to its original charter. In addition, our audit found that the Charter School did not provide required updates to its charter through its renewal applications and did not develop policies and procedures to notify the authorizing school district when it made changes to its approved charter.

The Charter School’s original charter is its legal authorization and the contract with its authorizing school district. Therefore, as with any contract, it is vital that the original charter is accurate, updated, and in compliance with the CSL. The auditors’ review of the Charter School’s original charter found that it did not adequately address numerous items required by the CSL or had not been updated to reflect the Charter School’s current operations. These items included topics such as:

1. The Charter School’s proposed governance structure and method for appointing/electing Board of Trustees’ members.
2. Mission, educational goals, performance measures, and curriculum.
3. Admission policy and criteria.
4. Procedures for suspension or expulsion.
5. Information on the community’s involvement in the Charter School’s creation.
6. Financial plan and auditing provisions.

7. Procedures for reviewing parent complaints.
8. Description of the Charter School's facility, its address, its ownership, and its lease agreements.
9. Proposed school calendar.
10. Faculty professional development plan.
11. Student extracurricular activity agreements with local school districts.
12. Criminal history record for those employees who will have direct contact with students.
13. Official child abuse clearances and background checks for employees who will have direct contact with students.
14. Explanation of the Charter School's liability insurance for employees and Board of Trustees' members.

While the original charter has been renewed three times, none of these renewals updated the terms of the original charter. Therefore, the required contents of the original charter application have never been corrected or updated through the renewal process.

The Charter School's management indicated that the original charter has been superseded by three renewals and that the authorizing school district is kept informed of any changes to the charter. However, we were not provided with any evidence of these communications during the audit. Moreover, the Charter School did not provide us with any written policies or procedures for ensuring that it informed its authorizing school district about any operational changes. Deficiencies in the Charter School's original charter application and subsequent renewals have a direct effect on the governance structure of the Charter School, lessen its public accountability, and limit its authorizing school district's ability to maintain appropriate oversight.

Recommendations

The *Chester Community Charter School* should immediately:

1. Update its original charter to include all of the elements required by the CSL.
2. Ensure future renewals reflect changes to the Charter School's operations.
3. Develop written policies and procedures to notify the authorizing school district of any changes to its charter.

Charter School's Response begins on page 71.

Auditor's Conclusion begins on page 73.

Status of Prior Audit Findings and Observations

This is our first audit of the Chester Community Charter School. Therefore, there are no prior audit findings or observations.

APPENDIX

This Appendix includes the responses from the Chester Community Charter School to each finding with Corresponding Comments by the Pennsylvania Department of the Auditor General.

Note: The underlined text in the Charter School's Responses refers to a summary outline of the main points of each finding provided by the Department of the Auditor General to the Charter School to obtain management's reply.

Auditor’s note: The Chester Community Charter School’s responses identified individuals and entities by their specific names. For confidentiality purposes, the Pennsylvania Department of the Auditor General has replaced with position titles and entity type as they were identified throughout the report.

Finding No. 1: Charter School Improperly Received \$1,276,660 in State Lease Reimbursement

For the responses set forth below to each finding, unless otherwise stated, Chester Community Charter School (CCCS) disagrees with the finding as stated.

1. Lease agreements for facilities are not accurately stated in the original charter application, renewal applications and there is no evidence of approval for the leases by the chartering school board.

Charter School’s Response:

The lease agreements for school years 2008-2009, 2009-2010, and 2010-2011 of course do not match the lease agreements described in the charter application from 1997: the school has grown substantially over the last 15-plus years and long ago outgrew the property described on page 27 of the original application.

As to the renewal applications, the Chester Upland School Board was and is fully aware of the facilities CCCS uses for its operations, and has in fact conducted multiple site visits over the years. Regardless, nothing in Section 2574.3 of the Public School Code, 24 P.S. § 25-2574.3, which governs lease reimbursements, requires the chartering school board to first approve leases before a charter school can use them as part of the reimbursement program.

Auditor’s Conclusion:

Pursuant to subsection 11 of Section 1719-A (relating to Content of application) of the Charter School Law (CSL), 24 P.S. § 17-1719-A(11), “An application to establish a charter school shall include all of the following information: ... (11) **A description of and address of the physical facility** in which the charter school will be located and the **ownership** thereof and **any lease arrangements.**” (Emphases added.) In addition, subsection (a) of Section 1720-A (relating to Term and form of charter) of the CSL, 24 P.S. § 17-1720-A(a), a charter “may be renewed for five (5) year periods **upon reauthorization** by the local board of school directors of a school district or the appeal board.” (Emphasis added.)

The requirement that any lease arrangements be outlined in the initial charter application means that this information must also be provided for in any renewal application so that the local board of school directors can approve the lease as part of the reauthorization of the charter. Our review found that the initial charter application did not contain a description of an address for the Charter School’s facility or accurate information about the leases, such as the leasing arrangements or ownership. Further, renewal documents provided after the completion of our fieldwork do not show any evidence that the terms of the original charter were updated through

the renewal process and/or amendments to the charter. As such, there is no evidence that the chartering school district had approved the Charter School's physical facility and leasing arrangements through either the initial or renewal charter applications or amendments to such. Therefore, this conclusion will stand as written.

2. Unable to verify reported lease payments and the Board Certification section of PDE 418 to board meeting minutes in order to verify accuracy of the information submitted to PDE for approval.

Charter School's Response:

As an initial matter, no lease payments are reported on form PDE-418, only the amount owed under the lease are reported on that form. Actual lease payments are only reported on the PDE-419. All lease payments by CCCS reflected on the PDE-419s for school years 2008-2009, 2009-2010, and 2010-2011 were actually made, and backup documentation reflecting the same are on file with the school's CFO, and were provided to the state auditors.

As to board certification, all lease approval applications (form PDE-418) were appropriately reviewed and approved by the board, as certified in each of the applications. The approval by the board is not reflected in the board minutes because the respective approvals occurred using the unanimous consent provision of the Nonprofit Corporations Law, a provision which allows action to be taken without a regularly scheduled board meeting. See 15 Pa.C.S. § 5763 ("Unless otherwise restricted in the bylaws, any action which may be taken at a meeting of the members or of a class of members may be taken without a meeting, if a consent or consents in writing, setting forth the action so taken, shall be signed by all of the members who would be entitled to vote at a meeting for such purpose and shall be filed with the secretary of the corporation."). Thus, the board approval of the PDE-418 applications would not appear in the board minutes from any regularly scheduled meeting.

Auditor's Conclusion:

With regard to the "initial matter" discussed by management, the auditors were not referring to PDE-418 as reporting lease payments, but only to the amount owed under the lease. Furthermore, the argument that the board's approval can be made pursuant to Section 5763 (related to Consent of members in lieu of meeting) of the "Nonprofit Corporation Law of 1988," 15 Pa.C.S. § 5763, is erroneous given that the Charter School did not present the auditors with any evidence of board members' "consent or consents in writing" as required by the section. Additionally, despite the fact that management claims otherwise above, auditors were not provided with proof that lease payments were actually made. Rather, auditors were provided with a rent expenses document created by the Charter School, but the amounts listed did not match the amounts claimed on the PDE-418 and PDE-419 forms submitted to the Pennsylvania Department of Education for reimbursement and could not be reconciled. Therefore, the conclusion that the auditors were not able to verify the approval of the lease payments and the Board Certification section of PDE-418 in board meeting minutes will stand as written.

3. Between June 30, 2008 and June 30, 2011, the Chester Community Charter School improperly received \$1,276,660 in state lease reimbursements for seven buildings under the Commonwealth's Reimbursement for Charter School Lease Program as follows:

School Year	Amount Applied for and Received
2010-2011	\$461,080
2009-2010	\$418,620
<u>2008-2009</u>	<u>\$396,960</u>
Total	\$1.2 Million

4. The buildings are ineligible because purchases were made by one of the Founders of the Charter School, the owner of the leased properties is the Grantee on the deeds which are leased to the Charter School, and is the CEO of the Management Company that oversees the school.

Charter School's Response (to 3 & 4):

CCCS categorically denies this finding. All lease payments to CCCS were proper because CCCS is an approved charter school, it had signed lease agreements for rental of buildings used for educational purposes, and CCCS did not own the buildings. For the reasons set forth below, CCCS demands that the Auditor General immediately withdraw this finding. The Auditor General's conclusions are grossly wrong on the facts and under the applicable law, and the conclusions directly contradict the Auditor General's own conclusions in another recent charter school audit. See Bear Creek Community Charter School Audit at 19 (March 2013).

Under Section 2574.3 of the Public School Code, charter schools are eligible for reimbursement of lease payments for buildings leased for charter school use. 24 P.S. § 25-2574.3(a). To receive reimbursement, the charter school must first apply to the Pennsylvania Department of Education (PDE), using a form known as the PDE-418, for approval of the charter school lease. Once the lease approval application is reviewed and accepted by the PDE, the charter school can then apply for actual monetary reimbursement, using a form known as the PDE-419. The charter school lease approval and lease reimbursement program is presided over by the PDE Bureau of Budget and Fiscal Management.

The Bureau has developed certain "eligibility parameters" for lease reimbursement under Section 2574.3, which include two threshold conditions, and three knockout provisions. Those parameters are as follows:

To qualify for lease reimbursement, a charter school must be:

- (l) a Pennsylvania approved charter school, other than a cyber charter school; and

(2) have a signed lease agreement for rental of a building (permanent structure) or portions of buildings and the charter school must use the leased building(s) for educational purposes. If a leased building includes space for both educational and administrative use, the lease costs on that building will qualify for reimbursement under the program. However, if the central administrative staff is housed in a separate facility, the lease costs for that facility do not qualify for reimbursement under the program.

A charter school cannot receive lease reimbursement for:

- (1) a building owned by the charter school;
- (2) payments related to the acquisition of a building; or
- (3) lease rental costs for land and relocatable structures, trailers and modularized structures, unless the structure meets the conditions of "permanent" construction.

See Charter School Lease Reimbursement Program 2011-2012.

A. PDE reviewed and approved each of the leases.

As a threshold matter, CCCS notes that for every school year subject to the audit (and those not included in the audit), CCCS timely submitted PDE-418s to the PDE, which were reviewed and approved by the PDE. Those PDE-418s included, among other things, complete information about the school's various leases, including copies of the leases themselves. Notably, for school year 2009-2010, in addition to the PDE-418 application and information, the PDE specifically asked CCCS for (1) a copy of the signed lease agreement for each leased school building; (2) a copy of the deed for each leased school building; and (3) the names of the board of directors and administrators of the charter school. CCCS timely submitted that information to the PDE, which then approved the applications for 2009-2010, satisfied that CCCS fully complied with the lease reimbursement program.

For all school years at issue, CCCS timely submitted PDE-419s based on the PDE's approval of the PDE-418 applications, and the PDE made payments to CCCS without objection.

B. The lease payments were proper.

Not only are CCCS's lease reimbursements appropriate because they were thoroughly reviewed and approved by the PDE, but also the lease payments were appropriate as a matter of fact and law. None of the leases were for land owned by the school, land owned by an entity related to the school, or land owned by the school's "Founder." To demonstrate this, it is useful to

first set out information about each of the leases at issue:

School Year	Address	Owner of Property
2008-09	214 E. 5th Street	[Founder/former property owner/Management Company CEO]
	225 E. 5th Street	
	315 E. 5th Street	
	2730 Bethel Road	
	2730A Bethel Road	
2009-10	2730B Bethel Road	
	214 E. 5th Street	[Founder/former property owner/Management Company CEO]
	225 E. 5 th Street	[Founder/former property owner/Management Company CEO]
	315 E. 5 th Street	[Founder/former property owner/Management Company CEO]
	2730 Bethel Road	[Founder/former property owner/Management Company CEO]
2010-11	2730A Bethel Road	[Founder/former property owner/Management Company CEO]
	2730B Bethel Road	[Founder/former property owner/Management Company CEO]
	214 E. 5th Street	[Founder/former property owner/Management Company CEO] (through Oct. 2010)
		[Nonprofit] (Oct. 2010 forward)
	225 E. 5th Street	[Founder/former property owner/Management Company CEO] (through Oct. 2010)
		[Nonprofit] (Oct. 2010 forward)
	315 E. 5th Street	[Founder/former property owner/Management Company CEO] (through Oct. 2010)
		[Nonprofit] (Oct. 2010 forward)
	2730 Bethel Road	[Founder/former property owner/Management Company CEO] (through Oct. 2010)
		[Nonprofit] (Oct. 2010 forward)
2010-11	2730A Bethel Road	[Founder/former property owner/Management Company CEO] (through Oct. 2010)
		[Nonprofit] (Oct. 2010 forward)
	2730B Bethel Road	[Founder/former property owner/Management Company CEO] (through Oct. 2010)
		[Nonprofit] (Oct. 2010 forward)

As the above chart reflects, for each school year from 2008-2011, CCCS requested reimbursements for six properties leased by the school. In the middle of school year 2010-2011, each of those properties was sold by its then-owner, [Founder/former property owner/Management Company CEO], to a nonprofit.

1. CCCS never owned any of the leased properties.

In general, it appears the Auditor General is somehow suggesting that CCCS "owned" the leased properties. Yet the attached real estate and tax records from Delaware County plainly reflect that each of the subject properties were either owned by [Founder/former property owner/Management Company CEO] or [the Nonprofit], and were *never owned* by CCCS. [Exhibits IA-ID were provided with management's reply.] (Delaware County real estate and tax records for each of the above properties reflecting current and past ownership).²⁷

2. CCCS did not lease the properties from a "related entity."

The Auditor General's suggestion that CCCS leased from a "related entity" is also without merit. First, even if the lease payments were to a "related entity," nothing in Section 2574.3 or the Bureau's "eligibility parameters" forbids a charter school from seeking lease reimbursement for payments to such an entity. In fact, the parameters only preclude payments for

²⁷ Available at <http://w01.co.delaware.pa.us/pa/publicaccess.asp?real.x=O&UAYN=I+Agree>

a building "owned by the charter school," and make no mention of payments to a building owned by a "related entity." Remarkably, the Auditor General has *expressly agreed* in another charter school audit this year that nothing in Section 2574.3 or the Bureau's eligibility parameters forbids leasing from a related entity, stating: "In response to management's reply that there is no legal provision explicitly prohibiting the related party landlord/tenant agreement, *we are in agreement.*" See Bear Creek Community Charter School Audit at 19 (March 2013) (emphasis added). Thus, the finding here as applied to CCCS is especially baseless.

Regardless, the payments were not to a "related entity." Neither [the Nonprofit] nor [Founder/former property owner/Management Company CEO] is a part of CCCS. [The Nonprofit] and CCCS are independent entities with separate boards and officers. Further, [Founder/former property owner/Management Company CEO] is not employed by, on the board of, or an "owner" of either CCCS or [the Nonprofit]. To illustrate the independence between these parties, the following is a list of the board members and school administrators of CCCS by relevant year: [The list provided by management was removed to avoid sharing individual names. The Founder's name was not on the list provided.]

During two of the three years above, [the Nonprofit] did not exist. When it came into existence in 2010, its board members included -[Management included three board members, which was removed to avoid sharing individual names] none of whom were members of CCCS's board or administrators of the school. See Form 990 for [the Nonprofit] for 2010-2011, at 7 (listing officers).²⁸ Further, [Founder/former property owner/Management Company CEO] was not a board member or employee of the school (and has never been a board member or employee of the school). Thus, CCCS is not a "related entity" to either [the Nonprofit] or [Founder/former property owner/Management Company CEO].

3. *The leased premises were not owned by the school's "Founder."*

Finally, it appears the Auditor General is suggesting that [Founder/former property owner/Management Company CEO] is the school's "Founder," or, as described by the field auditors to CCCS personnel, the school's "owner." Those descriptions, and the conclusion reached from them (that CCCS "owns" the leased property), are false for any number of reasons. For example, under the Charter School Law, a charter school like CCCS does not have any "owners"; instead, it must be organized as a "public, nonprofit corporation" that is headed by a board of trustees. See 24 P.S. § 17-1703-A (definition of "charter school"); 24 P.S. § 17-1716-A (describing board of trustees). CCCS is, in fact, organized as a public, nonprofit corporation and has an established board of trustees, none of whom are [Founder/former property owner/Management Company CEO]. Further, while a charter school may be formed (or "founded") by any number of enumerated entities (none of whom are the "owner" of the school), see 24 P.S. § 171717-A(a), [Founder/former property owner/Management Company CEO] had no role whatsoever in CCCS's formation or founding. Finally, [Founder/former property owner/Management Company CEO]'s relationship to CCCS is as the CEO of [the Management Company], which is the management company retained by the board of CCCS to assist the

²⁸ Available at http://990s.foundationcenter.org/990ydf_archive/272/272961187/272961187_201106_990.pdf

school in its operations, as is permitted by law. See West Chester Area Sch. Dist. v. Collegium Charter Sch., 812 A.2d 1172, 1184-85 (Pa. 2002). Both CCCS and [the Management Company] are separate legal entities under Pennsylvania law, with each governed by totally separate board members and officers. In other words, [Founder/former property owner/Management Company CEO] is not the "Founder" or "owner" of CCCS.

Thus, all lease reimbursement payments to CCCS were authorized by law and the Auditor General is incorrect in finding that CCCS improperly received any lease reimbursement payments from the PDE. This finding should be immediately withdrawn.

Auditor's Conclusion:

Our determination that the Charter School is leasing its seven buildings back to itself, and therefore is ineligible to receive state lease reimbursements, is based on our solid facts presented and the evidence we found. Therefore, the finding will not be withdrawn because the facts presented are accurate. This information will be forwarded to the Pennsylvania Department of Education's (PDE) Division of School Facilities for its review and final determination regarding the Charter School's eligibility to receive state lease reimbursements.

Management cites to the Bear Creek Charter School audit report as somehow being different from the Chester Community Charter School audit report regarding this issue, but fails to state how that may be the case. In particular, our state reimbursement finding, like that of Bear Creek, focuses on the appropriateness of having the **same** individual, in this case in particular, the Charter School's founder and the chief executive officer (CEO) of the Management Company, providing services to the Charter School, receiving the state reimbursements. Although the auditors acknowledge that the Pennsylvania Supreme Court held, in part, in *West Chester Area Sch. Dist. v. Collegium Charter Sch.*, 812 A.2d 1172, 1184-85 (Pa. 2002), that a **charter** school's proposed agreement with a for-profit corporation did not violate the CSL, this holding does not make it appropriate for the founder of the Charter School, who is also the CEO of the Charter School's Management Company, to receive taxpayer funded lease reimbursements.

Moreover, it is notable that PDE relies upon the signatures of the officials submitting the reimbursement forms as its only means of verifying that the information tendered is accurate. PDE's state reimbursement application does not require proof that the rental amounts are accurate or that rental payments were appropriately paid. Further, PDE's "approval" pertains to the submission of the application for reimbursement, and does not serve as approval of the lease terms and conditions. In fact, PDE's guidelines state: "Appropriate documentation must be maintained for review by the Auditor General's Office to support the charter school's submission of the PDE-418, PDE-419 and Verification Statement for the Charter School Facility Lease Reimbursement Program." Therefore, because the properties were originally owned by the Charter School's Founder/Management Company CEO, who was also the original Landlord until October 2010, the lease costs submitted to PDE for state reimbursement were certified by an individual associated with both entities. Therefore, the Charter School clearly does not qualify for these reimbursements because the buildings were owned by one and the same individual from the Charter School's creation until October 2010.

Furthermore, the Charter School’s Founder/Management Company CEO transferred the buildings to a related party foundation, [a Nonprofit] in October 2010 (i.e., applying to the period of October 1, 2010 to June 30, 2011) created for the purpose of leasing the buildings back to the Charter School. While a new lease agreement was signed between the Charter School and the Nonprofit, we continue to maintain that this created yet another circular leasing arrangement among related parties with which there is continued association, and that the Charter School was essentially leasing buildings back to itself. Furthermore, as stated in the finding, given that the Charter School is a public school funded primarily by taxpayer dollars, the transfer of real estate valued at over \$50 million to the related Nonprofit resulted in assets intended for public education being transferred to and controlled by a nonprofit entity. These practices are not consistent with accounting principles and what was intended by the General Assembly when it enacted the CSL. Therefore, we continue to assert the Charter School’s ineligibility to receive state reimbursements for its buildings.

Finding No. 2: Charter School Failed to Comply with the Teacher Certification Provisions of the Federal No Child Left Behind Act

1. Although, all the special education teachers held proper special education certification they were also teaching Elementary Education or core content subjects including English, Reading/Language Arts, Mathematics, Sciences and Social Studies that they were not highly qualified (HQ) for as follows:

School Year	Number of Special Education Teachers Not HQ	Total Special Education Teachers
2011-12	3	35
2010-11	7	33
2009-10	7	27
2008-09	5	22

Charter School’s Response:

CCCS special education teachers are not the teacher of record; therefore, they do not need to be highly qualified under the law. Our special education teachers adapt the regular education curriculum to meet the needs of the special education students who have academic challenges. They also provide support to the regular education teacher, who is the highly qualified teacher of record, so the special education students are successful in the regular education classroom. Additionally, the special education teachers provide assistance with making sure behavioral plans and interventions are implemented correctly in the classroom.

Example: Teacher 1 is the special education teacher, and Teacher 2 is the regular education teacher of record and who is highly qualified in the subject of reading. Teacher 2 has six students in her classroom that have IEPs and require support services/adaptive curricular for reading. In conjunction with Teacher 2, Teacher 1 provides support services in reading for Teacher 2’s six students with IEPs. These support services are typically provided in small groups settings. Both Teacher 1 and Teacher 2 are teaching reading to IEP students.

Auditor's Conclusion:

Our audit work does not support management's position that the Charter School's special education teachers are not the "teachers of record." During the audit, we determined that these teachers regularly taught elementary education or core content subjects (e.g., Math, Science, Reading, etc.) at the Charter School. For example, the auditors received documentation from the Charter School that shows that special education teachers routinely teach these core content subjects. Therefore, our conclusion that these teachers must hold "highly qualified" certifications in accordance with Section 6319 of the No Child Left Behind Act must stand as presented.

2. The charter school could not provide us with the schedules for the itinerant certified special education teachers. Due to lack of documentation, we were unable to determine if the itinerant teachers are assigned outside their area of certification, are in violation of the Public School Code, the Certification and Staffing Policy Guidelines or the No Child Left Behind Act.

Charter School's Response:

In 2008/09, 2009/10, and 2010/11 itinerant teachers were not required to have set schedules because the IEP forms did not dictate that a schedule was necessary; therefore, the notion that there is a lack of documentation available for review is patently unfair because schedules were not required. In addition, no specific statute, regulation, etc., either federal or state, require that itinerant teachers provide a schedule for the years at issue. Moreover, the amount of time that students were required to be serviced in the regular education classroom was specifically indicated on their IEPs (e.g., 2x per week in the regular classroom). Further, those familiar with the special education IEP process know that itinerant teachers typically (as is the case at CCCS) have large case loads. They properly service students consistent with their training and certification in the area of special education. These case loads provide the itinerant teachers with the full time job of delivering *special education* services, and *only* special education services to their students. Only certified special education teachers can be itinerant teachers. These teachers are required, under the terms of the student's IEP, to monitor the child's progress on an on-going basis to ensure objectives and goals are reached. Additionally, annual IEP meetings are held to review the progress of the student.

CCCS, did, however, require its itinerant teachers to complete a log each time they went into the classroom to service the student (those logs are available for inspection).

The new IEP format, which was introduced subsequent to the years at issue, does not require the school to indicate how much time each student receives itinerant services. Rather, the new IEP format requires the school to show the percentage of time the itinerant teacher must service the student. As a result of this NEW format, CCCS requires itinerant teachers to create schedules.

In sum, schedules were not required for the years that are subject to this audit.

Note: Students receiving services from an itinerant teacher remain in the classroom with the regular education teacher. Itinerant teachers visit the classroom and work in tandem with the regular education teacher, and/or provide the regular education teachers with instructional strategies to meet the educational needs of their students with IEPs.

Auditor's Conclusion:

Individualized Education Plans (IEPs) do not dictate special education or itinerant teachers' job requirements. Instead, the IEPs detail the services students must receive, how these services must be performed, and who must provide the services. Therefore, our conclusions that - 1) the Charter School must have proper documentation about all special education/itinerant teachers' schedules and their teaching responsibilities and 2) the Charter School administrative personnel must be provided with training to understand and manage these certifications - stands as presented.

Finding No. 3: Weaknesses in School Board Meeting Minutes

1. Review of the minutes of board meeting from June 9, 2008 through April 19, 2012, found inadequacies in the recording and documenting of board actions

Charter School's Response:

This finding is erroneous. The minutes of the Chester Community Charter School are thorough, complete and reliable. Any statement to the contrary is unfounded. The minutes of a board meeting are meant to provide an account of what action was taken at a meeting, which members of the board were present or absent, etc. The minutes are not intended to be a record of discussions or to show an absence of action. Consistent with CCCS's understanding of the law and best practices, the board minutes accurately reflect what was done at each meeting. Further, particularly as to the approval of financial transactions, the fact of approval was reflected in the minutes in a single entry, with the details of what was approved reflected in appended reports of the Treasurer.

As stated above, the board minutes are complete and provide a record of what was done at a meeting.

Auditor's Conclusion:

We strenuously disagree with management's reply. Section 706 of the Sunshine Act, 65 Pa.C.S. § 706, provides, in part, that: "[w]ritten minutes shall be kept of all open meetings of agencies. The minutes shall include . . . The **substance** of all official actions and a record by individual member of the roll call votes taken." (Emphasis added.) As stated in our finding, our review of the Charter School's board meeting minutes reveals inadequacies in the recording and documenting of board actions because the substance or significance of such actions are not readily evident. Because we are concerned that this was not in compliance with the Sunshine Act, our conclusion must stand as presented.

2. **The following are items not recorded or maintained:**
 - a. **Minutes were not properly signed and dated by the secretary of the board.**

Charter School's Response:

This finding is erroneous. CCCS is not aware of any provision of law, nor has the Auditor General identified one, requiring the board secretary to sign all minutes. CCCS demands that the Auditor General immediately supply the school with the legal basis for this purported requirement.

Regardless, as part of its practice, the board did recommend that a member sign the school board minutes, which was done in nearly every case. CCCS will re-commit to having the board Secretary, or appropriate designee, sign all minutes.

- b. **Minutes are not permanently bound.**

Charter School's Response:

This finding is erroneous. First, it appears the auditors may be objecting to the *manner* of binding, which is absurd. The board minutes, when ready, were all spiral bound, which is more than adequate by any standard. Second, the board meeting minutes given to the state auditors were *all* bound except for the minutes from June 2011 through April 2012. The latter were not bound because the year was still in progress at the time of the review; thus, binding the minutes would have been premature. Moreover, the board had not yet had the opportunity to review and approve or make necessary corrections to the minutes from the May 2012 and June 2012 board meetings.

- c. **Meeting minutes are not page numbered.**

Charter School's Response:

This finding is erroneous. The board minutes themselves were sequentially numbered, only the attachments to the minutes were not uniquely numbered. If necessary for best practices, CCCS will commit to a unique numbering system for all pages of the attachments to the minutes. CCCS demands that the Auditor General identify which, if any, provision of law requires the attachments to the minutes to be sequentially numbered.

Auditor's Conclusion (2a, b, and c above):

Our finding is accurate. The minutes provided to the auditors for review were not permanently bound, not signed, and not numbered. As noted in the finding, permanently bound minutes, the board secretary's signature, and sequential page numbering provide assurance to the public that the minutes are in fact a complete and accurate account of the board's official actions.

In addition, pursuant to Chapter 4 of the *School Board Secretary's Handbook*, the school board secretary must sign minutes of all, regular, adjourned, and special meetings. Since the handbook is a well respected resource of best practices for school board secretaries and the charter school board secretary is the equivalent of a school board secretary, we stand by our conclusion that the minutes must be properly signed. As to the recommendation that the minutes are to be dated and page numbered, this is a reasonable board best practice to ensure a complete and accurate account of the board's official actions. Therefore, this conclusion will stand as presented.

d. No terms or re-election information is included in the minutes.

Charter School's Response:

The terms of CCCS's board are set forth in CCCS's bylaws. CCCS's board, a collection of dedicated, unpaid members of the community, annually discusses each respective member's ongoing membership on the board at the annual June meeting. Each member continues by oral unanimous consent of the board. No re-election is officially noted in the board minutes because the ongoing membership is orally discussed and not decided by a formal call for a re-election; i.e., there is no formal board action.

Auditor's Conclusion:

Our finding is accurate. Appointment of board members and their term of service is an official action of the board. Again, the Sunshine Act, 65 Pa.C.S. § 706, states that the minutes shall include the substance or significance of all official actions. As such, the appointment of board members must be noted in the minutes and therefore, our conclusion must stand as written.

Finding No. 4: Failure to Develop and to Timely File a Memorandum of Understanding with Local Law Enforcement

- 1. The charter school provided Memoranda of Understanding (MOU) dated August 8, 2011 however there were no prior MOUs between the charter school and its local law enforcement agencies.**

Charter School's Response:

The MOU requirement in 24 P.S. § 13-1303-A(c) only required CCCS to submit a MOU by June 30, 2011-prior to the enactment of paragraph (c), no MOU requirement existed.

As to the requirement in Section 1303-A(c), CCCS timely submitted a MOU to the relevant police departments in early 2011-well before the June 30, 2011 deadline. CCCS made it clear to the two police departments of the statutory due date. When it became evident to CCCS that the two police departments were not going to sign the MOUs by the statutory deadline, the school's CEO emailed [the] Safe Schools Supervisor, Bureau of Teaching and Learning Division of School Options and Safety, Pennsylvania Department of Education, informing him of the situation. [Exhibit 4A was provided with management's reply.]

The CEO informed [the Safe Schools Supervisor] that the MOUs were being submitted without the signature page to ensure that CCCS did in fact did meet the deadline. [The Safe Schools Supervisor] was also informed by the CEO that the school would "continue to press our local policing agencies until we get the appropriate signatures on the documents and will submit same electronically." [The Safe Schools Supervisor] responded on Thursday, June 30, 2011 2:54 PM, "Received two (2) MOUs. As soon as you have them signed please forward them." The email between the CEO and [the Safe Schools Supervisor] was provided to auditors with management's reply].

Ultimately, the two police departments did not sign the signature pages until after the statutory deadline and CCCS's email to the PDE. But once CCCS received the fully executed MOUs, it promptly submitted them to the PDE.

Auditor's Conclusion:

While we agree that the Charter School made a documented effort to obtain memorandums of understanding (MOUs) with local law enforcement in order to meet the June 30, 2011, filing deadline with the Pennsylvania Department of Education's (PDE) Office of Safe Schools (Office), the fact remains that the law required the Charter School to have an MOU years before it had to be filed with the PDE. We encourage the Charter School's management to develop policies and procedures to ensure that these agreements are updated and filed every two years as required.

As stated in the finding, there was a PSC requirement that charter schools file an MOU with local law enforcement prior to enactment of paragraph (c). Section 1303-A(c) of Article XIII-A pertaining to Safe Schools of the Public School Code (PSC), 24 P.S. § 13-1303-A(c), has required that all school entities "develop a memorandum of understanding with local law enforcement, which sets forth procedures to be followed when an incident involving an act of violence or possession of a weapon by any person occurs on school property" since the provision's initial enactment through Act 26 of 1995. In fact, the Bureau of School Audits has had findings regarding certain charter schools not complying with this provision since at least 2007. The Charter School has had no prior MOUs on file. Because the Charter School is an educational entity, which, therefore, falls under all of the Safe Schools provisions of the PSC, the Charter School should have had prior MOUs with local law enforcement agencies. Therefore, our conclusion must stand as presented.

2. Schools must biennially update and re-execute these MOUs and file them with the Department of Education's Office of Safe Schools on a biennial basis.

Charter School's Response:

This finding is premature. As of the date of this response-May 2013-the biennial update to CCCS's June 2011 MOUs is not yet due.

Auditor's Conclusion:

Act 104 of 2010, effective February 15, 2011, amended Section 1303-A(c) of the Safe Schools provisions to require that each chief school administrator submit a copy of his or her entity's MOU to PDE's Office by **June 30, 2011**. The Charter School did not meet this filing deadline. Instead, the MOUs between the Charter School and its two local police departments were not signed until July 11, 2011 and August 8, 2011, respectively, after the June 30, 2011 filing deadline.

In addition, that same Act established that Pennsylvania's local education agencies must biennially update and re-execute their MOUs with local law enforcement, as well as biennially file the revised agreements with the Office.²⁹ The auditor's did not find that the Charter School failed to biennially update its MOU, but rather that it did not have a policy in place to ensure that such an update occurred in the future. Therefore, our conclusion must stand.

Finding No. 5: Charter School Failed to Comply with Open Enrollment and Lottery Provisions of the Charter School Law

1. The original charter gives priority to K-4th grade residents of Old Franklin Community School District. This policy has not been updated or revised since filing the original charter in 1997.

Charter School's Response:

This finding is erroneous. The Chester Community Charter School has been in operation since 1998, when its original charter was granted. In the fifteen years since its initial approval, the charter has been renewed three times and expansion to other grades has been discussed each year. In fact, over the years, detailed information has been supplied to the Chester Upland School District regarding the school's expansion. The notion that this policy has not been updated or revised is erroneous.

Auditor's Conclusion:

Our audit found that the Charter School had not updated its original charter through its renewal applications. Specifically, the Charter School's admission policies and procedures were not consistent with the policies outlined in its original charter. Moreover, the Charter School also failed to document these revisions in its renewal applications and to have these changes approved by its authorizing district's school board of directors. (*See* 24 P.S. § 17-1720-A(a)). Finally, we have no evidence to support the Charter School's contention that the authorizing

²⁹ Please note that Act 24 of 2012, effective July 1, 2012, also amended Section 1303-A of the Safe Schools provisions **only** with respect to the MOU's inclusion of procedures for local police department's review of the school entity's school violence report under subsection (b) requiring the review to be done annually rather than biennially. Subsection (c)(1) now states: "The memorandum of understanding shall comply with the regulations promulgated by the State Board of Education under section 1302.1-A and shall also include: (1) The procedure for police department review of the **annual [biennial]** report required under subsection (b) prior to the chief school administrator filing the report required under subsection (b) with the office." *See* 24 P.S. § 13-1303-A(c)(1).

school district, Chester Upland, was provided with detailed information about the Charter School's policy changes. Therefore, the finding will stand as written.

2. State law determines how and if lotteries operate for oversubscribed charter schools, a charter school must use a lottery to admit students if there are more applicants than openings. The school does not conduct a lottery. No methods are in place for an admissions lottery. School advertises for Open Enrollment only.

Charter School's Response:

The school has an Enrollment and Public Lottery Process, which follows the requirements of the Charter School Law. [Exhibit 5A was provided with management's reply.] In most instances, the school did not hold a lottery because, based upon the school's rapid expansion, all student applicants were admitted. Only a few grades each year reached capacity. If a vacancy emerged in a particular grade, the school followed the protocols set forth in the Charter School Law regarding accepting students. See 24 P.S. § 17-1723-A(a) ("All resident children in this Commonwealth qualify for admission to a charter school within the provisions of subsection (b). If more students apply to the charter school than the number of attendance slots available in the school, then students must be selected on a random basis from a pool of qualified applicants meeting the established eligibility criteria and submitting an application by the deadline established by the charter school, except that the charter school may give preference in enrollment to a child of a parent who has actively participated in the development of the charter school and to siblings of students presently enrolled in the charter school. First preference shall be given to students who reside in the district or districts.").

Auditor's Conclusion:

As noted in the response above, the Charter School Law (CSL) generally requires that capacity issues must be settled by the use of a lottery. (*See* 24 P.S. § 17-1723-A(a)) By its own admission, the Charter School has not held lotteries because there were only a few instances when the school could not accept all of the students who applied for admission. However, the auditors' review of the Charter School's annual reports found that the school consistently operates with a waiting list of 100 students. This information contradicts the Charter School's contention that it very infrequently had more students than it could admit. Furthermore, the Charter School did not provide any documentation to support its decision not to conduct a lottery as required. Finally, it is important to note that the lottery requirement is separate and distinct from eligibility preferences allowed under the CSL. Therefore, this conclusion will stand.

3. The information related to the evaluation process for prospective students must be outlined in the Charter application submitted to the local school district and may not vary from what is presented in the Charter application without review and approval by the chartering school district board of directors as an amendment to the Charter. The charter school has not developed admissions criteria for prospective students. There is no evidence of admission criteria in the original or renewal charters. There are no policies and procedures contained in the approved Charter to notify the chartering school board of any changes to enrollment.

Charter School's Response:

This finding is also erroneous. As stated above, CCCS has been in operation since 1998, when its original charter was granted. In the fifteen years since its initial approval, the charter has been renewed three times and expansion to other grades has been discussed each year with the Chester Upland School District. In fact, over the years, detailed information has been supplied to CUSD regarding the school's expansion. Admission criteria was initially adopted by the board in its application (see page 29 of original application). That criteria has been expanded via the Enrollment and Public Lottery Process [Exhibit 5A was provided with management's reply.] Finally, CUSD is fully aware of CCCS's enrollment and changes to its enrollment as they happen: each month, CUSD receives and approves tuition invoices from CCCS, which reflect CCCS's student enrollment. Thus, CUSD has actual notice of CCCS's enrollment on an ongoing basis.

Auditor's Conclusion:

Again, charter schools must update their original charter through their renewal applications. The Charter School has not developed admissions criteria for prospective students and there is no evidence of admission criteria in its original charter or its renewals. By not placing this revised information in its renewals, the Charter School prevented its authorizing school district's local board of school directors (Board) from evaluating and approving these changes, and prevented the Board from subsequently reauthorizing the Charter School through the renewal process. Therefore, the conclusion must stand as presented.

Finding No. 6: Charter School Out of Compliance with Retirement Requirements

- 1. At the time of filing the original charter application a Retirement plan was not included in the application/plan. The board of trustees also, did not offer any type of Retirement plan or other options for all employees.**

Charter School's Response:

The requirements for a charter school application are set forth in Section 1719 of the Charter School Law-*none* of the requirements include a description of the school's retirement plan. See 24 P.S. § 17-1719-A. Further, when CCCS began operations in 1998, all employees were enrolled in PSERS.

Auditor's Conclusion:

We disagree with the Charter School's interpretation of the law. At the time of the Charter School's original charter filing, Section 1724-A(c) of the Charter School Law, and not Section 1719-A, required that the charter include a PSERS' retirement plan or another board approved plan. (*See* 24 P.S. § 17-1724-A(c).) Despite our repeated requests for this information, we have no evidence whatsoever that the Charter School had any kind of retirement plan when it began its operations. As such, we can only comment based on the information provided, and there is no mention of PSERS' or any other retirement plan in the charter offered by the Charter School. Therefore, this conclusion will stand as written.

2. The Charter School offers a 401K Plan however, all employees are not eligible. In order for an employee to be eligible, he/she must be at least 21 years of age with at least a minimum of years work history at the charter school.

Charter School's Response:

The premise of this conclusion is false. All employees of CCCS *are* eligible for the 401 (k) plan. The plan does, however, have certain threshold requirements that must be met before an employee can be enrolled.

Auditor's Conclusion:

Under Section 1724-A(c) of the Charter School Law (CSL), charter schools must offer **all** of their employees enrollment in the Public School Employees' Retirement System (PSERS) or another retirement program must be in place at the time of the charter application. Our audit found that the Charter School's 401K plan includes eligibility criteria and waiting periods that delay an employee's membership into the plan. According to 401K plan documents, new employees must be 21 years of age and work at least one year which includes at least 500 hours before becoming eligible for the 401K plan. Additionally, there are only four entry dates when an employee can join the 401K (4 quarters) plan after the eligibility requirements are met. Therefore, **all** employees *are not* enrolled in the plan because they must first meet eligibility requirements, which delays membership for at least one year.

By way of comparison, if a charter school participates in PSERS, Section 8301(a) of the Public School Employees' Retirement Code requires that membership shall be mandatory as of the **effective date of employment** for **all** school employees. Combined with the fact that the CSL requires a plan to be in place **at the time of the charter** that is offered to **all** employees, these indicators suggest that a retirement plan should immediately be available to **all** employees. As such, this conclusion will stand as written.

Finding No. 7: Improper Reporting of Certified School Nurse on Health Services Reimbursement Form Submitted for State Reimbursement

1. On Form H511.337 the charter schools' Registered Nurses' are being reported as Certified Nurse and Not under Supplemental Staff as required.

Charter School's Response:

This finding is erroneous. During the period under audit, there were three (3) Certified Nurses that were employed by CCCS. All three (3) Certified Nurses were certified by the PA Department of Education (PDE). [Certificates were provided with management's reply.] The PDE certificates for the three (3) certified school nurses were also provided to the state auditors during their audit fieldwork. Accordingly, the PDE Certified School Nurses were correctly reported by CCCS as Certified School Nurses on Form H511.337. CCCS also employs Licensed Practical Nurses (LPN) and Certified Nursing Assistants (CNA). The LPNs and CNAs were reported on Form H511.337 as Supplemental Staff as required.

Auditor’s Conclusion:

As stated in the finding, we found that one of the certified school nurses that the Charter School reported on the PDH Health Services Form (H511.33) for the 2010-11 and 2009-10 school year had a lapsed certificate. PDE had issued her a temporary certificate in August 2003, and it was valid for six years. Therefore it expired in August 2009 and she should have been reported as a member of supplementation staff. Our conclusion will stand as written.

We removed the other two school nurses previously referenced in the finding, and identified in management’s reply based on the additional information that the Charter School provided us after the exit conference. However, it is important to emphasize that Charter School personnel did not provide this information to the auditors during fieldwork.

Finding No. 8: Inaccurate Reporting of Child Accounting Data to the Pennsylvania Information Management System

- 1. 2010-2011: Seven student records were not uploaded to PIMS because they did not have PA Secure IDs.**

Charter School’s Response:

This finding is erroneous. As part of the end-of-year Child Accounting submission to the PIMS system, the STUDENT table was uploaded into PIMS. The extract of the student information came from the [vendor] student information system, and this file contained 2992 student records.

In the PIMS system (2) batches that contained the STUDENT files were uploaded. The first batch numbered 293135 was uploaded into PIMS on 08/25/11 and contained 2992 students, but (3) students were rejected because of bad Location of Residence data. Subsequently on 08/25/11 batch 293176 was uploaded with the corrections to the Location of Residence data and processed successfully. Between the (2) batches, ALL 2992 student records were successfully uploaded into the PIMS system.

There were no errors regarding missing PA Secure ID(s), and all of the student records were successfully loaded into the PIMS system.

Auditor’s Conclusion:

As stated in the finding, the reports provided to the auditors (the Detail Attendance Report from the vendor system, the Student Calendar Fact Template Details, and Instructional Time and Membership Reports from PIMS) clearly show seven students without PA Secure IDs whose records were not uploaded to PIMS. Our conclusion will stand as written.

- 2. 2010-2011: Membership reporting for 31 Students was questionable given the lack of agreement between tuition billing and membership reporting. There was not enough information available to determine the correct membership days or tuition amounts for these students. Therefore, no corrections were submitted to PDE and no adjustments to tuition invoices were made.**

Charter School's Response:

This finding is erroneous. CCCS membership data comes from the [authorizing school district] Student Information System [vendor]. Notably, [the authorizing school district] *required* CCCS to use the [vendor] system. In it, the data is maintained by [the authorizing school district] personnel, and CCCS personnel do not have access to the fields of data that drive membership (entry and withdrawal dates). To compensate for this lack of control, CCCS Child Accounting personnel maintain a separate ACCESS database with the students' information. We have found on occasion that the data between these two databases is out of sync, and we routinely make the attempt to reconcile the data. Nevertheless, since CCCS has no control over the membership data in the [vendor] student information system, we are reliant on [the authorizing school district] personnel to make the appropriate corrections in a timely manner. If this is not done, then the possibility of incorrect data being pulled is possible.

In order to eliminate this problem (multiple sources of data), CCCS underwent an extensive research process to determine which software would best fit the needs of CCCS in terms of a student information system. After many months of research, meetings, conference calls, etc., CCCS decided to purchase its own Student Information System [from a new vendor] and has been in the process of implementing the system for the past several months. The new Student Information System will go live in September 2013 and will be the *single source* of all student information going forward. This will eliminate the problem of having multiple sources of data, and all billing and membership data will be derived from the same source which will be controlled by CCCS personnel.

Note: The [authorizing school district] many years ago required that the Chester Community Charter School participate in the [vendor] system in order for [the authorizing school district] to have demographic and billing information regarding CCCS students

3. 2010-2011: Student records for students who had un-enrolled at the beginning of the year were not deleted from the Student Information System (SIS). Those records were uploaded to PIMS. Membership days were credited to resident districts, and subsequently those districts received state subsidy based on that membership. Affected districts were not billed tuition for these students.

Charter School's Response:

The Chester Community Charter School does not have control over the [vendor] system. It is reliant upon the [authorizing school district] to make requested changes. Beginning in September 2013, CCCS will implement its own Student Information System through the [new vendor] software, and this data will be maintained and controlled by CCCS Child Accounting personnel.

Previously when a student was enrolled, a start/entry date was entered into the [vendor] student information system. Subsequently if the student was identified as a "no show," a withdrawal date was entered. This information was controlled and maintained by the [authorizing school district] personnel, who were entering a withdrawal date that was typically a

few days after the start date. This was problematic for CCCS because the end-of-year reporting indicated that the student had several days of membership at CCCS even though he/she never attended the school. In an effort to correct this problem, CCCS explained the problem to Chester Upland personnel, requested that this situation be remedied, and as a result, the [authorizing school district] has begun to properly delete the student completely from the system. This has reduced and or eliminated the problem. Again, with the new vendor software scheduled to be implemented in September 2013, these issues should be eliminated.

4. 2009-2010: We attempted to reconcile the information contained on the Instruction Time and Membership Reports (ITMR) with the school's membership report from its SIS. Not one ITMR agreed to the SIS report. Therefore, membership for 2009-10 was deemed un-reconcilable and no comparison to tuition billing was performed.

Charter School's Response:

The membership numbers generated by the [vendor] system were not accurate because the [authorizing school district] did not accurately account for differences between CCCS's calendar and [the authorizing school district's] own calendar. For example, certain holidays observed by CCCS were erroneously included as school days, and the half-day sessions (Wednesdays) were erroneously entered as full days. The calendar never accounted for the lost instructional time for the half-day sessions. Until recently, CCCS personnel did not have access to the school calendar in [the vendor's system] and as a result, it could not control the entry of erroneous information submitted by the [authorizing school district] on its behalf.

CCCS personnel had to work diligently to correct the mistakes in the [vendor] system (controlled by [the authorizing school district] related to the days in session and instructional time in order to upload any membership data into PIMS.

Beginning in September 2013, CCCS will implement its own Student Information System through the [a new vendor] software, and this data will be maintained and controlled by CCCS Child Accounting personnel.

Auditor's Conclusion (2, 3, and 4 above):

The Charter School has relied on data maintained by the authorizing school district's personnel to complete its state child accounting reports and tuition billings. However, the responsibility for ensuring that this data is accurate still lies with the Charter School itself, just as it would if the Charter School had contracted with a child accounting vendor. The involvement of a third party does not negate the Charter School's accountability for ensuring it is complete, valid and correct. Our conclusion will stand as written.

Finding No. 9: Internal Control Weaknesses in Tuition Billing Procedures

1. 2010-11: Three student's resident districts were not billed any tuition during their enrollment period even though their membership was reported correctly via PIMS. All three of these students were ultimately withdrawn due to nonattendance. Tuition is based on enrollment, not attendance.

Charter School's Response:

This finding is erroneous. As stated earlier, CCCS notifies [the authorizing school district] of students enrolled at CCCS. CCCS also notifies [the authorizing school district] when students leave or transfer out of CCCS. CCCS does not control when [the authorizing school district] actually removes these students from its enrollment. CCCS does not bill resident districts for students it knows are no longer enrolled at CCCS even though the student may not have been formally removed from its enrollment by [the authorizing school district]. As previously stated, the Chester Community Charter School does not have control over the [vendor] system. It is reliant upon the [authorizing school district] to make requested changes because it controls the data. Beginning in September 2013, CCCS will implement its own Student Information System through the [new vendor] software, and this data will be maintained and controlled by CCCS Child Accounting personnel.

Auditor's Conclusion:

This finding is accurate. The Charter School has relied on data maintained by the authorizing school district personnel to generate its tuition bills. In fact, the Charter School explains that it is reliant upon the authorizing school district to make requested changes because it controls the data. While the Charter School may not physically control the data, it still has the responsibility to ensure its accuracy and completeness. The Charter School, not the authorizing school district, is responsible for maintaining enrollment data and properly billing for its students. Moreover, the Charter School is responsible for student information it reports to the Pennsylvania Department of Education, not the authorizing school district. As such, the involvement of a third party does not negate the Charter School's responsibility to ensure that the student data it uses to bill for tuition is accurate. Our conclusion will stand as written.

2. 2010-11: CCCS prepared year end billing reconciliations for only five of eleven sending districts. The remaining six districts received only a final monthly billing. 2009-10: No year-end billing reconciliations were prepared for any sending district. As a result of CCCS's failure to prepare reconciliations, the affected districts paid tuition to the charter school which did not reflect actual membership days. Therefore, the tuition paid by these districts is inherently inaccurate.

Charter School's Response:

Since the 2011-2012 school year, CCCS has prepared year end reconciliations for all districts with resident students attending CCCS. Thus, any issue with incomplete year-end reconciliations has been resolved.

For the 2010-2011 school year, the districts that did not receive year-end reconciliations accounted for a small percentage of CCCS's total student population; thus, errors in billing, if any, would have been *de minimis*.

Regarding both 2009-2010 and 2010-2011, any errors in billing based on inaccurate ADMs were the result of issues with [the authorizing school district]-generated data. For the reasons discussed above, those errors/issues will be resolved with the implementation of CCCS's new student accounting software.

Auditor's Conclusion:

Management's reply acknowledges that inaccurate student membership and billing errors occurred. We will follow-up on the Charter School's use of a new vendor to correct these issues during our next audit of the Charter School.

3. 2010-11: With the exception of the reconciliation for [one sending school district], the reconciliations for the other four school districts were prepared inaccurately. These errors resulted in an incorrect calculation of average daily membership which is an integral element of the overall tuition calculation. Therefore, tuition for these districts was calculated incorrectly. Unfortunately, correct individual student membership days were not available for all students; therefore, corrections could not be made.

Charter School's Response:

Each day, the CCCS enrollment is uploaded into the [authorizing school district vendor system]. CCCS enrollment is reconciled on a monthly basis at the end of each month with the CUSD's Director of Child Accounting. Accordingly, at year end the [authorizing school district] provided CCCS with its 2010-11 individual student membership days it used for preparing the year end billing reconciliations. Unfortunately CCCS was unaware that the membership numbers generated by the [authorizing school district] were not correct because the [authorizing school district] did not accurately account for differences between CCCS's calendar and [authorizing school district's] own calendar. For example, certain holidays observed by CCCS were erroneously included as school days, and the half-day sessions (Wednesdays) were erroneously entered as full days. The calendar never accounted for the lost instructional time for the half-day sessions. The student membership days provided by [the authorizing school district] were used by CCCS to prepare the 2010-11 reconciliations for the other four districts.

Until recently, CCCS personnel did not have access to the school calendar in [the vendor's software], and as a result, it could not control the entry of erroneous information submitted by the [authorizing school district] on its behalf.

CCCS personnel had to work diligently to correct the mistakes in the [vendor] system (controlled by [the authorizing school district]) related to the days in session and instructional time in order to upload any membership data into PIMS.

Beginning in September 2013, CCCS will implement its own Student Information System through the [new vendor] software.

Auditor's Conclusion:

As the finding states, the year end reconciliation for one school district was prepared correctly using accurate calendar information and student membership based on that calendar. Since that reconciliation was prepared correctly, there is no reason for the other four reconciliations to have been prepared inaccurately. The reconciliations for the other four sending school districts should have been corrected. We will follow-up on the Charter School's use of a new vendor to correct these issues during our next audit of the Charter School. Our conclusion will stand as written.

4. 2010-11: [One school district] underpaid the charter school while [two school districts] overpaid. Neither [of the two districts] received a refund or a credit to a future bill. Exact amounts of under/overpayments cannot be provided due to membership reporting errors and/or inaccurately prepared yearend billing reconciliations that could not be corrected. Under/overpayment determinations were based on a comparison of tuition billed and collected.

Charter School's Response:

It is inaccurate to state CCCS was underpaid by [one school district] and overpaid by [two school districts] while also acknowledging that the ADM information supplied by [the authorizing school district], which was used in those payment calculations, was inaccurate. Regardless, any issues with billing have been or will be resolved, as set forth above.

Auditor's Conclusion

As previously noted, the reconciliation for one school district was prepared accurately with respect to ADM information. However, two school districts were billed using inaccurate ADM information, which resulted in incorrect tuition billings. Not only were the tuition bills incorrect, but we further determined that the Charter School collected more tuition than what was incorrectly billed. Consequently, membership reporting errors and the lack of adequate billing procedures, including an accurate year-end reconciliation, resulted in the Charter School incorrectly billing and collecting tuition from two school districts. Again, our conclusion will stand as written.

Finding No. 10: Charter School Lacks Sufficient Internal Controls Over Its Student Record Data

1. There are insufficient internal controls over the involvement of a third party, namely [the authorizing school district], in the LEA's child accounting function. This is especially true given the errors noted in the membership and tuition findings.

Charter School's Response:

The child accounting function is dependent on the information that is loaded and controlled by **[the authorizing school district]** personnel. CCCS personnel are not able to enter or maintain fields of student data that effect membership. Although attempts are made to identify discrepancies and forward the correct information to **[the authorizing school district]**, CCCS has no control over the process of actually changing the data.

In order to eliminate this problem, CCCS has made the investment and purchased their own Student Information System [new vendor] and is in the process of implementing this system. The new Student Information System will go live in September 2013 and all student information will be maintained by CCCS personnel going forward.

Auditor's Conclusion:

The Charter School has relied on data maintained by the authorizing school district's personnel to complete its state child accounting reports for the audit period covered in our report. The Charter School has a responsibility to ensure that the data it reports to the state is accurate. The involvement of a third party does not negate this responsibility. We will follow-up on the Charter School's use of a new vendor to correct these issues during our next audit of the Charter School. Therefore, our conclusion will stand as written.

2. The LEA does not reconcile the membership report produced from its Student Information System with the PIMS accuracy statement report or other PIMS reports.

Charter School's Response:

CCCS does attempt to reconcile the membership report produced from the [vendor] Student Information System with PIMS reports. The problem is that the membership numbers generated by the [vendor] system are not accurate due to the fact that the school calendar which is maintained by [authorizing] school district personnel is not correct. Realizing that the calendar is not correct in the [vendor] system, corrections need to be made to the days in session and instructional time before uploading any membership data into PIMS. Until recently CCCS personnel did not have access to the school calendar in the [vendor] system. The membership data in the PIMS system reflects the correct membership numbers.

Going forward this will no longer be an issue, because CCCS is implementing its own Student Information System starting with the 2013-2014 school year.

Auditor's Conclusion:

During the course of the audit, Charter School personnel indicated that reconciliations between membership reports from the Student Information System and reports from the Pennsylvania Information Management System (PIMS) were NOT performed. Moreover, the auditors identified numerous discrepancies between the two reports, as noted in Finding No. 8,

which gives further credence to the conclusion the Charter School's personnel does not perform these reconciliations routinely. We will follow-up on the Charter School's use of a new vendor to correct these issues during our next audit of the Charter School. Our conclusion will stand as written.

3. The [Charter School] does not have adequate procedures in place to ensure continuity over its PIMS data submission in the event of a sudden change in personnel or child accounting vendors.

Charter School's Response:

This observation is illogical. There is an entire child accounting team that can perform the duties of the Child Accounting Director should she no longer be employed by CCCS for any reason. Moreover, it is highly likely that CCCS would immediately seek to replace the Director should she no longer be employed with CCCS.

Likewise, should the Director of Technology no longer be affiliated with CCCS, a replacement individual would be immediately hired. Moreover, there is an entire technology team that could perform the essential functions of the position until such time that a replacement were procured.

Auditor's Conclusion:

This finding is accurate. The Director of Technology is directly responsible for ensuring that all necessary uploads are made to PIMS. The Director of Child Accounting bears the responsibility for the child accounting data's accuracy. These are not insignificant or simplistic tasks and require significant knowledge of PIMS and child accounting procedures gained through experience and technical reading. Should the Director of Technology or the Director of Child Accounting leave the Charter School or otherwise be unable to complete his/her duties relative to PIMS uploads, the Charter School loses that expertise and does not have internal controls in place currently to compensate. Our conclusion will stand as written.

4. Registration testing disclosed students from whom basic demographic information could not be retrieved from the student information system. This testing also disclosed students whose cumulative files were incomplete and students whose file information did not agree with the information in the student information system.

Charter School's Response:

This finding is erroneous. CCCS membership data comes from the [authorizing school district] Student Information System [vendor system]. The data is maintained by [authorizing school district] personnel, and CCCS personnel do not have access to the fields of data that drive membership (entry and withdrawal dates). To compensate for this lack of control, CCCS Child Accounting personnel maintain a separate ACCESS database with the students' information. We have found on occasion that the data between these two databases is out of sync, and we make

the attempt to reconcile the data. However since CCCS has no control over the membership data in the [vendor] student information system, we are reliant on [authorizing school district] personnel to make the appropriate corrections in a timely manner. If this is not done, then the possibility of incorrect data being pulled is possible. Nevertheless, CCCS maintains basic demographics information on all students. It is absurd to state the contrary. Demographic information is contained in the student's child accounting file. If a child relocates, gets a new telephone number, etc., and that information is not conveyed to CCCS, then CCCS would have inaccurate information in the child accounting file. CCCS tries very hard each year to impress upon its parent population to always notify it of changes in address, telephone number, etc. The information contained in a child accounting file is only as good as the information provided by the parent/guardian.

Additionally, behavioral files, special education files, and truancy/absenteeism files are not contained in the child accounting file. Those items are separately maintained, and therefore, would never be contained in the child accounting file.

Auditor's Conclusion:

At no time in this finding did we suggest that the students' demographic information was non-existent. Instead we focused on the fact that during the course of the audit, the Charter School provided the auditors with an incomplete report of basic demographic data, including entry and withdrawal information. Additionally, in some cases, the auditors found inconsistencies between the requested hard copy student files and the information that had been entered into the student information system. Any information entered into the Student Information System should match what is on the hard copy forms in the student file. This consistency is particularly essential given that only the electronic information is reported to PDE. Our conclusion will stand as written.

5. Illegal absence testing did not support the procedures provided by school management. Of the student cumulative files made available for review during the test, not one contained any information on absences or truancy proceedings.

Charter School's Response:

This finding is erroneous. CCCS has a Student Attendance Policy, approved by its Board of Trustees, which also details the truancy process. Parents are aware of this Policy because it is discussed in the CCCS Family Handbook.

The auditors randomly selected child accounting student files for review, but that is not where truancy/absentee documentation is maintained. In fact, truancy/absenteeism documentation is maintained in a file in the respective student's building, and not in the child accounting student file (child accounting student file contains registration documentation, transfer information, etc., but not absenteeism and/or truancy materials).

If the auditors wanted information about truancy procedures or the school's policy on Dealing with excessive absenteeism, the appropriate file would have been provided.

Unfortunately, the auditors failed to indicate to appropriate CCCS personnel that truancy/absenteeism was one of the areas of review. As a result, they did not review the appropriate files.

CCCS personnel follow a very detailed process in order to determine if a child is absent, truant, has enrolled at a different school yet failed to notify CCCS, etc. Principals and teachers compile a list of students who have not reported to school for three (3) consecutive days. They begin calling all known phone numbers on record for the family. These individuals work closely with child accounting personnel to determine if a family has completed the appropriate paperwork to transfer the student from CCCS to another school. Chester residents tend to relocate very frequently, and many families relocate without notifying the school. As a result, communicating with the family has proven to be difficult. Most phone numbers are found to be non-working.

If the Principal and teacher(s) have exhausted all contacts or any leads regarding a potential contact number or address, the school's Behavior Specialists, who is charged with monitoring student climate and working closely with the parents on disciplinary or attendance issues, will make a home visit to attempt to determine if the family is still living at the last known address. CCCS also works with the [authorizing school district] to determine if [the authorizing school district] has any information about the whereabouts of the student (i.e., did the child enroll in a [authorizing school district] school?). As CCCS makes contact with family members, or extended family members, or and gains additional information, the school team and child accounting staff complete a Failure to Report form. CCCS personnel continue to request that families complete transfer paperwork in order for CCCS to close their enrollment status with CCCS. These reports are kept at each school building for each child at issue.

Auditor's Conclusion:

Management's assertion that absence/truancy information was not requested is inaccurate as evidenced by a February 6, 2013, email from the auditor to the Charter School's Chief Financial Officer, who was the designated point of contact for all audit requests for documents. As noted in the body of the finding, the Charter School could not provide the requested documentation at the time of the request, and has not provided it since that time. Our conclusion will stand as written.

Finding No. 11: Charter School's Original Charter Lacks Important Requirements and Has Never Been Updated to Reflect Its Current Operations

1. The contents of the original application are inconsistent with 24 PS 17-1719-A of the Charter School Law. The original application was lacking:

a. Proposed governance structure of the charter school, including a description and method for the appointment or election of member of the board of trustees.

- b. The mission and educational goals of the school, the curriculum and/or the methods of assessing whether or not students meet educational goals.
- c. Admission policy and criteria for evaluating the admission of students which shall comply with the requirements of Section 1723-A.
- d. Procedures which will be used regarding the suspension or expulsion of students in compliance with section 1318.
- e. Information on the community involvement in the charter school planning process.
- f. The financial plan and the provisions which will be made for auditing the school in compliance with section 437.
- g. Procedures for reviewing complaints of parents regarding the operation of the school.
- h. A description of and the address of the facility used to house the charter school, location, ownership and lease agreements.
- i. Proposed school calendar for the charter school, which includes the length of the school day and year consistent with the provisions of section 1502.
- j. The faculty and professional development plan for the faculty.
- k. Any agreements or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district.
- l. Criminal history record pursuant to section 111, for any individuals who will have direct contact with the students.
- m. An official clearance statement regarding child injury or abuse from the Department of Public Welfare as it relates to background checks for employment in schools for all individuals who will have direct contact with the students.
- n. How the charter school will provide adequate liability and other appropriate insurance for the school, its employees, and board of trustees.

Charter School's Response:

CCCS first objects to this finding because there is no relevance to the school's 1997 application-a 15 year old document-and CCCS's current operations. CCCS has applied for, and

received, three renewals since 1997. Thus, that application is especially without any present relevance, having been legally superseded three times. Further, the current CCCS board was not responsible for the 1997 application. During the current board's tenure, the school has appropriately supplied all necessary information to CUSD when seeking renewal, and CUSD, who has a duty to review the statutory requirements, has granted renewal each time.

As to the findings, with the exception of sub-issue (d) above (regarding suspensions and expulsions), CCCS's original charter school application from 1997 did include the required items set forth in Section 1719 of the Charter School Law, 24 P.S. § 17-1719-A (see chart below). As to CCCS's suspension or expulsion policy, though not set forth expressly in the original 1997 application, it is alluded to on page 31 (regarding student behavior) and, regardless, it has been well-established and reduced to writing in the intervening 15 years since CCCS's original application. [Exhibit 10A was provided with management's reply.] Further, CCCS gives a presentation to CUSD each time it seeks renewal, thus presumably, the prior board did the same in conjunction with the 1997 application. There is every reason to believe that all aspects of Section 1719-A were discussed at that presentation since CUSD ultimately granted the charter.

Section 1719-A Requirement	Location in Application
(1) The identification of the charter applicant.	Application Fact Sheet
(2) The name of the proposed charter school.	Application Fact Sheet
(3) The grade or or age levels served by the school.	Application Fact Sheet
(4) The proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees.	Page 22
(5) The mission and education goals of the charter school, the curriculum to be offered and the methods of assessing whether students are meeting educational goals.	Pages 1-2, 10-11
(6) The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 1723-A.	Page 29
(7) Procedures which will be used regarding the suspension or expulsion of pupils. Said procedures shall comply with section 1318.	See Page 31
(8) Information on the manner in which community groups will be involved in the charter school planning process.	Page 20-22
(9) The financial plan for the charter school and the provisions which will be made for auditing the school under section 437.	Page 26
(10) Procedures which shall be established to review complaints of parents regarding the operation of the charter school.	Page 8
(11) A description of and address of the physical facility in which the charter school will be located and the ownership thereof and any lease arrangements.	Page 27
(12) Information on the proposed school calendar for the charter school, including the length of the school day and school year consistent with the provisions of section 1502.	Attachment E to the Application
(13) The proposed faculty and a professional development plan for the faculty of a charter school.	Pages 29-30

(14) Whether any agreements have been entered into or plans developed with the local school district regarding participation of the charter school students in extracurricular activities within the school district. Notwithstanding any provision to the contrary, no school district of residence shall prohibit a student of a charter school from participating in any extracurricular activity of that school district of residence: Provided, That the student is able to fulfill all of the requirements of participation in such activity and the charter school does not provide the same extracurricular activity.	Pages 14-15
(15) A report of criminal history record, pursuant to section 111, for all individuals who shall have direct contact with students.	Attachment K to the Application
(16) An official clearance statement regarding child injury or abuse from the Department of Public Welfare as required by 23 Pa.C.S. Ch. 63 Subch. C.2 (relating to background checks for employment in schools) for all individuals who shall have direct contact with students.	Attachment L to the Application
(17) How the charter school will provide adequate liability and other appropriate insurance for the charter school, its employees and the board of trustees of the charter school.	Page 27 and Attachment J to the Application

Finally, CCCS has been renewed three times since the original charter grant, and has never been found lacking in any of its duties or policies under the Charter School Law. Also, CCCS has well-established policies and programs consistent with all requirements of Section 1719-A, which are set forth in the Family Handbook, the Employee Handbook, and the Policies and Procedures Manual (all of which are available to the state auditors on demand).

2. The charter school does not have policies and procedures to notify the authorizing local school board or chartering district of any changes to information contained in its approved Charter.

Charter School’s Response:

CCCS routinely notifies CUSD regarding changes to its operation. Why those notices should be reduced to a formal written policy has not been made clear by the state auditors.

Auditor’s Conclusion regarding conclusions 1 and 2:

As stated in the finding, our audit determined that the Charter School’s original charter never met the requirements of Section 1719-A of the Charter School Law, and was not subsequently updated. This deficiency has a direct effect on the Charter School’s governance structure because the charter is a legally binding contract under Section 1720-A(a) of the Charter School Law. Subsection (a) of Section 1720-A(a) (related to the Term and form of charter) of the CSL, 24 P.S. § 17-1720-A(a), states, in part:

The written charter shall act as legal authorization for the establishment of a charter school. This written charter shall be legally binding on both the local board of school directors of a school district and the charter school’s board of

trustees. A charter will be granted only for a school organized as a public, nonprofit cooperation.

By not updating its original charter, the Charter School maintains a contract with its authorizing school district that contains inaccurate information. For example, the CEO of the Archway Programs, Inc., is the contact person listed on the original charter application and “The Archway Charter School of Chester” is the proposed school name. Our review found that Archway Programs, Inc. is a New Jersey based consulting and management company that specialized in assisting with the start up of charter schools. The Charter School could not provide us with any documentation to verify the name change of the school and/or when the previous management company severed dealings with the Charter School. Likewise, according to the original charter the Charter School should only be educating students in grades K-4.

As for the chart provided in management’s reply, the references to pages in the original charter contained very general information that was not descriptive enough to meet the requirements under the CSL. Moreover, as stated in the finding, the Charter School does not have policies and procedures in place to ensure that that it notifies the authorizing school district’s board if it makes any changes to its approved Charter. As with any organizational process, the notification procedures should be put in writing to establish an internal control that ensures that staff charged with carrying out the process implement it accurately and consistently. Likewise, writing these procedures down helps to preserve the information in case current staff leave the Charter School’s employment. Moreover, while we agree that the charter has been renewed three times, none of the renewals updated the terms of the original charter. Therefore, the required contents of the original charter application have never been corrected or updated through the renewal process. Our conclusions will stand as written.

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:

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