

INFINITY CHARTER SCHOOL
DAUPHIN COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT

JULY 2011

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

Mrs. Carol Hilty, Board President
Infinity Charter School
51 Banks Street, Suite 1
Penbrook, Pennsylvania 17103

Dear Governor Corbett and Mrs. Hilty:

We conducted a performance audit of the Infinity Charter School (ICS) to determine its compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures. Our audit covered the period July 1, 2006 through October 1, 2010, except as otherwise indicated in the report. Additionally, compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2008 and June 30, 2007. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the ICS complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except as detailed in the finding noted in this report. In addition, we identified one matter unrelated to compliance that is reported as an observation. A summary of these results is presented in the Executive Summary section of the audit report.

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

Sincerely,

/s/
JACK WAGNER
Auditor General

July 5, 2011

cc: **INFINITY CHARTER SCHOOL** Board of Trustees



Table of Contents

	Page
Executive Summary	1
Background Information on Pennsylvania Charter Schools	3
Audit Scope, Objectives, and Methodology	6
Findings and Observations	10
Finding - Lack of Memorandum of Understanding	10
Observation - Payment of Supplemental CEO Contract Lacked Written Minutes and Recorded Board Vote	12
Status of Prior Audit Findings and Observations	14
Distribution List	15



Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the Infinity Charter School (ICS). Our audit sought to answer certain questions regarding the School's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures.

Our audit scope covered the period July 1, 2006 through October 1, 2010, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidy and reimbursements was determined for school years 2007-08 and 2006-07.

ICS School Background

The ICS, located in Dauphin County, opened in August 2003. It was originally chartered on January 17, 2003, for a period of four years by the Central Dauphin School District. ICS's mission states: "Our mission is the creation, operation, and maintenance of a world-class charter school in the Central Dauphin School District that addresses the intellectual, academic and social-emotional needs of mentally gifted children in grades K-12." During the 2008-09 school year, the ICS provided educational services to 121 pupils from 11 sending school districts through the employment of 12 teachers, 3 full-time and part-time support personnel, and 1 administrator. ICS received \$44,739 in state funding in school year 2007-08.

Adequate Yearly Progress

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

AYP is a key measure of school performance established by the federal No Child Left Behind Act of 2001 requiring that all students reach proficiency in Reading and Math by 2014. For a school to meet AYP measures, students in the school must meet goals or targets in three areas: (1) Attendance (for schools that do not have a graduating class) or Graduation (for schools that have a high school graduating class), (2) Academic Performance, which is based on tested students' performance on the Pennsylvania System of School Assessment (PSSA), and (3) Test Participation, which is based on the number of students that participate in the PSSA. Schools are evaluated for test performance and test participation for all students in the tested grades (3-8 and 11) in the school. AYP measures determine whether a school is making sufficient annual progress towards the goal of 100 percent proficiency.

The ICS's most recent PSSA academic performance results are presented in the table located at the end of the report in Appendix A.

Audit Conclusion and Results

Our audit found that the ICS complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures; however, as noted below, we identified a compliance-related matter

reported as a finding and a matter unrelated to compliance that is reported as an observation.

Finding: Lack of Memorandum of Understanding. Our audit of the ICS records found that the ICS did not have a signed Memorandum of Understanding available for audit, for its building within the town of Penbrook (see page 10).

Observation: Payment of Supplemental CEO Contract Lacked Written Minutes and Recorded Board Vote. Our review of the ICS's contracts and board meeting minutes found that the ICS failed to record official board action and individual board votes related to a supplemental contract payment of \$50,000 to the chief executive officer for curriculum writing (see page 12).

Status of Prior Audit Findings and Observations. There was no previous audit of this charter school. Therefore, there are no prior audit findings or observations (see page 14).

Background Information on Pennsylvania Charter Schools

Pennsylvania Charter School Law

*Description of Pennsylvania
Charter Schools:*

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

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

The Law permits the establishment of charter schools by a variety of persons and entities, including, among others, an individual; a parent or guardian of a student who will attend the school; any nonsectarian corporation not-for-profit; and any nonsectarian college, university or museum.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 school will be established,⁴ and that board must hold at least one public hearing before approving or rejecting the application.⁵ If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,⁶ which is comprised of the Secretary of Education and six members appointed by the Governor.⁷

¹ 24 P.S. § 17-1702-A.

² Id.

³ 24 P.S. § 17-1717-A (a).

⁴ 24 P.S. § 17-1717-A (c).

⁵ 24 P.S. § 17-1717-A (d).

⁶ 24 P.S. § 17-1717-A (f).

⁷ 24 P.S. § 17-1721-A (a).

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: “*The Accountability Report 2009: Charter Schools.*” February 2009.

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

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 Charter School Law, 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, for the prior school year.¹⁰ 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.¹¹ The Charter School Law also requires that charter schools bill each sending school district on a monthly basis for students attending the charter school.¹²

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.

The Commonwealth also pays a reimbursement to each school district with students attending a charter school. This reimbursement is a mandatory percentage rate set by the Public School

⁸ 24 P.S. § 17-1720-A.

⁹ Pennsylvania Department of Education, Basic Education Circular, “Charter Schools,” Issued 10/1/2004.

¹⁰ See 24 P.S. § 17-1725-A.

¹¹ See 24 P.S. § 25-2509.5(k).

¹² See 24 P.S. § 17-1725-A(a)(5).

Code of 1949, as amended, of total charter school costs incurred by a sending school district.¹³ Commonwealth reimbursements for charter school costs are funded through an education appropriation in the state's annual budget.

¹³See 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.

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each Local Education Agency (LEA). The results of these audits are shared with LEA management, the Governor, the PA 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 July 1, 2006 through October 1, 2010.

Regarding state subsidy and reimbursements, our audit covered school years 2007-08 and 2006-07.

For the purposes of our audit work and to be consistent with Department of Education 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 law, regulation, contract, grant requirement, or administrative procedure. Observations are reported when we believe corrective action should be taken to remedy a potential problem not rising to the level of noncompliance with specific criteria.

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

- ✓ Was the charter school in overall compliance with the Public School Code of 1949¹⁴ (Code) and the Charter School Law (Law)?¹⁵
- ✓ Did the charter school have policies and procedures regarding the requirements to maintain student health records and perform required health services, and keep accurate documentation supporting its annual health services report filed with the Department of Health to receive state reimbursement?

¹⁴ 24 P.S. § 1-101 *et seq.*

¹⁵ 24 P.S. § 17-1701-A *et seq.*

- ✓ 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?
- ✓ Did the charter school comply with the open enrollment and lottery provisions of the Charter School Law?
- ✓ Does 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 board of trustees and administrators, and the chartering school board members comply with the Public School Code, 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 as of the end of the 2005-06 school year?
- ✓ Did the charter school require its noncertified professional employees to provide evidence that they are at least 18 years of age, a U.S. citizen, and certified by a licensed Pennsylvania physician to be neither mentally nor physically disqualified from successful performance of the duties of a professional employee of the charter school?
- ✓ Did the charter school accurately report its membership numbers to DE and were its average daily membership and tuition billings accurate?
- ✓ Did the charter school comply with the law's compulsory attendance provisions and, if not, did the charter school remove days in excess of ten consecutive unexcused absences from the school's

reported membership totals pursuant to the regulations?¹⁶

- ✓ Was the charter school taking 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, unless the board of trustees had a retirement plan that covered the employees or the employees were already enrolled in another retirement program?
- ✓ Did the charter school use an outside vendor to maintain its membership data, and if so, are there 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 finding, observation and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding, observation and conclusions based on our audit objectives.

ICS management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the charter school is in compliance with applicable laws, regulations, contracts, grant requirements, and administrative procedures. Within the context of our audit objectives, we obtained an understanding of internal controls and assessed whether those controls were properly designed and implemented.

Any significant deficiencies found during the audit are included in this report.

¹⁶ 22 Pa. Code § 11.24.

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 meeting minutes, pupil membership records, IRS 990 forms, and reimbursement applications.
- Tuition receipts and deposited state funds.

Additionally, we interviewed selected administrators and support personnel associated with ICS operations.

Findings and Observations

Finding

Public School Code section and criteria relevant to the finding:

Section 13-1303-A(c) of the Public School Code requires all school entities to enter into a memorandum of understanding (MOU) with local law enforcement having jurisdiction over school property.

Lack of Memorandum of Understanding

Our audit of the Infinity Charter School (ICS) records found that the ICS did not have a signed Memorandum of Understanding (MOU) available for audit for its building within the town of Penbrook.

The failure to obtain the MOU with the local law enforcement agency could result in a lack of cooperation, direction, and guidance between ICS employees and the law enforcement agency if an incident occurs on school property, at any school-sponsored activity, or any public conveyance providing transportation to or from a school or school-sponsored activity. This internal control weakness could have an impact on law enforcement notification and response, and ultimately the resolution of a problem situation.

During our current audit, on July 26, 2010, ICS personnel and personnel of the local police department executed and signed a MOU.

Recommendations

The *Infinity Charter School* should:

1. Continue to maintain an MOU with local law enforcement having jurisdiction over school property.
2. In consultation with the ICS's solicitor, review new requirements for MOUs and other school safety areas under the Public School Code to ensure compliance with amended Safe Schools provisions enacted November 17, 2010.
3. Adopt an official board policy requiring the administration to biennially update and re-execute all MOUs with local law enforcement and file a copy with the Department of Education's Office of Safe Schools on a biennial basis.

Management Response

Management stated the following:

Once it was brought to our attention, we drafted a Memorandum of Understanding and sent it to our attorney within the week. Once we had our attorney's response, we delivered it to the local police chief. He recommended changes, which were approved by our attorney. Infinity's Board approved the revised MOU at their next meeting, on July 21, 2010. The MOU was signed and delivered to the Chief of Police on July 26, 2010.

Observation

**Payment of Supplemental CEO Contract Lacked
Written Minutes and Recorded Board Vote**

*Charter School Law and Sunshine
Act Provisions:*

Section 17-1716-A(c) of the
Charter School Law requires:

The board of trustees to comply
with the Sunshine Act, 65 P.S. §
701 et seq.

Section 705 of the Sunshine Act
requires:

The vote of each member must be
publicly cast and recorded.

Section 706 of the Sunshine Act
requires:

Written minutes shall be kept of
all public meetings, including the
names of members present, the
substance of all official actions,
and a record by individual member
of the roll call votes taken.

Our review of the ICS's contracts and board meeting minutes found that the ICS failed to record official board action and individual board votes related to a supplemental contract payment of \$50,000 to the chief executive officer (CEO) for curriculum writing.

Additionally, we established that the CEO's husband sits on the board from time to time when the board is short a member. Due to the lack of written minutes, auditors could not determine if the CEO's husband was on the board at the time of the contract agreement, if he participated in discussions with board members regarding the contract, and if he abstained from the vote. These issues are relevant to identifying potential violations of the Ethics Law as it relates to restricted activities of board members.

Furthermore, the contract provided was signed and dated for a date after the ICS made payment to the CEO for the contracted work.

The Sunshine Act requires transparency of business conducted by agencies in an effort to hold public officials accountable for how taxpayer money is spent. ICS's lack of written minutes approving this contract limits public transparency and accountability for business conducted by the charter school and its board involving the spending of public education dollars. Furthermore, ICS's lack of recorded board minutes detailing discussions, actions, and roll call votes required under the Sunshine Act restricted our ability to review board consideration and approval of this contract.

Recommendations

The *Infinity Charter School* Board of Trustees should:

1. Vote on all matters during a public open meeting and record the substance of all official board actions and roll call votes taken.
2. Require all contracts be signed and dated prior to payment being made.
3. Maintain executed contracts on file.

Management Response

Management provided the following:

At the May 17, 2009 *Infinity Charter School* Board meeting, the Board of Trustees planned to discuss paying the CEO/Director, a sum of \$50,000 for her work in the development of curriculum materials during the 2008-09 school year. Both [the individual] and her husband, were asked to leave the meeting prior to the discussion. When the Board's discussion was complete, they voted to approve the payment. Since [the individual's husband] typically takes the board meeting minutes, and he wasn't in the room at the time the motion was made, it was inadvertently excluded from the board meeting minutes. It should be noted that [the individual's husband] was not a board member at the time of this discussion. When he has been a board member in the past, he has always abstained from voting on matters that would directly benefit the CEO/Director.

Status of Prior Audit Findings and Observations

This is our first audit of the Infinity Charter School. Therefore, there were no findings or observations.

Distribution List

This report was initially distributed to the chief executive officer of the charter school, the charter school board of trustees members, our website address at www.auditorgen.state.pa.us, and the following:

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

The Honorable Ronald J. Tomalis
Secretary of Education
1010 Harristown Building #2
333 Market Street
Harrisburg, PA 17126

The Honorable Robert M. McCord
State Treasurer
Room 129 - Finance Building
Harrisburg, PA 17120

Ms. Barbara Nelson
Director, Bureau of Budget and
Fiscal Management
Department of Education
4th Floor, 333 Market Street
Harrisburg, PA 17126

Dr. David Wazeter
Research Manager
Pennsylvania State Education Association
400 North Third Street - Box 1724
Harrisburg, PA 17105

Dr. David Davare
Director of Research Services
Pennsylvania School Boards Association
P.O. Box 2042
Mechanicsburg, PA 17055

Ms. Myrna Delgado
Division Chief
Department of Education
Division of School Options and Safety
333 Market Street, 5th Floor
Harrisburg, PA 17126

Dr. Luis B. Gonzalez, Superintendent
Central Dauphin School District
600 Rutherford Road
Harrisburg, PA 17109

Mr. Ford S. Thompson, Board President
Central Dauphin School District
600 Rutherford Road
Harrisburg, PA 17109

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

