

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR
THE PERFORMING ARTS

NORTHAMPTON COUNTY, PENNSYLVANIA

PERFORMANCE AUDIT REPORT

JUNE 2010

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
CONTENTS

	Page
Independent Auditor’s Report	1
History of Charter Schools in Pennsylvania	3
Background	5
Summary of Charter School Revenue and Other Financial Sources	7
Objectives, Scope and Methodology	8
Conclusion	11
Finding No. 1 – Certification Violations	12
Finding No. 2 – Public Official and Employee Ethics Act Violations	15
Finding No. 3 - Lack of Memorandum of Understanding	17
Finding No. 4 – Inaccurate Reporting of Retirement Wages	18
Supplementary Information:	21
Appendix I - Schedule of Local Revenue	21
Appendix II - Schedule of Federal Revenue	22
Appendix III - Schedule of State Revenue	23
Appendix IV – Description of State Revenue	24
Appendix V - Schedule of Other Financial Sources	25
Audit Report Distribution List	27



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

Mr. Mario Acerra, Board President
Lehigh Valley Charter High School for the Performing Arts
675 East Broad Street
Bethlehem, Pennsylvania 18018

Dear Governor Rendell and Mr. Acerra:

We have conducted a performance audit of the Lehigh Valley Charter High School for the Performing Arts for the years ended June 30, 2006, 2005 and 2004, and in certain areas extending beyond June 30, 2006. Our audit was conducted pursuant to 72 P.S. § 403 and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

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

The results of our tests indicated that, in all significant respects, the Lehigh Valley Charter High School for the Performing Arts was in compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit, except as noted in the following findings.

Independent Auditor's Report (Continued)

The findings are discussed in detail in the Conclusion section of this report:

- Finding No. 1 – Certification Violations
- Finding No. 2 – Public Official Employee Ethics Act Violations
- Finding No. 3 – Lack of Memorandum of Understanding
- Finding No. 4 – Inaccurate Reporting of Retirement Wages

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

Sincerely,

/s/

JACK WAGNER
Auditor General

June 17, 2010

cc: **LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS**
Board of Trustees

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
HISTORY OF CHARTER SCHOOLS IN PENNSYLVANIA

History of Charter Schools in Pennsylvania

Pennsylvania's charter schools were established by the Charter School Law (Law), enacted through Act 22 of 1997. In the preamble of the Law, the General Assembly stated its intent to provide teachers, parents, pupils, and community members with the opportunity to establish schools that were independent of the existing school district structure.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

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

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).

⁸ 24 P.S. § 17-1720-A.

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

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
HISTORY OF CHARTER SCHOOLS IN PENNSYLVANIA

History of Charter Schools in Pennsylvania (Continued)

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

¹⁰ 24 P.S. § 17-1703-A.

¹¹ 24 P. S. § 17-1724-A(a).

¹² Information obtained from the Department of Education as of October 12, 2007.

¹³ Department of Education Web site at http://www.pde.state.pa.us/charter_schools/site/default.asp.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
BACKGROUND

Background

Located in Northampton County, the Lehigh Valley Charter High School for the Performing Arts (LVPA) was originally chartered in July of 2003 by four participating school districts. The Bethlehem Area, Nazareth Area and the Bangor Area school districts granted LVPA a charter for a period of five years, while the Northampton Area School District granted it a charter for a period of four years, and then re-chartered LVPA for the period July 1, 2007 through June 30, 2012.

LVPA's educational focus and its school mission are to provide a rich and comprehensive educational program for students with talents and potential in dance, instrumental music, vocal music, theatre, figure skating, or visual art. This model of instruction enables each student to maximize his or her talents. LVPA believes their graduates will increase the quality of their life, the lives of the people who surround them, and the communities of the Lehigh Valley.

During the 2005-06 school year, the school provided educational services to 379 students from the 39 sending school districts through the employment of 2 administrator, 29 teachers, and 19 full-time and part-time support personnel. The charter school also provided educational services to 333 students from 31 sending school districts during the 2004-05 school year, and 278 students from 34 sending school districts during the 2003-04 school year.

Expenditures for the school years¹⁴ 2005-06, 2004-05 and 2003-04 were \$3,339,560, \$3,249,771 and \$2,580,089, respectively. Revenues of \$3,399,661, \$3,190,786, and \$2,707,468, respectively, were derived from local, state, federal and other sources for the 2005-06, 2004-05 and 2003-04 school years, respectively (see Summary of Charter School Revenue and Other Financial Sources, page 7). State revenue was received in the form of reimbursements for rental and sinking fund¹⁵ payments, health services, Social Security and Medicare Taxes, and retirement obligations (see Appendix III - Schedule of State Revenue, page 24).

¹⁴ A "school year" is synonymous to a "fiscal year" and covers the time period from July 1st to June 30th.

¹⁵ A "sinking fund" is an account established to repay monies that were borrowed through a bond issue.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
BACKGROUND (Continued)

Background (Continued)

The charter school derives the majority of its operating revenue from the school districts whose students attend the charter school. These sending school districts are required by Section 1725-A of the Charter School Law¹⁶ and instructions from the Department of Education to provide the charter school with a calculation of allowable expenditures referred to as “selected expenditures” for non-special education students and special education students,¹⁷ based upon the school districts’ general fund budgeted expenditures and average daily membership (ADM) for the immediately preceding school year. (ADM refers to the number of days each student is enrolled at the charter school or school district over the course of the school year. This average is used to calculate various subsidies and reimbursements for school districts and charter schools). This funding calculation is to be paid to the charter school by the sending school districts, based on the actual ADM of their students who attend the charter school.

¹⁶ 24 P.S. § 17-1725-A.

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

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
 PERFORMANCE AUDIT REPORT
 BACKGROUND (Continued)

SUMMARY OF CHARTER SCHOOL REVENUE
 AND OTHER FINANCIAL SOURCES

<u>CHARTER SCHOOL REVENUES</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
Local Revenue*	\$3,087,832	\$2,670,486	\$2,202,933
Federal Revenue	65,367	311,656	375,134
State Revenue	201,371	108,644	69,401
Other Financial Sources	<u>45,091</u>	<u>100,000</u>	<u>60,000</u>
<u>TOTAL REVENUE</u>	<u>\$3,399,661</u>	<u>\$3,190,786</u>	<u>\$2,707,468</u>

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

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

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
OBJECTIVES, SCOPE AND METHODOLOGY

OBJECTIVES AND SCOPE

The objectives of our audit was to determine if the Lehigh Valley Charter High School for the Performing Arts complied with applicable state laws, regulations, contracts, grant requirements, and administrative procedures pertaining to charter schools in Pennsylvania. The objectives included in our audit of the Lehigh Valley Charter High School for the Performing Arts were:

- to determine overall compliance with the Public School Code of 1949¹⁸ (Code) and the Charter School Law (Law);¹⁹
- to determine whether at least 75 percent of the charter school's professional staff members, including teachers and administrators, were properly certified and, if applicable, teaching in their areas of certification in accordance with Section 1724-A(a) of the Law;²⁰
- to determine whether the charter school complied with Sections 1109 and 1209 of the Code,²¹ to which charter schools are made subject by Section 1724-A(b) of the Law,²² requiring that noncertified professional employees of the charter school present evidence that they are: 1) at least 18 years of age, 2) a U.S. citizen, and 3) certified by a licensed Pennsylvania physician to be neither mentally nor physically disqualified from successful performance of the duties of a professional employee of the charter school;
- to determine whether the charter school satisfied instructional time requirements of a minimum of 180 days of instruction or 900 hours per year of instruction at the elementary level, or 990 hours per year of instruction at the secondary level pursuant to Section 1715-A(9) of the Law;²³
- to verify membership numbers reported to the Department of Education (DE) and determine whether average daily membership and tuition billings were accurate;

¹⁸ 24 P.S. § 1-101 *et seq.*

¹⁹ 24 P.S. § 17-1701-A *et seq.*

²⁰ 24 P.S. § 17-1724-A(a).

²¹ 24 P.S. §§ 11-1109 and 12-1209.

²² 24 P.S. § 17-1724-A(b).

²³ 24 P.S. § 17-1715-A(9).

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
OBJECTIVES, SCOPE AND METHODOLOGY (Continued)

OBJECTIVES AND SCOPE (Continued)

- to determine whether the charter school complied with the compulsory attendance provisions in accordance with both Section 1327 of the Code²⁴ and Chapter 11 of the State Board of Education Regulations²⁵ (Regulations) and, if not, whether the charter school removed days in excess of ten consecutive unexcused absences from the school's reported membership totals pursuant to Section 11.24 of the Regulations;²⁶
- to determine whether each of the charter school's trustees and administrators and each of the school board members of the host school district complied with the Code and the Public Official and Employee Ethics Act²⁷ (Ethics Act) by filing their Statement of Financial Interests Forms and to determine whether any violations of the Ethics Act occurred or any potential conflicts of interests exist;
- to determine whether the charter school is in compliance with Section 1724-A(c) of the Law²⁸ requiring that all employees of the charter school be enrolled in the Public School Employees' Retirement System at the time of filing the charter school application unless the board of trustees has a retirement plan that covers the employees or the employees are enrolled in another retirement program; and
- to determine whether the charter school is in compliance with Section 1728-A of the Law²⁹ requiring each charter school to assess whether it is meeting the goals of its charter and to submit a report of its assessment to DE no later than August 1 of each year.

Unless otherwise indicated, the scope of our audit covered the school years 2005-06, 2004-05 and 2003-04.

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

²⁵ 22 Pa. Code, Chapter 11.

²⁶ 22 Pa. Code § 11.24.

²⁷ 65 Pa.C.S. § 1101 *et seq.*.

²⁸ 24 P.S. § 17-1724-A(c).

²⁹ 24 P.S. § 17-1728-A.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT
OBJECTIVES, SCOPE AND METHODOLOGY (Continued)

METHODOLOGY

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

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

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

CONCLUSION

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

- for three of the five years reviewed the charter school demonstrated that at least 75 percent of the charter school's professional staff members, including administrators and teachers, were properly certified and, if applicable, teaching in their areas of certification in accordance with Section 1724-A(a) of the Charter School Law (Law);³⁰
- the charter school satisfied instructional time requirements of a minimum of 180 days of instruction or 900 hours per year of instruction at the elementary level, or 990 hours per year of instruction at the secondary level pursuant to Section 1715-A(9) of the Law;³¹
- the charter school validated membership numbers reported to the Department Education and that its average daily membership and tuition billings were accurate;
- the charter school complied with the compulsory attendance provisions in accordance with both Section 1327 of the Public School Code³² and Chapter 11 of the State Board of Education Regulations;³³
- the charter school is in compliance with Section 1724-A(c) of the Law³⁴ requiring that all employees be enrolled in the Public School Employees' Retirement System unless at the time of filing the charter school application the sponsoring school district or the board of trustees of the charter school has a retirement plan that covers the employees or the employees are currently enrolled in another retirement program; and

³⁰ 24 P.S. § 17-1715-A(9).

³¹ 24 P.S. § 17-1715-A(9).

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

³³ 22 Pa. Code, Chapter 11.

³⁴ 24 P.S. § 17-1724-A(c).

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

CONCLUSION (Continued)

- the charter school submitted its annual reports assessing whether or not it met the goals of its charter to DE as required by Section 1728-A of the Law.³⁵

However, we determined that the Lehigh Valley Charter High School for the Performing Arts did not comply with other applicable state laws, regulations, contracts, grant requirements, and administrative procedures falling within the scope of our audit, as noted in the four findings listed below. The findings and recommendations were reviewed with representatives of the Lehigh Valley Charter High School for the Performing Arts, and their comments have been included in this report.

Finding No. 1 – Certification Violations

Our audit of the professional employees' certification and assignments for the period July 1, 2003 through October 31, 2007, was performed to determine compliance with the Public School Code (PSC), Bureau of School Leadership and Teacher Quality, and the Pennsylvania Department of Education's (DE) Certification and Staffing Policies and Guidelines (CSPG). We found the following certification violations:

- the charter school did not meet the 75 percent certification requirement for its professional staff during the 2005-06 and 2004-05 school years;
- eleven different non-certified teachers lacked physician's certificates at some time during the audit period; and
- all four principals that served during the audit period did not have a principal's certificate.

Seventy-Five Percent Certification Requirement

The Lehigh Valley Charter High School for the Performing Arts (LVPA) was in violation of CSPG No. 24 and the Charter School Law requiring at least 75 percent of the professional staff to hold appropriate state certification in their area of administrative responsibility or subject area in which they teach. Instead 64 percent of the charter school's professional staff had state certification in the 2004-05 school year, and 67 percent of the staff had state certification in the 2005-06 school year.

³⁵ 24 P.S. § 17-1728-A.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 1 (Continued)

CSPG No. 24, issued July 1, 2004, provides, in part:

The Charter School Law requires that at least 75 percent of a charter school's professional staff hold appropriate State certification.

Charter School Law 24 P.S. § 17-1724-A (a) (Rev. Supp 1998) provides:

At least seventy-five per centum of the professional staff members of a charter school shall hold appropriate State certification.

We interpret "appropriate certification" as equivalent in meaning to the requirement that traditional public school teachers be "properly certificated."³⁶

The penalty for certification violations may result in the revocation or non-renewal of the charter by the local school board.³⁷ In addition, we noted that Section 11-1109 of the PSC states that all public school principals shall be properly certified. All four principals who served during the audit period did not have a principal's certificate.

Lack of Physician's Certificates

Eleven different non-certified teachers lacked physician's certificates at some time during the audit period of July 1, 2003 through October 31, 2007.

Section 1724-A(b) of the Law³⁸, requires, among other things, that non-certified professional employees present evidence that they meet the qualifications of Sections 1109 and 1209 of the PSC,³⁹ which includes 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.

During our audit, we verified that the charter school complied with the requirements that their non-certified professional employees present evidence that they are at least 18 years of age and a U.S. citizen. However, we found that 11 non-certified teachers did not possess a physician's certificate as required by Sections 1109 and 1209 of the PSC,⁴⁰ at different points in our audit period. Of the 11 different non-certified teachers cited, one is cited for five years, one is cited for four years, one is cited for three years, one is cited for two years and seven are cited for one year of our five-year audit period.

³⁶ 24 P.S. § 17-1724-A(a) (Rev. Supp 1998).

³⁷ 24 P.S. § 12-1202 (1992) and 22 Pa. Code § 49.11(b) (1997).

³⁸ 24 P.S. § 17-1724-A(b).

³⁹ 24 P.S. §§ 11-1109 and 12-1209.

⁴⁰ Ibid.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 1 (Continued)

In addition to causing LVPA to be out of compliance with state law, the school's lack of physician certificates for their non-certified teachers also risks exposing students to a person who is either mentally or physically disqualified from successful performance of the duties of a teacher.

The certification violations were the result of administration's failure to monitor applicable certification requirements.

Recommendations

LVPA board of trustees should require the superintendent/executive director to:

- assign positions to professional personnel in compliance with CSPG No. 24 and Charter School Law requiring at least 75 percent of the professional staff to hold appropriate State certification in their area of administrative responsibility or subject in which they teach;
- implement a system of internal controls that would ensure all documents required for non-certified teachers by the PSC pursuant to Section 1724-A(b) of the Law⁴¹ are obtained prior to the date of hire; and
- ensure that all non-certified teachers without a required physician's certificate, obtain one.

Response of Management

Management agreed with the finding and further stated:

We are in basic agreement with the finding with the following clarifications and exceptions:

#1: Certification Violations: Our inability to meet the 75 percent requirement in year two and three were due to several factors:

1) The "Cluster System", in effect at our creation was eliminated by the department of education without prior warning or notification to charter schools. 2) We had to utilize several of our non-certified artistic directors for more teaching than we had originally anticipated.

⁴¹ 24 P.S. § 17-1724-A(b).

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 1 (Continued)

We have eliminated all cluster personnel or reassigned them to certificated areas. In addition, we have relieved artistic directors, without certification, of additional teaching time in order to obtain the appropriate percentage requirement.

#2: Physician Certificates: Our business office is now tracking all school personnel for this requirement.

Finding No. 2 – Public Official and Employee Ethics Act Violations

Our audit of charter school records for the calendar years ended December 31, 2006, 2005, 2004, and 2003 found that 16 of 19 board members, the superintendent and 3 of 4 school principals, who served some time during this audit period, failed to file their Statements of Financial Interests with the State Ethics Commission. None of the board members filed for the calendar year ended December 31, 2003. Additionally, the superintendent and one principal failed to file their Statements of Financial Interests forms on time for one year during the audit period.

Public office is a public trust sustained by assuring the people of the impartiality and honesty of public officials and public employees. Accordingly, the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. § 1101 *et seq.*, requires all candidates for public office, public officials and certain public employees to complete a Statement of Financial Interests for the preceding calendar year annually, no later than May 1st of each year they hold their positions and of the year after leaving such positions.

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

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

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

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 2 (Continued)

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

Section 1109(f), 65 Pa.C.S. § 1109(f) provides, in pertinent part that any person who is required to file a Statement of Financial Interests but fails to do so in a timely manner or who files a deficient Statement of Financial Interests may be subject to a civil penalty, at a rate of not more than \$25 for each day such statement remains delinquent or deficient, with a maximum penalty under this chapter of \$250.

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

Recommendations

The board of trustees should:

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

Response of Management

Management agreed with the finding and further stated:

We are in basic agreement with the finding with the following clarifications and exceptions:

Violation of the Public Official and Employee Ethics Act:

We have put a full time Director of Finance (School Business Administrator) in place in July of 2006. She now has the direct responsibility of dispersing and collecting all ethics forms to appropriate personnel.

Each and every member and administrator, year one, had at least one ethics form collected and filed.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 2 (Continued)

Auditor's Conclusion

Management agrees that they will implement our recommendations by developing procedures to ensure all statements are filed and filed timely. However, we would disagree with the charter school's statement that each and every member and administrator, year one, had at least one ethics form collected and filed. We found that for the year ended December 31, 2003, there were no statements on file.

Finding No. 3 – Lack of Memorandum of Understanding

Our audit of the charter school's records found that the charter school did not have a signed Memorandum of Understanding (MOU) available for audit.

Section 13-1303-A(c) of the Public School Code requires:

All school entities shall develop a memorandum of understanding with local law enforcement that 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. Law enforcement protocols shall be developed in cooperation with local law enforcement and the Pennsylvania State Police.⁴²

Additionally, the Basic Education Circular issued by the DE entitled Safe Schools and Possession of Weapons, contains a draft MOU format to be used by school entities. Section VI, General Provisions, item (B) of this sample states:

This Memorandum may be amended, expanded or modified at any time upon the written consent of the parties, but in any event must be reviewed and re-executed within two years of the date of its original execution and every two years thereafter. (Emphasis added)

Charter school administrative personnel failed to monitor safe schools performance initiatives; therefore, they did not develop and implement a MOU between the charter school and appropriate local law enforcement agency(ies) and/or the Pennsylvania State Police.

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

⁴² 24 P.S. § 13-1303-A(c).

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 3 (Continued)

Recommendation

The board of trustees should develop and implement a MOU between the charter school and appropriate local law enforcement agency(ies) and/or the Pennsylvania State Police as required by Section 13-1303-A (c) of the PSC.

Response of Management

Management agreed with the finding and further stated:

We are in basic agreement with the finding with the following clarifications and exceptions:

Lack of Memorandum of Agreement:

We have been working closely with the local law enforcement agency for the past four years. We have developed a memorandum of agreement with them during this past year. Presently, this agreement is with the attorney office for the local Police Department.

Finding No. 4 – Inaccurate Reporting of Retirement Wages

Our audit of the charter school superintendent’s employment contract, the professional employees’ contracts, and payroll and retirement records, found that some retirement wages may have been overstated in reports submitted to the Public School Employees' Retirement System (PSERS) for the 2003-04, 2004-05, 2005-06 and 2006-07 school years. Charter school personnel incorrectly included payments in lieu of benefits, which are ineligible for retirement purposes, as retirement wages. The total possible ineligible payments reported for the superintendent, and teaching staff was \$52,758.

PSERS allows only qualified salary and wages to be included for retirement purposes. According to the PSERS Reference Manual for Reporting, unqualified earnings include:

[P]ayment to an employee in lieu of a benefit the employee is eligible to receive, or any reimbursement received by the employee (these payments do not become part of your standard pay schedule).

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 4 (Continued)

The superintendent's contract stated, in part:

The Superintendent has waived all health benefits. In lieu of these benefits, the board of directors agree to add, annually, a sum of 10% of the Superintendent's annual salary.

The option to waive health benefits was also offered to all employees. During the four-year period, six members of the teaching staff were paid up to an additional \$2,000 per year in lieu of health benefits.

The possible ineligible payments reported to PSERS for inclusion in retirement wages were as follows:

<u>School Year</u>	<u>Number of Administrators</u>	<u>Amount</u>
2006-07	1	\$ 7,271
2005-06	1	6,976
2004-05	1	7,500
2003-04	1	<u>7,000</u>
	Total	<u>\$28,747</u>

<u>School Year</u>	<u>Number of Teachers</u>	<u>Amount</u>
2006-07	2	\$ 3,753
2005-06	5	9,753
2004-05	5	9,505
2003-04	1	<u>\$ 1,000</u>
	Total	<u>\$24,011</u>
	Grand Total	<u>\$52,758</u>

PSERS has been provided reports detailing the questionable retirement wages for determination of eligibility and possible adjustments to individual retirement calculations.

Recommendations

The board, in conjunction with PSERS' determination, should ensure that charter school personnel report to PSERS only those wages allowable for retirement purposes, as stated in PSERS Reference Manual for Reporting.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

Finding No. 4 (Continued)

PSERS should:

- review the compensation reported for the superintendent, and the teaching staff for the 2003-04, 2004-05, 2005-06 and 2006-07 school years and render an opinion on the propriety of the wages reported by the charter school; and
- make the necessary correction to the pension benefits and contributions if any part of the payments is determined to be ineligible for retirement.

Response of Management

Management agreed with the finding and further stated:

We are in basic agreement with the finding with the following clarifications and exceptions:

Inaccurate Reporting of Retirement Wages:

In order to obtain cost savings, we initiated a plan to offer additional monies to staff in lieu of medical benefits. Several people took advantage of this offer over the past four years of our existence. These monies were included in their salaries.

We will be notifying the pension department of the oversight and will respond to any directives from them moving forward. **In addition, we will be “ceasing and desisting” this practice of offering money in lieu of benefits, effective in 2008-2009 contracts.**

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
 PERFORMANCE AUDIT REPORT
 APPENDIX I

Schedule of Local Revenue

The charter school reported local revenue of \$3,087,832, \$2,670,486 and \$2,202,933, respectively, for the years ended June 30, 2006, 2005 and 2004 as follows:

<u>LOCAL REVENUE</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
Earnings on Investments	\$ -	\$ -	\$ 115
Revenue From Student Activities	20,500	34,155	21,720
Rentals	3,255	4,930	3,100
Contributions and Donations from Private Sources	25,915	100,435	244,396
Summer School Tuition	-	5,027	659
Revenue From Community Service Activities	9,142	-	-
All Other Local Revenues Not Specified	4,768	20,187	21,068
Payments from Sending School Districts ⁴³			
Allentown City	361,322	347,019	278,028
Bangor Area	25,063		7,515
Bethlehem Area	610,834	463,798	431,360
Brandywine Heights Area	220	7,327	6,887
Catasauqua Area	85,997	38,917	7,609
Council Rock	8,309	-	-
Delaware Valley	-	178	3,677
East Penn	131,024	98,447	52,447
East Stroudsburg Area	197	15,931	5,760
Easton Area	314,606	223,961	146,824
Governor Mifflin	-	7,120	6,655
Hatboro-Horsham	9,322	8,700	-
Jim Thorpe Area	14,782	-	-
Lehigh Area	7,059	10,426	13,520
Mahanoy Area	6,905	6,887	6,277
Methacton	5,467	-	-
Nazareth Area	177,084	197,802	124,656
New Hope-Solebury	975	-	-
North Penn	248	-	-
North Pocono	1,512	8,216	6,269
Northampton Area	166,706	117,710	94,749
Northern Lehigh	6,013	13,345	1,355

⁴³ These dollar amounts represent actual payments made to the LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS from the sending school districts.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
PERFORMANCE AUDIT REPORT

SCHEDULE OF LOCAL REVENUE (Continued)

	<u>2006</u>	<u>2005</u>	<u>2004</u>
Northwestern Lehigh	10,650	-	7,269
Oley Valley	18,254	-	-
Palisades	147,535	87,000	78,349
Parkland	142,889	61,454	54,327
Pen Argyl Area	23,307	24,428	2,771
Pennridge	59,725	60,903	38,926
Philadelphia City	12,721	-	805
Pleasant Valley	43,736	1,763	5,147
Pocono Mountain	9,242	6,472	19,263
Quakertown Community	62,302	107,026	65,904
Salisbury Township	103,633	119,615	54,920
Saucon Valley	62,452	78,897	61,873
Souderton Area	-	-	1,235
Southern Lehigh	152,419	187,391	159,893
Stroudsburg Area	15,103	-	14,342
Upper Perkiomen	103,251	82,466	14,371
Wayne Highlands	6,951	6,529	5,515
Whitehall-Coplay	33,506	44,890	83,615
Wilson Area	69,178	54,257	49,762
	<hr/>	<hr/>	<hr/>
<u>TOTAL PAYMENTS</u>	<u>\$3,087,832</u>	<u>\$2,670,486</u>	<u>\$2,202,933</u>

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
APPENDIX II

Schedule of Federal Revenue

The charter school reported federal revenue of \$65,367, \$311,656 and \$375,134, respectively, for the years ended June 30, 2006, 2005 and 2004, as detailed in the following schedule:

<u>FEDERAL REVENUE</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
Restricted Federal Grants – in – Aid Direct – Federal Government	\$ -	\$268,400	\$ 29,400
Grants (IDEA & NCLB) – Not Spec. (8510 Series)	9,040	9,385	-
NCLB (1), Title I, Improving Academic Achievement of the Disadvantaged	43,775	25,857	20,063
NCLB (1), Title II, Preparing, Training and Recruiting High Quality Teachers and Principals	10,069	6,691	6,921
NCLB (1), Title IV, 21 st Century Schools	1,864	698	-
NCLB (1), Title V, Innovative Program	619	625	-
Other Restricted Federal Grants	-	-	318,750
<u>TOTAL FEDERAL REVENUE</u>	<u>\$65,367</u>	<u>\$311,656</u>	<u>\$375,134</u>

Note:

(1) NCLB: No Child Left Behind Act (federal law)

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
APPENDIX III

Schedule of State Revenue

The charter school reported state revenue of \$201,371, \$108,644 and \$69,401, respectively, for the years ended June 30, 2006, 2005 and 2004, as detailed in the following schedule:

	<u>2006</u>	<u>2005</u>	<u>2004</u>
<u>STATE REVENUE</u>			
Rental and Sinking Fund Payments	\$ 48,531	\$ 40,964	\$10,405
Health Services	6,039	5,289	-
Social Security and Medicare Taxes	61,251	39,840	39,845
Retirement	62,844	22,551	19,151
Unemployment Compensation Contributory to Reimbursable 3/03 through 1/06	<u>22,706</u>	<u>-</u>	<u>-</u>
<u>TOTAL STATE REVENUE</u>	<u>\$201,371</u>	<u>\$108,644</u>	<u>\$69,401</u>

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
APPENDIX IV

Description of State Revenue (Source: Pennsylvania Accounting Manual)

Rental and Sinking Fund Payments

Revenue received from the Commonwealth as a full or partial subsidy payment for approved lease rentals, sinking fund obligations, or any approved district debt obligations for which the Department of Education has assigned a lease number.

Health Services

Revenue received from the Commonwealth as subsidy for health services. Payments are made in accordance with Section 2505.1 of the Public School Code and include revenue for medical, dental, nurse and health services.

Social Security and Medicare Taxes

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

Retirement

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

Other Program Subsidies/Grants

Revenue received from the Commonwealth not specified elsewhere.

LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE PERFORMING ARTS
APPENDIX V

Schedule of Other Financial Sources

The charter school reported other financial sources of \$45,091, \$100,000 and \$60,000, respectively, for the years ended June 30, 2006, 2005 and 2004, as follows:

	<u>2006</u>	<u>2005</u>	<u>2004</u>
<u>OTHER FINANCIAL SOURCES</u>			
Proceeds From Extended Term Financing	<u>\$45,091</u>	<u>\$100,000</u>	<u>\$60,000</u>
<u>TOTAL OTHER FINANCIAL SOURCES</u>	<u>\$45,091</u>	<u>\$100,000</u>	<u>\$60,000</u>

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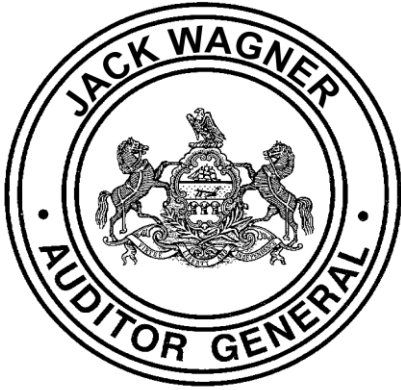
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Harrisburg, PA 17126

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State Ethics Commission
309 Finance Building
P.O. Box 11470
Harrisburg, PA 17108

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Interim Superintendent
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1516 Sycamore Street
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Northampton, PA 18067

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