

MONTESSORI REGIONAL CHARTER SCHOOL
ERIE COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT

JANUARY 2012

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

Mr. Michael Towner, Board President
Montessori Regional Charter School
2910 Sterrettania Road
Erie, Pennsylvania 16506

Dear Governor Corbett and Mr. Towner:

We conducted a performance audit of the Montessori Regional Charter School (MRCS) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period March 6, 2009 through April 20, 2011, except as otherwise indicated in the report. Additionally, compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2010 and June 30, 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 that the MRCS complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except as detailed in one finding noted in this report. A summary of these results is presented in the Executive Summary section of the audit report.

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

Sincerely,

/s/

JACK WAGNER
Auditor General

January 20, 2012

cc: **MONTESSORI REGIONAL 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 Montessori Regional Charter School (MRCS). Our audit sought to answer certain questions regarding the School's compliance with applicable state laws, contracts, grant requirements, and administrative procedures; and to determine the status of corrective action taken by the MRCS in response to our prior audit recommendations.

Our audit scope covered the period March 6, 2009 through April 20, 2011, 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 2009-10 and 2008-09.

MRCS School Background

The MRCS, located in Erie County, Pennsylvania opened in August 2004. It was originally chartered on January 20, 2004, for a period of five years by the Millcreek Township School District and The School District of the City of Erie. MRCS's mission states: "It seeks to provide a superior Montessori program of study that will develop lifelong learners." During the 2009-10 school year, the MRCS provided educational services to 259 pupils from 9 sending school districts through the employment of 20 teachers, 13 full-time and part-time support personnel, and 5 administrators. Lastly, the MRCS received more than \$63,000 in state funding in school year 2009-10.

Adequate Yearly Progress

MRCS made Adequate Yearly Progress (AYP) for the 2010-11 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.

Audit Conclusion and Results

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

Finding: Noncompliance with the State's Compulsory Attendance Requirements.

The charter school failed to report students who had three or more unlawful absences to their district of residence (see page 10).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the

charter school from an audit we conducted of the 2006, 2007 and 2008 school years, we found the charter school had taken appropriate corrective action in implementing our recommendations pertaining to their Memorandum of Understanding with local law enforcement which was not updated in a timely manner (see page 12).

Background Information on Pennsylvania Charter Schools

Pennsylvania Charter School Law

Description of Pennsylvania Charter Schools:

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

Pennsylvania's charter schools were established by the Charter School Law (Law), enacted through Act 22 of 1997, as amended. In the preamble of the Law, 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 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 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 Ibid.

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: "National Charter School and Enrollment Statistics 2010." October, 2010.

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 Law 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 Department of Education (DE), which determines whether the application for a charter should be granted or denied.¹¹ However, if DE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.¹² In addition, DE 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 DE.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 Charter School Law, the sending school district must

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 24 P.S. § 17-1745-A(f)(4).

¹³ 24 P.S. § 17-1741-A(a)(3).

¹⁴ 24 P.S. § 17-1750-A(e).

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.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 Charter School Law 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 24 P.S. §§ 17-1725-A(a)(3); 25-2509.5(k).

¹⁷ See 24 P.S. § 17-1725-A(a)(5).

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

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

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds.

Additionally, our audits examine the appropriateness of certain administrative and operational practices at each Local Education Agency (LEA). The results of these audits are shared with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

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

Our audit covered the March 6, 2009 through April 20, 2011.

Regarding state subsidy and reimbursements, our audit covered school years 2009-10 and 2008-09.

For the purposes of our audit work and to be consistent with the Department of Education (DE) 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.

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 MRCS’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 (Code) and the Charter School Law (Law)?²¹
- ✓ 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?

²⁰ 24 P.S. § 1-101 *et seq.*

²¹ 24 P.S. § 17-1701-A *et seq.*

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.

- ✓ Did the charter school receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program, was its lease agreement approved by its Board of Trustees, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act?²²
- ✓ Did the charter school comply with the open enrollment and lottery provisions of the 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?
- ✓ 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

²² 65 Pa.C.S. § 1101 *et seq.*

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 Law, unless the Board of Trustees had a retirement plan that covered the employees or the employees were already enrolled in another retirement program?
- ✓ Did the charter school use an outside vendor to maintain its membership data and, if so, are internal controls in place related to vendor access?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties which warrant further attention during our audit?

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, 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 findings, observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings, observations, and conclusions based on our audit objectives.

MRCS 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. 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.

²³ 22 Pa. Code § 11.24.

Our audit examined the following:

- Records pertaining to professional employee certification, 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 selected administrators and support personnel associated with MRCS operations.

Findings and Observations

Finding

Noncompliance with the State's Compulsory Attendance Requirements

Criteria relevant to the finding:

The Basic Education Circular on Compulsory Attendance and Truancy Elimination Plan, 24 P.S. 13-1327, states, in part:

“Charter schools must report to the student’s school district of residence when a student has accrued three or more days of unlawful absences. It is the responsibility of the school district to enforce the compulsory attendance laws in accordance with the Public School Code. However, charter schools should also follow PDE’s Recommended Responses to Unlawful Absences for the first, second and third unlawful absences including the school/family meeting and implementation of a TEP (Truancy Elimination Plan)”.

This provision of the PSC is applicable to charter schools through the catchall provisions 24 P.S. 17-1732-A(a).

Our audit of the charter school’s attendance and membership records for the 2008-09 school year found that the charter school did not comply with state requirements, or its own policies, regarding the reporting of unlawful absences.

Specifically, the charter school’s records indicated that at various times during the 2008-09 school year, there were 43 students with at least 3 or more unlawful absences. However, the charter school did not report these absences to the students’ school district of residence.

The Public School Code (PSC) mandates that all charter schools report three or more days of unlawful absences by a student to the student’s district of residence. It also mandates that the school have a Truancy Elimination Plan (TEP).

Likewise, the Charter School’s Parent Handbook states, in part:

Upon the third unlawful absence Montessori Regional Charter School will notify your home district. It is the responsibility of the Home District to enforce compulsory attendance laws in accordance with the Public School Code. Unlawful absences beyond three will be filed with the magisterial district judge and parents who are found to be in violation may face fines, required parental education programs or in the worst cases, sentencing to county jail.

It should be noted that although the charter school did not report the truants to the district of residence, it does have a TEP and does take steps to deal with students who have attendance problems.

The lack of compliance with the PSC reporting requirement of the charter school law jeopardizes the individual student’s right to receive a quality education as habitual truancy negatively impacts a child’s school performance.

Furthermore, the district of residence of the truant child has a right to know this information in order to pursue legal proceedings, if necessary. Lastly, if the student is unlawfully absent for ten or more days, this information would affect tuition billings.

According to charter school staff, truant students were still not being reported to their districts of residence at the end of fieldwork.

Recommendations

The Montessori Regional Charter School should:

1. Enforce the provisions of the charter school law and its own parent handbook and report three or more unlawful absences to the student's district of residence.
2. Aggressively implement its TEP to decrease the amount of unlawful absences.

Management Response

Management agreed with the finding without providing comment.

Status of Prior Audit Findings and Observations

Our prior audit of the Montessori Regional Charter School (MRCS) for the school years 2007-08, 2006-07 and 2005-06 resulted in one reported observation. The observation pertained to the failure to update its Memorandum of Understanding in a timely manner. As part of our current audit, we determined the status of corrective action taken by the charter school to implement our prior recommendations. We performed audit procedures, and questioned charter school personnel regarding the prior observation. As shown below, we found that the MRCS did implement recommendations related to the Memorandum of Understanding.

School Years 2007-08, 2006-07 and 2005-06 Auditor General Performance Audit Report

Observation: Memorandum of Understanding Not Updated Timely

Observation
Summary:

Our prior audit found that the charter school's Memorandum of Understanding (MOU), at the time of the audit, had not been updated in four years. The Basic Education Circular issued by the Department of Education entitled Safe Schools and Possession of Weapons states that MOU's need to be updated every two years.

Recommendations: Our audit observation recommended that the MRCS:

1. In consultation with the charter school's solicitor the board of trustees and charter school administrators, should review, update and re-execute the current MOU between itself and its local law enforcement agencies.
2. Additionally, the board of trustees should adopt a policy requiring the administration to review and re-execute the MOU every two years.

Current Status: During our current audit, we found that the MRCS did implement the recommendations.

Distribution List

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

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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.

