

PERSEUS HOUSE CHARTER SCHOOL OF EXCELLENCE  
ERIE COUNTY, PENNSYLVANIA  
PERFORMANCE AUDIT REPORT

JANUARY 2012



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

Dr. Elvage Murphy, Board President  
Perseus House Charter School of Excellence  
1511 Peach Street  
Erie, Pennsylvania 16501

Dear Governor Corbett and Dr. Murphy:

We conducted a performance audit of the Perseus House Charter School of Excellence (PHCSE) to determine its compliance with applicable state laws, contracts, grant requirements, and administrative procedures. Our audit covered the period October 12, 2007 through January 26, 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, 2009 and 2008 as they were the most recent reimbursements subject to audit. 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 PHCSE complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures, except 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 observation and recommendations have been discussed with PHCSE's management and their responses are included in the audit report. We believe the implementation of our recommendations will improve PHCSE's operations and facilitate compliance with legal and administrative requirements. We appreciate the PHCSE's cooperation during the conduct of the audit and its willingness to implement our recommendations.

Sincerely,

/s/

JACK WAGNER  
Auditor General

January 23, 2012

cc: **PERSEUS HOUSE CHARTER SCHOOL OF EXCELLENCE** Board of Trustees



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## **Executive Summary**

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### **Audit Work**

The Pennsylvania Department of the Auditor General conducted a performance audit of the Perseus House Charter School of Excellence (PHCSE). Our audit sought to answer certain questions regarding the PHCSE's compliance with applicable state laws, contracts, grant requirements, and administrative procedures; and to determine the status of corrective action taken by the PHCSE in response to our prior audit recommendations.

Our audit scope covered the period October 12, 2007 through January 26, 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, 2008-09 and 2007-08.

### **PHCSE School Background**

The PHCSE, located in Erie County, Pennsylvania, opened in August 2003. It was originally chartered on February 12, 2003, for a period of five years by the School District of the City of Erie. PHCSE's mission states: "it seeks to provide the highest quality instructional support through educational programs and services for secondary students in Erie County." During the 2009-10 school year, the PHCSE provided educational services to 591 pupils from 9 sending school districts through the employment of 37 teachers, 24 full-time and part-time support personnel, and 4 administrators. The PHCSE received more than \$308,000 in state funding in school year 2009-10.

### **Adequate Yearly Progress**

The PHCSE did not make Adequate Yearly Progress (AYP) for the 2010-11 school year and is in a Corrective Action 2, 1<sup>st</sup> year status level. A school that misses only one measure will not meet AYP. This is the second year that PHCSE did not meet all AYP measures. Specifically, PHCSE fell short of the academic performance target. The PHCSE will need to meet AYP for two years in a row to be considered on track to meet the goal of all students attaining proficiency in Reading and Math by the year 2014.

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

### **Audit Conclusion and Results**

Our audit found that the PHCSE complied, in all significant respects, with applicable state laws, contracts, grant requirements, and administrative procedures; however, as noted below, we identified one matter unrelated to compliance that is reported as an observation.

**Observation: Memorandum of Understanding with Local Law Enforcement Not Updated Timely.** Our audit found that the Memorandum of Understanding between the Charter School and the police department(s) with jurisdiction over school property has not been updated since February 22, 2008. The MOU sets forth agreed upon procedures to be followed should an incident involving an act of violence or possession of a weapon occur on school property. The Public

School Code requires public schools to update and re-execute MOUs with local law enforcement every two years (see page 10).

**Status of Prior Audit Findings and Observations.** With regard to the status of our prior audit recommendations to the PHCSE from an audit we conducted of the 2005-06, 2004-05, and 2003-04 school years, we found the PHCSE had taken appropriate corrective action in implementing our recommendations pertaining to the three findings regarding internal control weaknesses in membership reporting (see page 12), the filing of general fund budgets, and the development of a Memorandum of Understanding with local law enforcement (see page 13).



## Background Information on Pennsylvania Charter Schools

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### 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 ranks high compared to other states in the number of charter schools:*

According to the Center for Education Reform, Pennsylvania has the 7<sup>th</sup> highest charter school student enrollment, and the 10<sup>th</sup> largest number of operating charter schools, in the United States.

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

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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> 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,<sup>4</sup> and that the board must hold at least one public hearing before approving or rejecting the application.<sup>5</sup> If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,<sup>6</sup> 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.<sup>7</sup>

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<sup>1</sup> 24 P.S. § 17-1702-A.

<sup>2</sup> *Id.*

<sup>3</sup> 24 P.S. § 17-1717-A (a).

<sup>4</sup> 24 P.S. § 17-1717-A (c).

<sup>5</sup> 24 P.S. § 17-1717-A (d).

<sup>6</sup> 24 P.S. § 17-1717-A (f).

<sup>7</sup> 24 P.S. § 17-1721-A (a).

*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.

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.<sup>8</sup> 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.<sup>9</sup>

Act 88 of 2002 amended the Law to distinguish cyber charter schools, which conduct a significant portion of its curriculum and instruction through the Internet or other electronic means, from brick-and-mortar charter schools that operate in buildings similar to school districts.<sup>10</sup> Unlike brick-and-mortar charter schools, cyber charter schools must submit its application to the Department of Education (DE), which determines whether the application for a charter should be granted or denied.<sup>11</sup> However, if DE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.<sup>12</sup> In addition, DE is responsible for renewing and revoking the charters of cyber charter schools.<sup>13</sup> Cyber charter schools that had its charter initially approved by a local school district prior to August 15, 2002 must seek renewal of its charter from DE.<sup>14</sup>

### **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

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<sup>8</sup> 24 P.S. § 17-1720-A.

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

<sup>10</sup> 24 P.S. §§ 17-1703-A , 17-1741-A *et seq.*

<sup>11</sup> 24 P.S. § 17-1745-A(d).

<sup>12</sup> 24 P.S. § 17-1745-A(f)(4).

<sup>13</sup> 24 P.S. § 17-1741-A(a)(3).

<sup>14</sup> 24 P.S. § 17-17-1750-A(e).

based on its own budgeted costs, minus specified expenditures, for the prior school year.<sup>15</sup> 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.<sup>16</sup> The Charter School Law also requires that charter schools bill each sending school district on a monthly basis for students attending the charter school.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup>

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<sup>15</sup> See 24 P.S. § 17-1725-A(a)(2).

<sup>16</sup> See 24 P.S. §§ 17-1725-A(a)(3); 25-2509.5(k).

<sup>17</sup> See 24 P.S. § 17-1725-A(a)(5).

<sup>18</sup> 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.

<sup>19</sup> 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

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### 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 period October 12, 2007 through January 26, 2011.

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

For the purposes of our audit work and to be consistent with 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.

### Objectives

*What is the difference between a finding and an observation?*

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

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the PHCSE'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 1949<sup>20</sup> (PSC) and the Charter School Law (Law)?<sup>21</sup>
- ✓ 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

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<sup>20</sup> 24 P.S. § 1-101 *et seq.*

<sup>21</sup> 24 P.S. § 17-1701-A *et seq.*

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

- ✓ Did the charter school receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program, was its lease agreement approved by its board of trustees, and did its lease process comply with the provisions of the Public Official and Employee Ethics Act?<sup>22</sup>
- ✓ 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?

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<sup>22</sup> 65 Pa.C.S. § 1101 *et seq.*

- ✓ 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?<sup>23</sup>
- ✓ 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, unless the Board of Trustees had a retirement plan that covered the employees or the employees were already enrolled in another retirement program?
- ✓ Did the charter school use an outside vendor to maintain its membership data and, if so, are internal controls in place related to vendor access?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties which warrant further attention during our audit?
- ✓ Did the charter school take appropriate corrective action to address recommendations made in our prior audits?

## Methodology

*Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our 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.

PHCSE 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

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<sup>23</sup> 22 Pa. Code § 11.24.

*What are internal controls?*

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

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

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.

Our audit examined the following:

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

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

Lastly, to determine the status of our audit recommendations made in a prior audit report released on December 18, 2008, we reviewed the PHCSE's response and then performed additional audit procedures targeting the previously reported matters.

## Findings and Observations

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### Observation

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### Memorandum of Understanding with Local Law Enforcement Not Updated Timely

*Relevant Statutory Provisions and Related Criteria*

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

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

The effective date of this amended provision was **February 15, 2011**. The “office” refers to the Office for Safe Schools established within the Department of Education through Section 1302-A(a) of the *PSC*, 24 P.S. § 13-1302-A(a). The term “biennially” means “an event that occurs every two years.”

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

Our audit found that the Memorandum of Understanding (MOU) between the Perseus House School of Excellence Charter School (PHCSE) and the police department(s) with jurisdiction over school property has not been updated since February 22, 2008. The MOU sets forth agreed upon procedures to be followed should an incident involving an act of violence or possession of a weapon occur on school property. The PSC requires public schools to update and re-execute MOUs with local law enforcement every two years.

The failure to update MOUs with all pertinent police departments could result in a lack of cooperation, direction, and guidance between PHCSE employees and the police departments if an incident occurs on school grounds, at any school-sponsored activity, or on any public conveyance providing transportation to or from a school or school-sponsored activity. Non-compliance with the statutory requirement to biennially update and re-execute a MOU could have an impact on police department notification and response, and ultimately, the resolution of a problem situation.



**Recommendations**

The *Perseus House Charter School of Excellence* should:

1. In consultation with the PHCSE's solicitor, review, update and re-execute each MOU between the charter school and all the police departments having jurisdiction over school property and file a copy with the Department of Education's Office of Safe Schools on a biennial basis pursuant to the terms prescribed by the PSC.
2. In consultation with the PHCSE's solicitor, review new requirements for MOUs and other school safety areas under the PSC to ensure compliance with amended Safe Schools provisions enacted November 17, 2010 effective February 15, 2011.
3. Adopt a board policy requiring the PHCSE's administration to biennially update and re-execute each MOU with police departments having jurisdiction over school property and file a copy with the Department of Education's Office of Safe Schools on a biennial basis as required by the PSC.

**Management Response**

Management provided no written response.

## **Status of Prior Audit Findings and Observations**

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Our prior audit of the Perseus House Charter School of Excellence (PHCSE) for the school years 2005-06, 2004-05 and 2003-04 resulted in three reported findings. The first finding pertained to internal control weaknesses in the reporting of membership data, the second pertained to the failure to file general fund budgets, and the third to the failure to develop a Memorandum of Understanding. 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 findings. As shown below, we found that the PHCSE did implement recommendations related to the three findings.

### **School Years 2005-06, 2004-05, and 2003-04 Auditor General Performance Audit Report**

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**Finding No. 1: Internal Control Weaknesses in the Reporting of Membership Data**

Finding Summary: Our prior audit found that the data used to bill districts and sent to the Department of Education (DE) did not reconcile. Also, a software problem caused the misreporting of students days of membership.

Recommendations: Our audit finding recommended that the PHCSE:

1. Perform the billing reconciliations with the sending districts before membership reports are submitted to DE so that data is accurate and reconciles.
2. Perform an internal review of all membership data for accuracy prior to submission of reports to DE.
3. Perform an annual test of the computer program reports used to calculate membership and tuition data.
4. Review all source data for subsequent audit years and submit revised reports if errors are found.

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

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**Finding No. 2: Failure to File General Fund Budgets**

Finding Summary: Our prior audit found that the charter school's general fund budgets (GFB) for school years 2003-04 and 2004-05 were not filed with the Labor, Education, and Community Services Comptroller's Office and DE's Bureau of Budget and Fiscal Management, as required.

Recommendations: Our audit finding recommended that the PHCSE:

Comply with DE regulations and the school's own charter application in the filing of GFBs.

We also recommended that the Department of Education:

Take appropriate action to ensure that all charter schools file the mandated GFBs.

Current Status: During our current audit procedures, we found that the PHCSE did implement the recommendation.

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**Finding No. 3: Failure to Develop a Memorandum of Understanding**

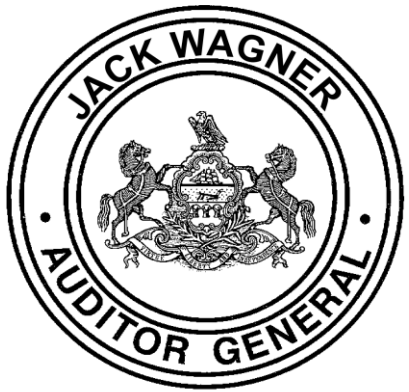
Finding Summary: Our prior audit found that school personnel failed to develop a Memorandum of Understanding (MOU) with local law enforcement agencies, which is a violation of the Public School Code.

Recommendation: Our audit finding recommended that the PHCSE:

Develop an MOU with the appropriate local law enforcement agencies.

Current Status: During our current audit procedures, we found that the PHCSE did implement the recommendation; however, the MOU had not been updated timely (see Finding No. 1).

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## **Distribution List**

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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](http://www.auditorgen.state.pa.us), and the following:

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

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Secretary of Education  
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Harrisburg, PA 17126

The Honorable Robert M. McCord  
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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](http://www.auditorgen.state.pa.us).

