

PERFORMANCE AUDIT

SusQ-Cyber Charter School Columbia County, Pennsylvania

January 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Dr. Edward C. Keller, Board President
SusQ-Cyber Charter School
240 Market Street, Suite 15
Bloomsburg, Pennsylvania 17815

Dear Governor Wolf and Dr. Keller:

We conducted a performance audit of the SusQ-Cyber Charter School (Charter School) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period September 10, 2010 through August 20, 2014, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2009, 2010, 2011, and 2012. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 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 Charter School complied, in all significant respects, with relevant requirements.

We appreciate the Charter School's cooperation during the conduct of the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale".

Eugene A. DePasquale
Auditor General

January 22, 2015

cc: **SUSQ-CYBER 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 SusQ-Cyber Charter School (Charter School) in Columbia County. Our audit sought to answer certain questions regarding the Charter School's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures and to determine the status of corrective action taken by the Charter School in response to our prior audit recommendations.

Our audit scope covered the period September 10, 2010 through August 20, 2014, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

Charter School Background

The Charter School, located in Columbia County, Pennsylvania, opened in September 1998. It was originally chartered on August 24, 1998, for a period of five (5) years by the Berwick Area, Bloomsburg Area, and Milton Area school districts. The Charter School's mission states: "The SusQ-Cyber Charter School will use the internet or other emerging technologies to deliver an educational program to primarily at-risk high school students who are trying to obtain their high school diploma. Many of these students have already dropped out of school, or are in danger of doing so, are pregnant or parenting, are medically or emotionally unable to attend their regular

school, are involved in confrontations at their school, or are making one last attempt to complete high school and earn a diploma. Most students enroll during their junior or senior year, are over age for their grade, are basic or below basic in proficiency and are seeking the opportunity to get back on track toward graduation. The Charter School will assist these at-risk students as well as the non-at-risk students who want to pursue an alternative path to a high school diploma through cyber education. The Charter School will plan a Personalized Education Plan for each student that credits them for past courses earned and outlines a plan for the completion of their graduation requirements. The Charter School will closely monitor and motivate these students for attendance and academic progress as they work toward the achievement of their educational and life goals."

During the 2011-12 school year, the Charter School provided educational services to 178 pupils from 77 sending school districts through the employment of fourteen (14) teachers, seven (7) full-time and part-time support personnel, and three (3) administrators. The Charter School received \$1,884,751 in tuition payments from school districts required to pay for their students attending the Charter School in the 2011-12 school year.

Academic Performance

The Charter School's academic performance is considered failing, as demonstrated by its low School Performance Profile (SPP) score of 46.4 for the 2012-13 school year. SPP is the Pennsylvania Department of Education's

current method of providing a quantitative, academic score based upon a 100-point scale for all public schools. A score of 46.4 would be considered an “F” if using a letter grade system.

The Charter School did not meet the statewide average Pennsylvania System of School Assessment (PSSA) proficiency score in Reading and Math. The results showed that the school had PSSA scores in Math falling below the statewide average proficiency score of 73 percent. The school had a proficiency score of 33 percent, creating a 40 percent achievement gap. The results for Reading showed that the school had PSSA scores falling below the statewide average proficiency score of 70 percent. The school had a Reading proficiency score of 67 percent, creating a three (3) percent achievement gap. All of these achievement gaps would have been even larger if the No Child Left Behind statewide targets of 89 percent in Math and 91 percent in Reading were still in place. However, the state received a waiver for having to meet these standards for the 2012-13 and 2013-14 academic years.

Previously, the Charter School did not make Adequate Yearly Progress (AYP) for the 2011-12 school year and was in an AYP Corrective Action II fourth year status.

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 (3) 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 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 Charter School complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures. Our audit resulted in no findings or observations.

Status of Prior Audit Findings and Observations.

With regard to the status of our prior audit recommendations to the SusQ-Cyber Charter School (Charter School) from an audit released on January 26, 2012, we found the Charter School had taken appropriate corrective action in implementing our recommendations pertaining to the Charter School entering into a Memorandum of Understanding between the Charter School and the local law enforcement agency having jurisdiction over school property (see page 11). The Charter School had not taken appropriate corrective action in implementing our recommendations pertaining to their unmonitored vendor system access and logical access control weaknesses (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 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.

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

The CSL permits the establishment of charter schools by a variety of persons and entities, including, among others, an individual; a parent or guardian of a student who will attend the school; any nonsectarian corporation not-for-profit; and any nonsectarian college, university or museum.³

Applications must be submitted to the local school board where the charter school will be located by November 15 of the school year preceding the school year in which the charter school will be established,⁴ and that 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 (6) members appointed by the Governor with the consent of a majority of all of the members of the Senate.⁷

¹ 24 P.S. § 17-1702-A.

² *Id.*

³ 24 P.S. § 17-1717-A (a).

⁴ *Id.* § 17-1717-A (c).

⁵ *Id.* § 17-1717-A (d).

⁶ *Id.* § 17-1717-A (f).

⁷ 24 P.S. § 17-1721-A (a).

With certain exceptions for charter schools within the School District of Philadelphia, initial charters are valid for a period of no less than three (3) years and no more than five (5) years.⁸ After that, the local school board can choose to renew a school's charter every five (5) years, based on a variety of information, such as the charter school's most recent annual report, financial audits, and standardized test scores. The board can immediately revoke a charter if the school has endangered the health and welfare of its students and/or faculty. However, under those circumstances, the board must hold a public hearing on the issue before it makes its final decision.⁹

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

Funding of Pennsylvania Charter Schools:

Brick-and-mortar charter schools and cyber charter schools are funded in the same manner, which is primarily through tuition payments made by school districts for students who have transferred to a charter or cyber charter school.

The Charter School Law requires a school district to pay a per-pupil tuition rate for its students attending a charter or cyber charter school.

Pennsylvania Charter School Funding

The Commonwealth bases the funding for charter schools on the principle that the state's subsidies should follow the students, regardless of whether they choose to attend traditional public schools or charter schools. According to the CSL, the sending school district must pay the charter/cyber charter school a per-pupil tuition rate based on its own budgeted costs, minus specified expenditures,

⁸ 24 P.S. § 17-1720-A.

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

¹⁰ 24 P.S. §§ 17-1703-A, 17-1741-A *et seq.*

¹¹ 24 P.S. § 17-1745-A(d).

¹² *Id.* § 17-1745-A(f)(4).

¹³ 24 P.S. § 17-1741-A(a)(3).

¹⁴ 24 P.S. § 17-1750-A(e).

for the prior school year.¹⁵ For special education students, the same funding formula applies, and an additional per-pupil amount based upon the sending district's special education expenditures divided by a state determined percentage specific to the 1996-97 school year.¹⁶ The CSL also requires that charter schools bill each sending school district on a monthly basis for students attending the Charter School.¹⁷

Typically, charter schools provide educational services to students from multiple school districts throughout the Commonwealth. For example, a charter school may receive students from ten (10) neighboring, but different, sending school districts. Moreover, students from numerous districts across Pennsylvania attend cyber charter schools.

Under the Public School Code of 1949, as amended, the Commonwealth also pays a reimbursement to each sending school district with students attending a charter school that amounts to a mandatory percentage rate of total charter school costs.¹⁸ Commonwealth reimbursements for charter school costs are funded through an education appropriation in the state's annual budget. However, the enacted state budget for the 2011-12 fiscal year eliminated funding of the Charter School reimbursement previously paid to sending school districts.¹⁹

¹⁵ See 24 P.S. § 17-1725-A(a)(2).

¹⁶ See *Id.* §§ 17-1725-A(a)(3); 25-2509.5(k).

¹⁷ See 24 P.S. § 17-1725-A(a)(5).

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

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

Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

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

Our audit, conducted under the authority of Section 403 of The Fiscal Code, 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 September 10, 2010 through August 20, 2014, except for the verification of professional employee certification, which was performed for the period June 12, 2010 through May 28, 2014.

Regarding state subsidies and reimbursements, our audit covered the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

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

Objectives

What is the difference between a finding and an observation?

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

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

- ✓ Was the Charter School in overall compliance with the Public School Code of 1949²⁰ (PSC) and the Charter School Law (CSL)?²¹
- ✓ Did the Charter School have policies and procedures regarding the requirements to maintain student health records and perform required health services, and keep accurate documentation supporting its annual health

²⁰ 24 P.S. § 1-101 *et seq.*

²¹ 24 P.S. § 17-1701-A *et seq.*

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

- ✓ Did the Charter School receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program, was its lease agreement approved by 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 CSL?
- ✓ Did the Charter School provide the services required for its special education students through outside agencies and/or through properly certified professional staff with the required instructional hours and/or training?
- ✓ Did the Charter School's Board of Trustees and administrators comply with the CSL, the PSC, the Public Official and Employee Ethics Act, and the Sunshine Act?
- ✓ Were at least 75 percent of the Charter School's teachers properly certified, and did all of its noncertified teachers meet the "highly qualified teacher" requirements?
- ✓ Did the Charter School require its noncertified professional employees to provide evidence that they neither are at least eighteen (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 PDE, and were its average daily membership and tuition billings accurate?
- ✓ Did the Charter School have sufficient internal controls to ensure that the membership data it reported to PDE through the Pennsylvania Information Management System was complete, accurate, valid, and reliable?

²² 65 Pa.C.S. § 1101 *et seq.*

- ✓ Did the Charter School comply with the CSL’s compulsory attendance provisions and, if not, did the Charter School remove days in excess of ten (10) consecutive unexcused absences from the Charter School’s reported membership totals pursuant to the regulations?²³
- ✓ Did the Charter School take appropriate steps to ensure school safety?
- ✓ Did the Charter School require that all of its employees enroll in the Public School Employees’ Retirement System at the time of filing its charter school application as required by the CSL, unless the Board of Trustees had a retirement plan that covered the employees or the employees were already enrolled in another retirement program?
- ✓ Did the Charter School use an outside vendor to maintain its membership data, and if so, are internal controls in place related to vendor access?
- ✓ Were there any other areas of concern reported by independent 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 results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our results and conclusions based on our audit objectives.

The Charter School’s management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Charter School is in compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). In conducting our

²³ 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 certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

audit, we obtained an understanding of the Charter School's internal controls, including any information technology controls, as they relate to the Charter School's compliance with relevant requirements that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal controls that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

Our audit examined the following:

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

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

To determine the status of our audit recommendations made in a prior audit report released on January 26, 2012, we performed additional audit procedures targeting the previously reported matters.

Findings and Observations

For the audited period, our audit of the SusQ-Cyber Charter School resulted in no findings or observations.

Status of Prior Audit Findings and Observations

Our prior audit of the SusQ-Cyber Charter School (Charter School) on January 26, 2012, resulted in one (1) finding and one (1) observation. The finding pertained to the Charter School entering into a Memorandum of Understanding (MOU) between the Charter School and the local law enforcement agency having jurisdiction over school property. The observation pertained to unmonitored vendor system access and logical access control weaknesses. 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 interviewed the Charter School's personnel regarding the prior finding and observation. As shown below, we found that the Charter School did implement recommendations related to the Charter School entering into a MOU between the Charter School and the local law enforcement agency having jurisdiction over school property but did not implement our recommendations pertaining to unmonitored vendor system access and logical access control weaknesses.

Auditor General Performance Audit Report Released on January 26, 2012

Finding: **Failure to Develop Memorandum of Understanding with Local Law Enforcement**

Finding Summary: Our prior audit of the Charter School found that that the Charter School failed to enter into a MOU between the Charter School and the local law enforcement agency having jurisdiction over school property. An 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 as required by school safety provisions in the Public School Code (PSC).

Recommendations: Our audit finding recommended that the Charter School:

1. In consultation with the Charter School'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.
2. Adopt a board policy requiring the Charter School's administration to develop a MOU with the local law enforcement agency having jurisdiction over school property, biennially update and re-execute each MOU, and file a copy with the Pennsylvania Department of Education's Office of Safe Schools on a biennial basis.

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

Observation: Unmonitored Vendor System Access and Logical Access Control Weaknesses

Observation Summary:

Our prior audit found that the Charter School uses software purchased from a vendor for its critical student accounting applications (membership and attendance). Additionally, the Charter School's entire computer system, including all its data and the vendor's software, are maintained on servers, which are physically located at the Charter School. The vendor has remote access into the Charter School's network server. The prior audit determined that a risk exists that unauthorized changes to the Charter School's data could occur and not be detected because the Charter School was unable to provide supporting evidence that they are adequately monitoring all vendor activity in its system.

Recommendations: Our audit observation recommended that the Charter School:

1. Ensure the Charter School's Acceptable Use Policy includes provisions for authentication (password security and syntax requirements).
2. Establish separate information technology policies and procedures for controlling the activities of vendors/consultants and have the vendor sign this policy, or the Charter School should require the vendor to sign the Charter School's Acceptable Use Policy.
3. Implement a security policy and system parameter settings to require all users, including the vendor, to change their passwords on a regular basis (i.e., every 30 days). In addition, the Charter School should maintain a password history that will prevent the use of a repetitive password (i.e., last ten (10) passwords).
4. Generate monitoring reports (including firewall logs) of vendor and employee access and activity on their system. Monitoring reports should include the date, time, and reason for access, change(s) made, and who made the change(s). The Charter School should review these reports to determine that the access was appropriate and that data was not improperly altered. The Charter School should also ensure it is maintaining evidence to support this monitoring and review.

Current Status:

During our current audit, we found that the Charter School had not taken appropriate corrective action in implementing our recommendations pertaining to their unmonitored vendor system access and logical access control weaknesses. A verbal comment was issued to the Charter School to address the recommendations.

Distribution List

This report was initially distributed to the Chief Executive Officer of the Charter School, the Board of Trustees, our website at www.auditorgen.state.pa.us, and the following stakeholders:

The Honorable Tom W. Wolf
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This report is a matter of public record and is available online at www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.