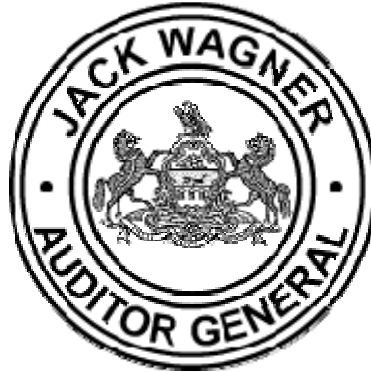


Commonwealth of Pennsylvania
Department of Military and Veterans Affairs
Scotland School for Veterans' Children
July 1, 2003, to March 7, 2007
Performance Audit



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June 25, 2007

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

Dear Governor Rendell:

This report contains the results of a performance audit of the Scotland School for Veterans' Children, part of the Department of Military and Veterans Affairs for the period July 1, 2003, to March 7, 2007. The audit was conducted under authority provided in Section 402 of The Fiscal Code and in accordance with *Government Auditing Standards* as issued by the Comptroller General of the United States.

The report details the audit objectives, scope, methodology, findings, and recommendations. The report identified that the Scotland School for Veterans' Children still did not comply with the HIPAA regulations governing protection of patient medical records at the health care center. The contents of the report were discussed with Scotland officials, whose comments are reflected in the report.

We appreciate the cooperation extended to us by management and staff of the Scotland School for Veterans' Children and by others who provided assistance during the audit.

Sincerely,

JACK WAGNER
Auditor General

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Background Information

Department of Military and Veterans Affairs – Bureau of Veterans Affairs

The Department of Military and Veterans Affairs (DMVA) administers a wide variety of services and benefit programs for veterans and their dependents and spouses throughout the Commonwealth of Pennsylvania. The Bureau of Veterans Affairs within the DMVA is the designated agency responsible for providing oversight of the Scotland School for Veterans' Children.

Scotland School for Veterans' Children

Scotland School for Veterans' Children, governed by the DMVA, provides varied and complete educational programs to eligible children of veterans and armed services personnel in grades three through twelve. Scotland functions as a home for its enrolled students during their academic years. According to the Student Handbook, the School's mission is to motivate students to develop life-long learning skills and to challenge them to achieve their full potential as responsible citizens in a global society by providing a high quality educational environment within a homelike, caring, and nurturing residential community.

The institution originally opened in June 1895, as the Pennsylvania Orphans' Industrial School, consolidating other soldiers' orphans schools established to provide homes and education for children whose parents died during the Civil War. Its name changed to its current designation in 1951. The campus is located on 187 acres in the town of Scotland, Franklin County.

The school was established by and operates pursuant to the Act of 1893, May 27, P.L. 171, and its amendments. The Act stipulates that a student must be:

- *A child between the ages of eight and eighteen.*
- *The child of a custodial parent, grandparent, aunt, uncle or legal guardian, or the sibling of an honorably discharged or deceased veteran.*
- *Living in the Commonwealth for three continuous years prior to submission of application.*

Enrollment preference is given first to the children of combat veterans, then to orphans, third, to children having only one parent, and finally to the destitute who do not fall into any of the aforementioned categories.

Background Information

During the fiscal years ended June 30, 2004, 2005, and 2006, Scotland provided residential care and educational programs to approximately 300 students. The following schedule presents selected unaudited financial and operating information of Scotland for these periods:

June 30,	2004	2005	2006
Sources of Funds			
State Appropriations	\$ 8,000,000	\$ 8,583,455	\$ 9,223,000
Federal Grants	522,451	300,724	572,684
Tuition Recovery and Collections	<u>2,137,514</u>	<u>2,193,609</u>	<u>2,302,190</u>
Total Sources of Funds	<u>\$10,659,965</u>	<u>\$11,077,788</u>	<u>\$12,097,874</u>
Uses of Funds			
Expenditures			
Personnel Services	\$ 8,275,214	\$ 7,958,491	\$ 7,789,405
Operating Expenses	2,904,076	2,783,413	3,598,316
Fixed Assets	<u>48,200</u>	<u>435,121</u>	<u>85,790</u>
Total Uses of Funds	<u>\$11,227,490</u>	<u>\$11,177,025</u>	<u>\$11,473,511</u>

School Year	Capacity	Enrollment (August)	Enrollment (June)
2003-04	360	336	308
2004-05	340	337	294
2005-06	320	307	267

Objectives and Methodology

The objectives for the current audit were selected from two areas: Student Conduct and Discipline and Student Admissions. In addition, we determined the status of recommendations made during the prior audit of the institution. The specific objectives for this audit were:

- To determine if Scotland School officials addressed incidents of misconduct in accordance with the code of conduct. (Finding 1)
- To ensure that Scotland School officials complied with student admissions criteria set forth in the school's policy and that sufficient, current, and accurate documentation of compliance with the school's policy was maintained in each student file. (Finding 2)
- To determine the status of management's corrective actions in the areas of fire safety, compliance with the criminal history and child abuse background checks, fixed asset and inventory control, and compliance with the Health Insurance Portability and Accountability Act.

The scope of the audit was from July 1, 2003, through March 7, 2007, unless indicated otherwise in the body of the individual report findings.

To accomplish these objectives, auditors reviewed Policy Memorandum 18, containing the code of conduct, and Policy Memorandum Number 40, Revised: Admissions. They also reviewed Scotland School's written response, dated December 21, 2004, replying to the Auditor General's prior audit report. To update their understanding of the prior audit's findings, they reviewed the Commonwealth statutes that pertain to the criminal background check and the child abuse check; Policy Memorandum Number 46 - Revised: Criminal History Checks for Contractors Working on School Grounds for Extended Periods of Time; and the Federal Health Insurance Portability and Accountability Act statute and regulations.

Auditors interviewed Scotland School management, staff, and others, including the Director of Student Affairs and the Director of Admissions to obtain an understanding of operations and procedures. They also held discussions with Scotland School management and staff, including Human Resources Office personnel, and the Institutional Support Teacher. They also interviewed food service vendor personnel, criminal background check personnel at the Pennsylvania Department of Education, and child abuse personnel at the Pennsylvania Department of Public Welfare to obtain an updated understanding of the progress in implementing the prior audit's recommendations and other corrective action to resolve the prior findings.

Objectives and Methodology

For the audit of Scotland School's administration of student conduct and discipline, auditors requested a listing of students who were accused of code of conduct violations at the Degree 3 and 4 levels, for two test months during each of the three school years (totaling six test months) covered during the audit period. Auditors reviewed 30 student files that were judgmentally selected from the six test months to ensure that Scotland School officials addressed violations in a timely, thorough and fair manner, and that the consequences imposed complied with the policy memorandum. The also inquired about damage to school property observed during the audit, which may have been indicative of student misconduct.

In addition, auditors identified, documented, and investigated 26 anonymous tips. As part of this process, the auditors performed the following actions: interviewed Scotland School management and staff; reviewed letters of response to these tips by the DMVA; and reviewed supporting documentation such as student discipline reports, letters of suspension, residential discipline reports, employee witness statements, student witness statements, letters documenting counseling sessions, due process conference letters, and county criminal dockets.

For the audit of student admissions, auditors selected a sample of 30 students admitted during the school years from the fall of 2003 to the fall of 2005, and reviewed files to ensure that all required admissions forms were complete, approved, and on file in the Admissions Office.

They also performed tests, as necessary, in prior audit areas to substantiate their understanding of Scotland School management's progress in resolving the prior audit findings.

Audit Findings

Student Conduct and Discipline

Scotland School is a residential school operated by the DMVA. It is not a public school, nor is it part of a school district. Students selected to attend Scotland School are awarded a scholarship for education, room and board and associated costs. The curriculum is structured for students in the third grade through graduation. Students attend school on a college-like campus and benefit from a comprehensive educational experience. In addition to academics, students are taught life skills that prepare them for future educational and employment opportunities.

According to the Scotland School Parent/Student/Staff Handbook, each student is expected to respect the rights of other students. Admission to Scotland School is a privilege, conditioned upon the students' adherence to set values: "Kindness, Respect, Responsibility, Integrity, and Safety." These values are incorporated into a code of conduct,¹ which is published in the Handbook and distributed annually to students. The code enumerates student responsibilities; thus, students are annually given the opportunity to become aware that violation of the code will result in disciplinary action. Students who do not comply with the code face loss of privileges and/or other consequences. Disciplinary action is progressively categorized by degree - one to four, with levels three and four being the most serious and requiring a formal proceeding.

In response to a directive issued by the Superintendent Scotland School's Board of Trustees adopted the most current disciplinary policy on June 2, 2006. The policy guidelines include a discipline matrix that outlines the four degrees of misconduct, and a list of examples of misconduct within each degree along with corresponding consequences. The policy also establishes a discipline committee that meets twice a week to discuss students referred for misconduct.

Finding 1 – Scotland School complied with established student conduct and discipline policies.

Our review of student files confirmed that Scotland School officials were addressing, resolving and recording disciplinary actions that were consistent with policy requirements. Every one of the 30 student files reviewed and the 26 tips contained relevant and sufficient documentation, including completed incident reports, witness statements, letters of suspension, letters of expulsion, discipline committee reports, and notice of disposition.

¹ Policy Memorandum 18 – The Department of Military and Veterans Affairs.

Audit Findings

Further review of student files confirmed that Scotland School officials maintained open lines of communication with parents. School officials monitored and documented progressive disciplinary actions imposed upon chronic offenders, for offenses such as conduct warnings, probation, detention, suspension, and expulsion.

Student Admissions

The Scotland School provides a complete and diverse educational program to eligible children of veterans and armed services personnel in grades three through twelve. Scotland School serves as a home for its students during the academic year. Its mission is to motivate students to develop life skills and to challenge them to achieve their full potential by providing a high quality educational environment within a nurturing residential community.

Applicants for admission to the Scotland School must meet the following requirements, developed by the Board of Trustees:²

- The prospective student must be over six and under sixteen years of age.
- The prospective student must be the child, grandchild, niece, nephew, or sibling of a United States veteran, either on active duty, and/or honorably discharged, who has resided in the Commonwealth for at least three years.
- The preferential order for admissions is: (1) children whose qualifying relative served during any armed conflict; (2) children whose parents are deceased; (3) children with only one living parent; and (4) destitute children.

Applicants must be of good moral character as evidenced by three progress reports from current educational staff at the school of attendance. Prior to admission, applicants and parents are personally interviewed, applicants must undergo grade placement testing, and students are rated to ensure academic and social success.

Finding 2 – Scotland complied with admission policies and procedures.

Scotland School has established an Admissions Committee. The Admissions Committee members receive a briefing by the Admissions Officer during scheduled meetings as well as an information packet for each applicant.

The admissions criteria have changed over the years. For example, students' parents do not have to provide health insurance, a breakage fee is no longer collected, and students do not

² Policy Memorandum Number 40, Revised.

Audit Findings

have to express a religious preference. Additionally, the definition of “child,” has been clarified expressly to include stepchildren.

Auditors selected 30 student files for identification of evidence that the student complied with the admissions policy. All 30-student files contained the required documentation to comply with Scotland’s admissions criteria, as set forth in Scotland School’s Policy Memorandum Number 40, Revised.

Status of Prior Audit Findings and Recommendations

The following is a summary of the findings and recommendations presented in our audit report for the period July 1, 2001 to September 18, 2003, along with a description of Scotland School's disposition of the recommendations.

Fire Safety

Prior Finding – The physical safety of students, faculty, and staff was placed in jeopardy due to a malfunctioning fire detection/alarm system.

Our prior audit found that Scotland School's fire safety program had numerous system deficiencies and areas of noncompliance with the NFPA Life Safety Code and Commonwealth regulations. A tour of the campus disclosed that in specific locations, including the school building, the health clinic, and the student cottages, certain components of the system were either not operational, shut off or not inspected, resulting in a lack of adequate fire protection, campus-wide. The following deficiencies were identified during the audit:

- Fire detection/alarm system panels in the school building and health clinic were not operational while school was in session.
- The fire detection monitoring system was shut off.
- Student cottage fire detection/alarm system panels were shut off.
- The fire detection/alarm system was not inspected.
- The sprinkler system was not inspected.
- Fire extinguishers were not inspected appropriately.

The two-fold purpose of the alarm panels were to disclose that a fire alarm had been tripped, and the location of the potential fire. Panels also recorded when the systems were not functioning properly.

A computer system designed to monitor the fire detection/alarm system was turned off because it was recording hundreds of false alarms. In addition, the sprinkler system in a

Status of Prior Audit Findings and Recommendations

student dormitory was not inspected properly and therefore we could not conclude that it was working properly. Furthermore, fire extinguishers were not properly inspected.

Status:

Scotland School contracted to upgrade their entire fire alarm systems. Our review of documentation and our physical examinations showed that Scotland School performed all repairs, renovations, and replacements to provide adequate fire protection in school buildings, the health clinic, and student cottages. The sprinkler system in the student dormitory noted above was inspected on August 4, 2004, and found to be operational. In addition, our inspection of 69 fire extinguishers showed they were all charged and had service tags. As a result of these actions, we concluded that the prior finding has been resolved.

Criminal History and Child Abuse Background Checks

Prior Finding – Scotland officials did not conduct background checks in accordance with applicable requirements.

Scotland School is subject to the requirements of Commonwealth statutes relating to requirements for criminal record background and child abuse checks of its employees and others who came in contact with children at the school.³

In the prior audit, Scotland School's criminal and child abuse background check system did not comply with applicable statutory and policy requirements. Background checks were outdated, provisional employee files did not contain required documentation, and criminal and child abuse checks were not completed for contractor employees and volunteers. As a result, we made the following recommendations:

- Employees responsible for background checks should become better acquainted with the provisions of the applicable statutes to ensure compliance.
- Safeguards must be put into place to ensure that provisional employees and volunteers without completed background checks are not permitted to work alone with students.
- Steps must be taken to ensure that criminal background checks and child abuse checks are completed for all volunteers entering its campus.

³ The applicable statutes are the Child Protective Services Law, 23 Pa. C.S.A. §§6344 (prospective employees of childcare services, including boarding homes for children) and §§6354 (school employees, including independent contractors) and the Public School Code, 24 P.S. §1-111 (employees of public and private schools, including independent contractors). Individuals whose duties do not involve direct contact with children are exempt from the requirements.

Status of Prior Audit Findings and Recommendations

- Scotland management should institute procedures for ensuring that checks are completed for all contractor employees before they enter the facility. Alternatively, it may be more feasible for Scotland staff to conduct the checks rather than relying upon the contractors themselves.

Status:

For the audit follow up of Scotland School's compliance with Policy Memorandum Number 46, for criminal history background checks, auditors selected a sample of records pertaining to 36 of 126 Scotland School employees; all 22 food service vendor employees; all 22 cleaning service employees and all 3 contracted employees hired during the audit period for evidence that these individuals complied with the Policy Memorandum. Auditors examined the personnel file of each person in the test sample to verify the existence of the criminal background check and the child abuse check of Scotland School employees, its contracted vendors, and contracted staff. The files of Scotland employees, including housekeeping, food service, and independent contractors, contained the required criminal background check and the required child abuse check, all of which were conducted in accordance with applicable law. As a result of these actions, we concluded that the prior finding has been resolved.

In addition, our review disclosed that Commonwealth of Pennsylvania law does not require Board of Trustees' members, and volunteers to submit criminal history checks or child abuse checks. However, as of April 2007, student teachers will be required to submit a criminal background check and a child abuse check in order to intern at Scotland.

Fixed Asset and Inventory Control

Prior Finding – Fixed asset accounting and control procedures continue to be deficient.

Scotland officials did not complete annual fixed asset inventories, maintain up-to-date-records listing asset serial numbers or tag numbers and surplus obsolete assets. We recommended that Scotland School correct these fixed asset deficiencies.

Status:

Scotland School officials completed an inventory of all assets, compiled an asset ledger listing all assets by location and serial number, and sent obsolete assets to the Department of General Services. As a result of these actions, we concluded that the prior finding has been resolved.

Status of Prior Audit Findings and Recommendations

Prior Finding – Recordkeeping and security deficiencies with storeroom inventory continue.

Scotland School officials did not conduct annual physical inventory counts and maintain inventory records that reflected the actual amount on hand. In addition, entrance into the storeroom through an unlocked interior door was possible. We recommended that Scotland School officials correct those noted inventory deficiencies.

Status:

Scotland School officials have completed a physical inventory and now maintain accurate inventory records. In addition, padlocks have been placed on the interior storeroom door. As a result of these actions, we concluded that the prior finding has been resolved.

Health Insurance Portability and Accountability Act

Prior Finding – Scotland erroneously fails to recognize itself as a “covered entity” under HIPAA.

The Federal Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. §§ 1320(d) et.seq.) became law in 1996. Once a student in an educational institution reaches the age of 18 HIPAA applies. One provision of the Act was the implementation of national standards regulating the disclosure of individuals’ health information – called “protected health information” (PHI) – by ‘covered entities’ under the law. A covered entity is defined as “a health plan, a health care clearinghouse, and a health care provider who transmits any health information in electronic form.” Regulations implementing the statutory privacy standards (the Privacy Rule) of HIPAA became effective on April 14, 2001, with an initial compliance date of April 14, 2003.⁴ The Privacy Rule mandates that covered entities properly secure and protect PHI. The Privacy Rule defines PHI as any individually identifiable information, whether oral or recorded, in any form or medium that relates to an individual’s health, health care or payment for health care.

The Privacy Rule defines “health care provider” as a provider of medical or health services and any other person or organization that furnishes, bills, or is paid for health care in the normal course of business.⁵ It is not necessary that a health care provider charge a fee for its services to be deemed a covered entity. An important aspect of the Privacy Rule is the manner in which covered entities share PHI with various third parties with whom they associate. These entities are referred to as Business Associates and include answering services, billing services, collection agencies, as well as attorneys, accountants and other types of consultants. The Privacy Rule imposes a requirement that covered entities obtain Business Associate agreements with these third parties, which impose upon Business Associates the requirement to maintain the confidentiality of the PHI.

⁴ 45 CFR 160, §164.

⁵ 45 CFR 160, §102.

Status of Prior Audit Findings and Recommendations

Our prior audit reported that Scotland did not recognize itself as a covered entity under the HIPAA and the Privacy Rule, and did not follow the requirements. We recommended that Scotland School and the DMVA implement policies and procedures for use of Business Associate agreements with third parties having access to protected health information, and for notification to students of its privacy practices.

Status:

For the audit follow up, auditors interviewed Scotland School personnel to ascertain whether the school is complying with HIPAA regulations. The follow-up disclosed that the Scotland School still provides an on-campus health center for its students. The health center is staffed by three full-time and two part-time nurses.

Scotland's nursing staff transmits and receives student protected health information and medical reports via fax and e-mail (electronic receipt and transmission) to and from hospitals, pharmacies, and physicians. The use of fax and e-mail transactions constitutes electronic transmission. Also, during the audit period, over one half of Scotland's graduating seniors were 18 years of age or older so the Scotland School students met the definition of 'eligible students.' For both of the above reasons, the Scotland School's on-campus health center met the HIPAA definition of a health care provider and it is a covered entity bound by the HIPAA requirements.

Furthermore, as a covered entity, Scotland is required to execute business associate agreements with third party contractors, i.e., the physicians that provide services to its students. Failure to do so could result in the imposition of civil penalties. The U.S. Department of Health and Human Services provides model business associates' agreements on its website.

Recommendations:

Scotland should comply with HIPAA regulations. Scotland should implement policies and procedures that ensure compliance with HIPAA relating to the following:

- Implement safeguards to protect eligible students' medical records.
- Execute business associate agreements with the pharmacies and the physicians that provide services to its students.
- Provide notification to students of its privacy practices.

Management Comments:

Discussions with Scotland School management on December 15, 2006, about this finding revealed that management agreed to implement our recommendations.

Audit Report Distribution List

This report was initially distributed to the following:

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