

PERFORMANCE AUDIT

PA Distance Learning Charter School Allegheny County, Pennsylvania

April 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DEPASQUALE
AUDITOR GENERAL**

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

Mr. John Marous, Board President
PA Distance Learning Charter School
2100 Corporate Drive
Wexford, Pennsylvania 15090

Dear Governor Wolf and Mr. Marous:

We conducted a performance audit of the PA Distance Learning Charter School (Cyber 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 July 1, 2009 through November 14, 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, 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 Cyber Charter School complied, in all significant respects, with relevant requirements.

We appreciate the Cyber 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

April 30, 2015

cc: **PA DISTANCE LEARNING 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 PA Distance Learning Charter School (Cyber Charter School) in Allegheny County. Our audit sought to answer certain questions regarding the Cyber Charter School's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

Our audit scope covered the period July 1, 2009 through November 14, 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 2009-10, 2010-11, and 2011-12 school years.

Cyber Charter School Background

The Cyber Charter School, located in Allegheny County, Pennsylvania, opened in July 2004. It was originally chartered on April 8, 2004, for a period of three (3) years by the Pennsylvania Department of Education. The Cyber Charter School's mission states: "Offer a valuable education alternative. Practice and promote academic integrity. Present quality curriculum, technology, and support. Foster academic excellence in our students." During the 2011-12 school year, the Cyber Charter School provided educational services to 568 pupils through the employment of 30 teachers, 12 full-time and part-time support personnel, and 4 administrators. The Cyber Charter School received \$5,463,823 in tuition payments from school districts required to pay for their students attending

the Cyber Charter School in the 2011-12 school year.

Academic Performance

The Cyber Charter School's academic performance is considered failing, as demonstrated by its low School Performance Profile (SPP) score of 54.7 percent in 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 54.7 percent would be considered an "F" if using a letter grade system. Weighted data factors included in the SPP score are indicators of academic achievement, indicators of closing the achievement gap, indicators of academic growth, and other academic indicators such as attendance and graduation rates.

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

AYP was 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 needed to 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 were evaluated for test performance and test participation for all students in the tested grades (3-8 and 11) in the school. AYP measures determined whether a school was making sufficient annual progress towards statewide proficiency goals. On August 20, 2013, Pennsylvania was granted a waiver from the NCLB's requirement of achieving 100 percent proficiency in Reading and Math by 2014, so AYP measures were discontinued beginning with the 2012-13 school year.¹

Audit Conclusion and Results

Our audit found that the Cyber 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. This is the first audit of the PA Distance Learning Charter School. Therefore, there are no prior audit findings or observations.

¹ In February 2013, Pennsylvania was one of many states that applied for flexibility from NCLB standards, which was granted by the U.S. Department of Education on August 20, 2013. The waiver eliminates AYP for all public schools and replaces it with a federal accountability system specific to Title I schools only (those with a high percentage of low-income students), which identifies Title I schools as "Priority," "Focus," "Reward," or "No Designation" schools. Beginning in 2012-13, all public school buildings received a SPP score.

Background Information on Pennsylvania Charter Schools

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 Charter School Law

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.² 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.³

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.⁴ 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,⁵ and that board must hold at least one (1) public hearing before approving or rejecting the application.⁶ If the local school board denies the application, the applicant can appeal the decision to the State Charter School Appeal Board,⁷ 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.⁸

² 24 P.S. § 17-1702-A.

³ *Id.*

⁴ 24 P.S. § 17-1717-A (a).

⁵ *Id.* § 17-1717-A (c).

⁶ *Id.* § 17-1717-A (d).

⁷ *Id.* § 17-1717-A (f).

⁸ 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.⁹ 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.¹⁰

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.¹¹ 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.¹² However, if PDE denies the application, the applicant can still appeal the decision to the State Charter School Appeal Board.¹³ In addition, PDE is responsible for renewing and revoking the charters of cyber charter schools.¹⁴ 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.¹⁵

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, for the prior school year.¹⁶ For special education students,

⁹ 24 P.S. § 17-1720-A.

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

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

¹² 24 P.S. § 17-1745-A(d).

¹³ *Id.* § 17-1745-A(f)(4).

¹⁴ 24 P.S. § 17-1741-A(a)(3).

¹⁵ 24 P.S. § 17-1750-A(e).

¹⁶ See 24 P.S. § 17-1725-A(a)(2).

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.¹⁷ The CSL also requires that charter schools bill each sending school district on a monthly basis for students attending the charter school.¹⁸

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.¹⁹ 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.²⁰

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

¹⁸ See 24 P.S. § 17-1725-A(a)(5).

¹⁹ 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.

²⁰ 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 2003-04 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 July 1, 2009 through November 14, 2014, except for the verification of professional employee certification which was performed for the period July 1, 2014 through August 28, 2014.

Regarding state subsidies and reimbursements, our audit covered the 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 Cyber Charter School in overall compliance with the Public School Code of 1949²¹ (PSC) and the Charter School Law (CSL)?²²
- Was the Cyber Charter School operating in compliance with accountability provisions included in the CSL specific to its approved charter and governance structure?

²¹ 24 P.S. § 1-101 *et seq.*

²² 24 P.S. § 17-1701-A *et seq.*

- To address this objective, auditors reviewed the approved charter and any amendments, board policies and procedures, vendor contracts, Internal Revenue Service 990 forms, and annual reports for the audit period.

Ü Did the Cyber Charter School have policies and procedures regarding the requirements to maintain student health records, perform required health services, and keep accurate documentation supporting its annual health services report filed with the Pennsylvania Department of Health to receive state reimbursement as required by law?²³

- To address this objective, auditors reviewed the Cyber Charter School's annual health services reports and supporting documents, policies and procedures regarding student health services, and wellness policy.

Ü Did the Cyber Charter School receive state reimbursement for its building lease under the Charter School Lease Reimbursement Program administered by PDE, 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?²⁴

- To address this objective, auditors reviewed the administration building's lease and supporting documentation.

Ü Did the Cyber Charter School comply with the open enrollment and lottery provisions under Section 1723-A of the CSL?

- To address this objective, auditors reviewed the approved charter and any amendments, admission policies and procedures, wait lists, lottery results, and other supporting documentation.

²³ Article XIV, School Health Services, 24 P.S. § 14-1401 (2006), is applicable to charters and cyber charters in its entirety through its incorporation in 24 P.S. § 17-1732-A(a) and 24 P.S. § 17-1749-A(a)(1), respectively, of the CSL.

²⁴ 65 Pa.C.S. § 1101 *et seq.*

- Did the Cyber 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 pursuant to Chapter 711 of Pennsylvania's Special Education Regulations?²⁵
 - To address this objective, auditors reviewed the approved charter and any amendments, relevant policies and procedures, special education service contracts, special education certification results, and annual reports.
- Were the Cyber Charter School's Board of Trustees and administrators free from apparent conflicts of interest and in compliance with the CSL, the PSC, the Public Official and Employee Ethics Act, and the Sunshine Act?
 - To address this objective, auditors reviewed Statements of Financial Interest for all Board of Trustees and administrators for the audit period, board meeting minutes, management company contract(s), and any known outside relationships with the Cyber Charter School and/or its authorizing school district.
- Were at least 75 percent of the Cyber Charter School's teachers properly certified pursuant to Section 1724-A of the CSL, and did all of its noncertified teachers in core content subjects meet the "highly qualified teacher" requirements under the federal No Child Left Behind Act of 2001?
 - To address this objective, auditors reviewed and evaluated certification documentation and teacher course schedules for all teachers and administrators for the certification audit period.

²⁵ 22 Pa. Code §711 et seq.

- Ü Did the Cyber 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?

To address this objective:

- The auditors randomly selected 5 out of 568 total registered students from the vendor software listing and verified that each child was appropriately registered with the Cyber Charter School.
 - In addition, for the two (2) school terms reported on the Summary of Child Accounting, the auditors verified the school days reported on the Instructional Time and Membership Report and matched them to the School Calendar Fact Template.
- Ü Did the Cyber Charter School take appropriate steps to ensure school safety, including maintaining a current Memorandum of Understanding (MOU) with local law enforcement?
- To address this objective, the auditors reviewed the Cyber Charter School's safety plan, anti-bullying policies, and MOU(s) to assess whether the Cyber Charter School is in compliance with relevant safe schools requirements in the PSC²⁶ and with best practices for ensuring school safety. Generally, the auditors evaluated the age of the safety plan, whether it was being implemented, and whether it was being practiced through training exercises.
- Ü Did the Cyber Charter School provide its employees with a retirement plan, such as the Public School Employees' Retirement System (PSERS), as required by Section 1724-A(c) of the CSL, and were employees enrolled in PSERS eligible to receive plan benefits?

²⁶ 24 P.S. § 13-1301-A.

- To address this objective, auditors reviewed the approved charter and any amendments, board meeting minutes, personnel listings, payroll reports, and PSERS wage reports for all employees for the 2011-12 school year.

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 certain relevant state laws, regulations, 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 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 Cyber Charter School's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Cyber Charter School is in compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). In conducting our audit, we obtained an understanding of the Cyber Charter School's internal controls, including any information technology controls, as they relate to the Cyber 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 the approved cyber charter and any amendments, Board of Trustees' meeting minutes, pupil membership records, IRS 990 forms, annual reports, and reimbursement applications.
- Tuition receipts and deposited state funds.

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

Findings and Observations

For the audited period, our audit of the PA Distance Learning Charter School resulted in no findings or observations.

Status of Prior Audit Findings and Observations

This is the first audit of the PA Distance Learning Charter School. Therefore, there are no prior audit findings or observations.

Distribution List

This report was initially distributed to the Chief Executive Officer of the Cyber Charter School, the Board of Trustees, and the following stakeholders:

The Honorable Tom W. Wolf
Governor
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Harrisburg, PA 17120

The Honorable Pedro A. Rivera
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This report is a matter of public record and is available online at www.PaAuditor.gov. 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@PaAuditor.gov.

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Executive Assistant
Attention: Charter and Cyber Charter
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