

LIMITED PROCEDURES ENGAGEMENT

Lehigh Valley Charter High School for the Arts Northampton County, Pennsylvania

September 2018



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov

EUGENE A. DePASQUALE
AUDITOR GENERAL

Ms. Diane LaBelle, Executive Director/CEO
Lehigh Valley Charter High School for the
Arts
321 East Third Street
Bethlehem, Pennsylvania 18015

Mr. Mario Acerra, Board President
Lehigh Valley Charter High School for the
Arts
321 East Third Street
Bethlehem, Pennsylvania 18015

Dear Ms. LaBelle and Mr. Acerra:

We conducted a Limited Procedures Engagement (LPE) of the Lehigh Valley Charter High School for the Arts (Charter School) to determine its compliance with certain relevant state laws, regulations, policies, and administrative procedures (relevant requirements). The LPE covers the period July 1, 2013 through June 30, 2017, except as otherwise indicated in the scope, objective, and methodology section of the report. The engagement was conducted pursuant to authority derived from Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania and The Fiscal Code (72 P.S. §§ 402 and 403), but was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

We evaluated the Charter School's performance in the following areas as further described in the appendix of this report:

- ✓ Governance
- ✓ Construction Contracting and Bidding
- ✓ Related Party Transactions
- ✓ Certification

We also evaluated the application of best practices in the area of school safety. Due to the sensitive nature of this issue and the need for the results of this review to be confidential, we did not include the results in this report. However, we communicated the results of our review of school safety to District officials, the Pennsylvania Department of Education, and other appropriate officials as deemed necessary.

Our engagement found that the Charter School properly implemented policies and procedures for the bulleted areas above and complied, in all significant respects, with relevant requirements except as detailed in the two findings in this report. A summary of the results is presented in the executive summary section of the report.

Ms. Diane LaBelle

Mr. Mario Acerra

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The two findings and related recommendations have been discussed with the Charter School's management, and their responses are included after each finding. We believe the implementation of our recommendations will improve the Charter School's operations and facilitate compliance with legal and other relevant requirements and best practices.

Our review of the Charter School's construction contracting and bidding process related to a new \$25 million school building did not find any noncompliance. The construction project was completed in the name of the Charter School's Foundation and **not** the Charter School itself, and the Foundation is not subject to the public bidding requirements under the Charter School Law. Consequently, there were no remaining compliance issues to consider regarding the procurement of the construction contract. However, we will be sharing these results, as well as others, with the Senate and House Education Committees to request that they consider legislation to explicitly require foundations and management companies associated with charter schools to be subject to the same public bidding requirements as those of public school entities.

We appreciate the Charter School's cooperation during the course of our review.

Sincerely,



Eugene A. DePasquale
Auditor General

August 16, 2018

cc: **LEHIGH VALLEY CHARTER HIGH SCHOOL FOR THE ARTS** Board of Directors

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Background Information

School Characteristics 2017-18 School Year ^A	
County	Northampton
Number of School Buildings	1
Total Teachers	61
Total Full or Part-Time Support Staff	29
Total Administrators	4
Total Enrollment for Most Recent School Year	615
Current Authorizing School Districts	Bethlehem Area SD Northampton Area SD
Number of Sending School Districts	38
Date Charter School Originally Chartered	September 2002

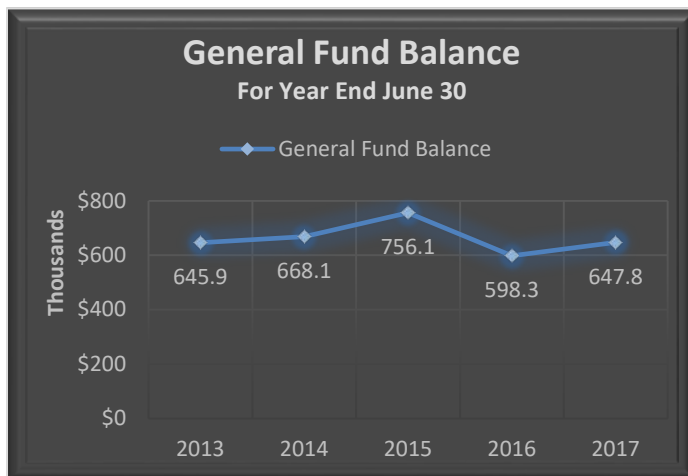
A - Source: Information provided by the Charter School administration and is unaudited.

Mission Statement^A

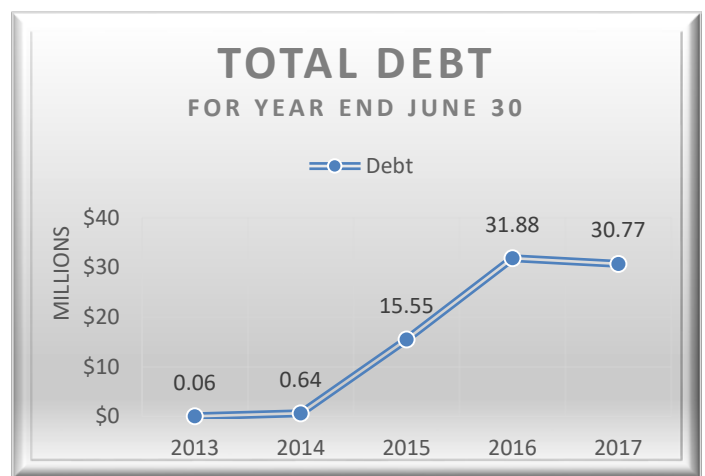
The Lehigh Valley Charter High School for the Arts provides a unique environment that fosters a creative academic approach to learning and a development of talent in the arts. Built upon passion, discipline and a commitment to excellence, this integrative educational experience inspires all students to believe in themselves and what they can accomplish.

Financial Information

The following pages contain financial information about the Lehigh Valley Charter High School for the Arts (Charter School) obtained from annual financial data reported to the Pennsylvania Department of Education (PDE) and available on PDE's public website. This information was not audited and is presented for **informational purposes only**.

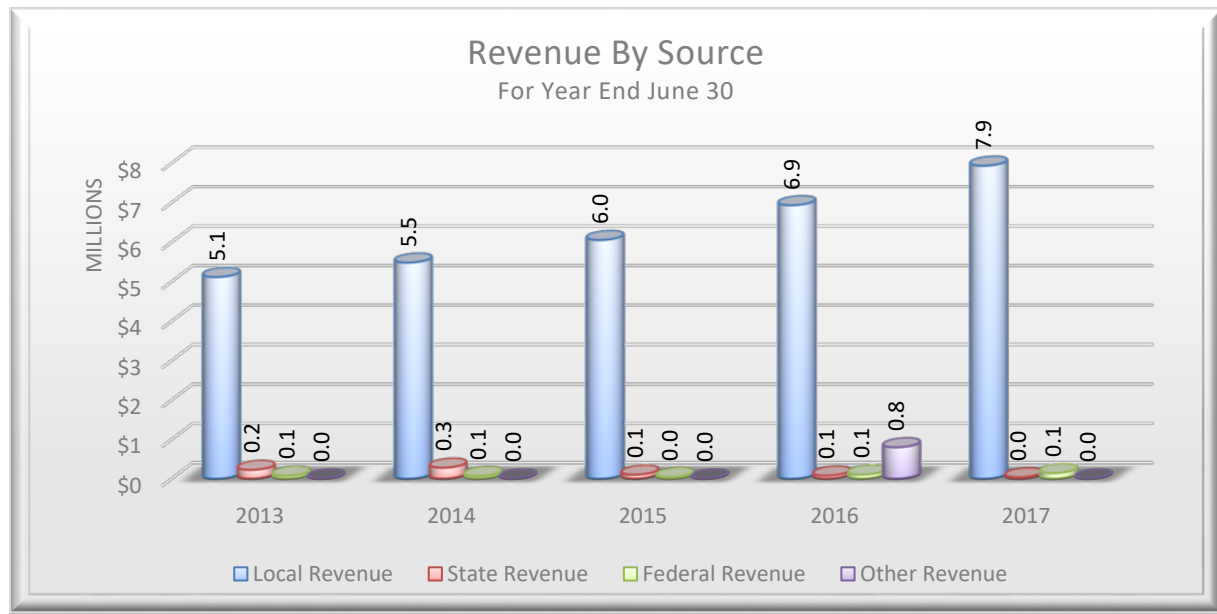
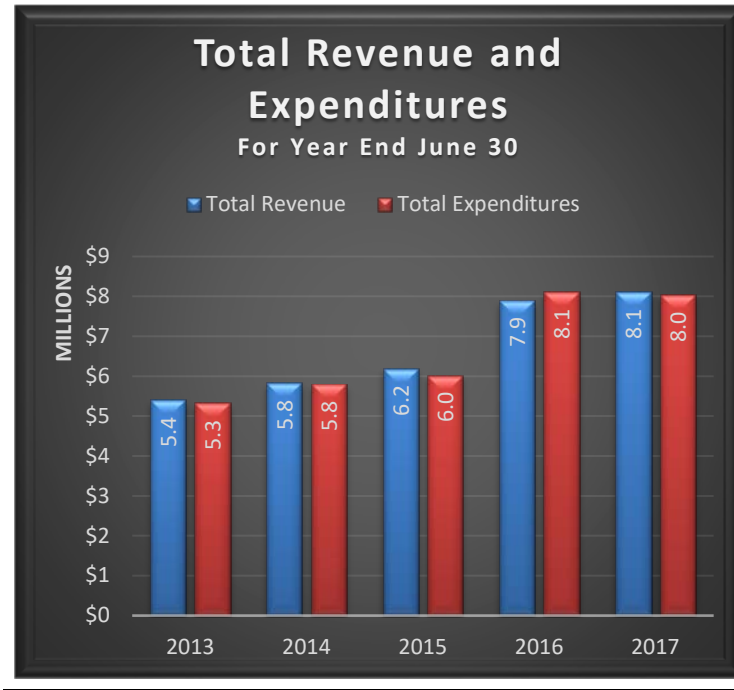


Note: General Fund Balance is comprised of the Charter School's Committed, Assigned and Unassigned Fund Balances.



Note: Total Debt is comprised of Short-Term Borrowing, General Obligation Bonds, Authority Building Obligations, Other Long-Term Debt, Other Post-Employment Benefits, Compensated Absences and Net Pension Liability.

Financial Information Continued



Academic Information

The graphs on the following pages present School Performance Profile (SPP) scores, Pennsylvania System of School Assessment (PSSA), Keystone Exam results, and 4-Year Cohort Graduation Rates for the Charter School obtained from PDE's data files for the 2014-15, 2015-16, and 2016-17 school years.¹ These scores are provided in the Charter School's Limited Procedures Engagement for **informational purposes only**, and they were not audited by our Department. Please note that if one of the Charter School's schools did not receive a score in a particular category and year presented below, the school will not be listed in the corresponding graph.² Finally, benchmarks noted in the following graphs represent the statewide average of all public school buildings in the Commonwealth that received a score in the category and year noted.³

What is a SPP score?

A SPP score serves as a benchmark for schools to reflect on successes, achievements, and yearly growth. PDE issues a SPP score using a 0-100 scale for all school buildings in the Commonwealth annually, which is calculated based on standardized testing (i.e., PSSA and Keystone exam scores), student improvement, advance course offerings, and attendance and graduation rates. Generally speaking, a SPP score of 70 or above is considered to be a passing rate.

PDE started issuing a SPP score for all public school buildings beginning with the 2012-13 school year. For the 2014-15 school year, PDE only issued SPP scores for high schools taking the Keystone Exams as scores for elementary and middle schools were put on hold due to changes with PSSA testing.⁴ PDE resumed issuing a SPP score for all schools for the 2015-16 school year.

What is the Keystone Exam?

The Keystone Exam measures student proficiency at the end of specific courses, such as Algebra I, Literature, and Biology. The Keystone Exam was intended to be a graduation requirement starting with the class of 2017, but that requirement has been put on hold until the 2020-21 school year.⁵ In the meantime, the exam is still given as a standardized assessment and results are included in the calculation of SPP scores. The Keystone Exam is scored using the same four performance levels as the PSSAs, and the goal is to score Proficient or Advanced for each course requiring the test.

¹ PDE is the sole source of academic data presented in this report. All academic data was obtained from PDE's publically available website.

² PDE's data does not provide any further information regarding the reason a score was not published for a specific school. However, readers can refer to PDE's website for general information regarding the issuance of academic scores.

³ Statewide averages were calculated by our Department based on individual school building scores for all public schools in the Commonwealth, including district schools, charters schools, and cyber charter schools.

⁴ According to PDE, SPP scores for elementary and middle schools were put on hold for the 2014-15 school year due to the state's major overhaul of the PSSA exams to align with PA Core standards and an unprecedented drop in public schools' PSSA scores that year. Since PSSA scores are an important factor in the SPP calculation, the state decided not to use PSSA scores to calculate a SPP score for elementary and middle schools for the 2014-15 school year. Only high schools using the Keystone Exam as the standardized testing component received a SPP score.

⁵ Act 39 of 2018, effective July 1, 2018, amended the Public School Code to further delay the use of Keystone Exams as a graduation requirement for an additional year until the 2020-21 school year. *See* 24 P.S. § 1-121(b)(1).

What is the PSSA?

The PSSA is an annual, standardized test given across the Commonwealth to students in grades 3 through 8 in core subject areas, including English and Math. The PSSAs help Pennsylvania meet federal and state requirements and inform instructional practices, as well as provide educators, stakeholders, and policymakers with important information about the state's students and schools.

The 2014-15 school year marked the first year that PSSA testing was aligned to the more rigorous PA Core Standards.⁶ The state uses a grading system with scoring ranges that place an individual student's performance into one of four performance levels: Below Basic, Basic, Proficient, and Advanced. The state's goal is for students to score Proficient or Advanced on the exam in each subject area.

What is a 4-Year Cohort Graduation Rate?

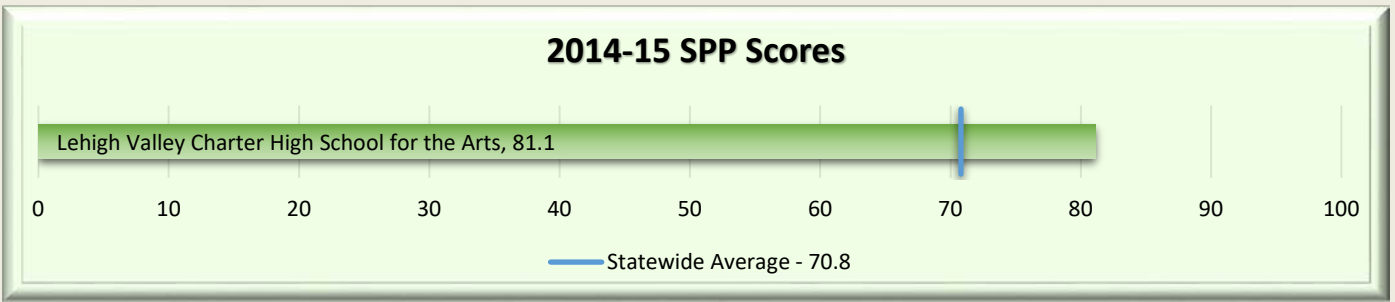
PDE collects enrollment and graduate data for all Pennsylvania public schools, which is used to calculate graduation rates. Cohort graduation rates are a calculation of the percentage of students who have graduated with a regular high school diploma within a designated number of years since the student first entered high school. The rate is determined for a cohort of students who have all entered high school for the first time during the same school year. Data specific to the 4-year cohort graduation rate is presented in the graph.⁷

⁶ PDE has determined that PSSA scores issued beginning with the 2014-15 school year and after are not comparable to prior years due to restructuring of the exam.

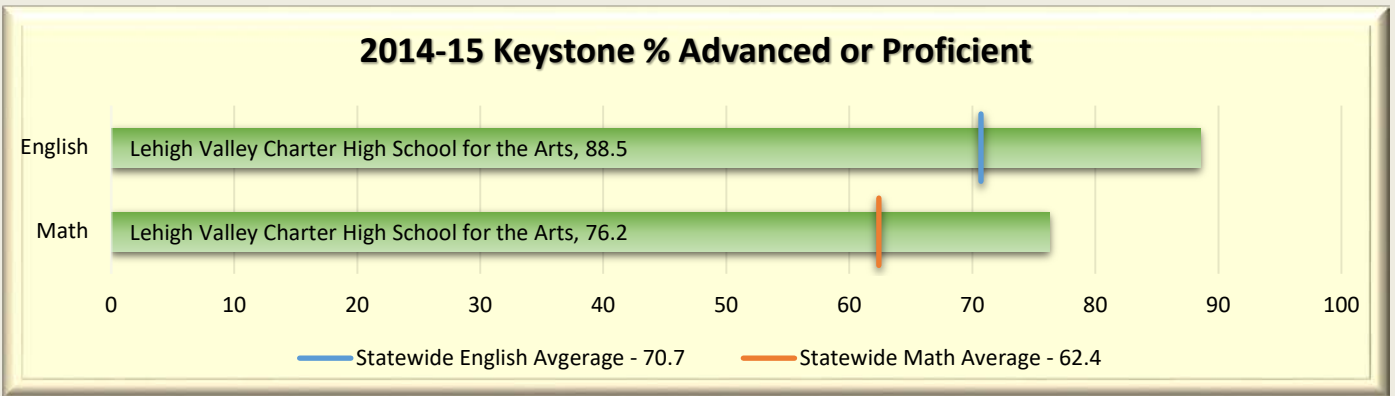
⁷ PDE also calculates 5-year and 6-year cohort graduation rates. Please visit PDE's website for additional information: <http://www.education.pa.gov/Data-and-Statistics/Pages/Cohort-Graduation-Rate-.aspx>.

2014-15 Academic Data
School Scores Compared to Statewide Averages

2014-15 SPP Scores

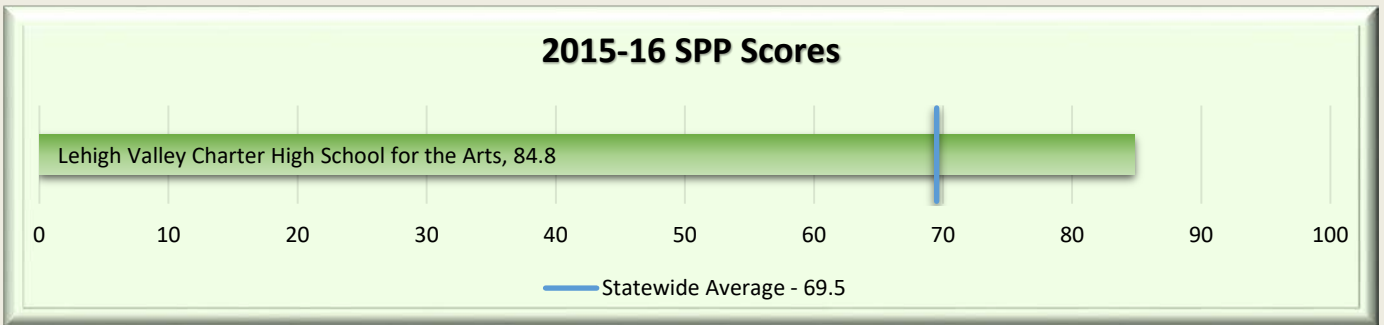


2014-15 Keystone % Advanced or Proficient

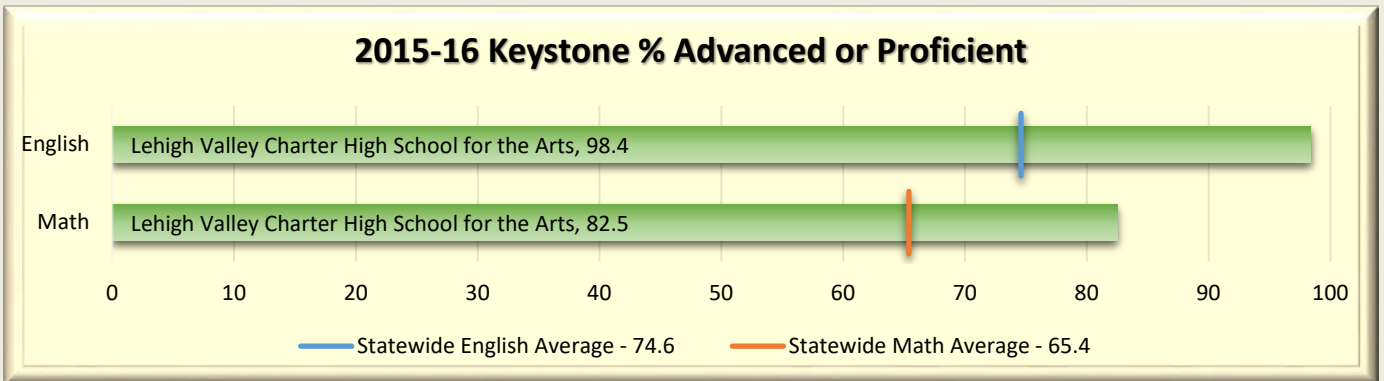


2015-16 Academic Data
School Scores Compared to Statewide Averages

2015-16 SPP Scores

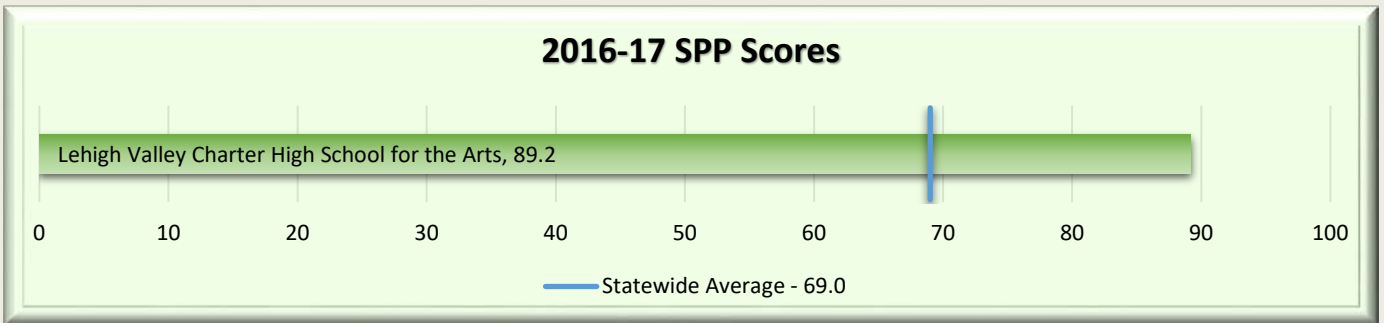


2015-16 Keystone % Advanced or Proficient

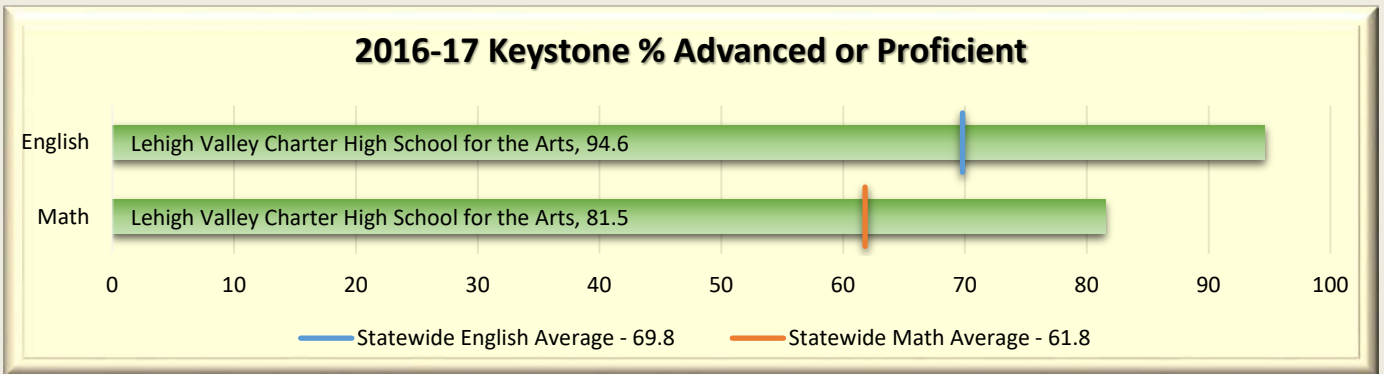


2016-17 Academic Data
School Scores Compared to Statewide Averages

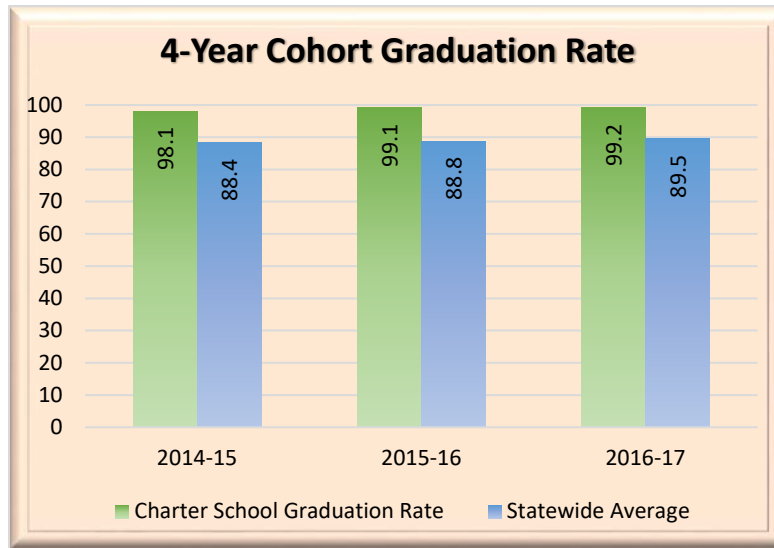
2016-17 SPP Scores



2016-17 Keystone % Advanced or Proficient



Graduation Data
Charter School Graduation Rates Compared to Statewide Average



The Charter School Law

The board of a charter or cyber charter school is responsible for governance of the school. Specifically, under the Charter School Law (CSL), the board has the authority to decide matters related to the operation of the school, including, but not limited to, budgeting, curriculum, and operating procedures, subject to the school’s charter.⁸ In addition, the Pennsylvania Supreme Court has ruled that a charter board must retain ultimate authority over the general operations of the school, not the founder or any management company hired by the board.⁹

The CSL also designates board members and administrators with management or operational oversight responsibilities of charter and cyber charter schools as public officials subject to the Ethics Act.¹⁰ Moreover, the CSL requires board members and meetings to comply with the Sunshine Act and open meeting requirements.¹¹

⁸ 24 P.S. § 17-1716-A(a) is applicable to cyber charter schools by way of its incorporation through 24 P.S. § 17-1749-A(a)(1).

⁹ *W. Chester Area Sch. Dist. v. Collegium Charter Sch.*, 760 A.2d 452 (Pa. Cmwlth. 2000).

¹⁰ CSL sections 24 P.S. §§ 17-1715-A(11)-(12) and 17-1749-A(a)(1) make the Ethics Act, 65 Pa.C.S. § 1101 *et seq.*, applicable to charter schools and cyber charter schools.

¹¹ The Sunshine Act, 65 P.S. § 701 *et seq.*, is incorporated through 24 P.S. §§ 1716-A(c) and 1749-A(a)(1) of the CSL.

Findings

Finding No. 1

The Charter School Had Weaknesses in its School Board Meeting Minutes, Was in Noncompliance with the Sunshine Act, and May Have Violated the Ethics Act

Criteria relevant to the finding:

Section 703 of the Sunshine Act provides the following definition:

“Executive Session is a meeting from which the public is excluded, although the agency may admit those persons necessary to carry out the purpose of the meeting.” *See* 65 Pa.C.S. § 703.

Section 708(a) of the Sunshine Act provides the following six reasons for which executive session may be held:

- The employment of an individual and other personnel matters.
- To consider matters related to negotiation or arbitration of a collective bargaining agreement.
- To consider purchase and lease of real estate property.
- To consult with an attorney in connection with litigation.
- To consider information which is protected by a lawful privilege or otherwise protected by the law.
- To consider matters of academic admission or standings. *See* 65 Pa.C.S. § 708(a).

In an effort to gain an understanding of the governance and operations of the Lehigh Valley Charter High School for the Arts (Charter School), we reviewed its board meeting minutes from August 22, 2013 through December 14, 2017. We also performed a review of the Charter School’s internal controls related to its governance and operations.

We determined that the Charter School’s Board of Directors (Board) did not comply with the Sunshine Act when it repeatedly failed to announce the purpose of its executive sessions. The Sunshine Act requires that the reason for holding an executive session must be announced immediately prior or after the session.¹² It is important to note that the Charter School went into executive session at every board meeting during our review period, except for one meeting, without announcing the reason for the session.

In addition, we found that the Charter School’s Board may have violated the voting conflict provision of the Public Official and Employee Ethics Act (Ethics Act) that requires the Board to document when a board member abstains from voting and the reason for an abstention due to a conflict.¹³

The Charter School’s noncompliance with properly documenting the reasons for executive sessions and board abstentions was due to the Charter School’s lack of knowledge of these requirements. Failure to adhere to these obligations lessens transparency and accountability to the public.

¹² 65 Pa.C.S. § 708(b).

¹³ Section 1103(j) of the Ethics Act states, in part: “. . . prior to the vote being taken, publically announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes . . .” *See* 65 Pa.C.S. 1103(j).

*Criteria relevant to the finding
(continued):*

Section 708(b) of the Sunshine Act states:

“The executive session may be held during an open meeting or at the conclusion of an open meeting or may be announced for a future time.

The reason for holding the executive session must be announced at the open meeting occurring immediately prior or subsequent to the executive session.

If the executive session is not announced for a future specific time, members of the agency shall be notified 24 hours in advance of the time of the convening of the meeting specifying the date, time, location and purpose of the executive session.” [Emphasis added.] See 65 Pa.C.S. § 708(b).

Section 706 of the Sunshine Act states:

“Written minutes shall be kept of all open meetings of agencies. The minutes shall include:

- (1) The date, time and place of the meeting.
- (2) The names of members present.
- (3) The substance of all official actions and **a record by individual member of the roll call votes taken.**
- (4) The names of all citizens who appeared officially and the subject of their testimony.” [Emphasis added.] See 65 Pa.C.S. § 706.

Failure to Record the Reason for Executive Session

Our audit found that the Charter School’s Board failed to comply with provisions of the Sunshine Act related to executive sessions by not recording the purpose of these sessions. The Charter School’s Board went into executive session at 30 of the 31 meetings held during our review period and never announced or documented the reason for each executive session.

The General Assembly passed the Sunshine Act to ensure the right of its citizens to have notice of, and the right to attend, all meetings of state and local agencies at which any agency business is discussed or acted upon. The General Assembly determined in its preamble to the act that the public had the right to be present at all meetings of agencies and to witness their deliberations, policy formulation, and decision-making. In addition, the General Assembly found the public’s open access to be vital to the enhancement and proper functioning of the democratic process. Moreover, it found that “secrecy in public affairs undermines the faith of the public in government and the public’s effectiveness in fulfilling its role in a democratic society.”¹⁴

Section 708(a) of the Sunshine Act provides six reasons for which an executive session may be held.¹⁵ By not properly recording the reason for its executive sessions, we could not determine if these sessions were being held for permissible reasons. Additionally, the Board’s failure to announce the reason for its executive sessions reduces its transparency and accountability to the public.

Failure to Record Board Abstentions

Interviews with the Charter School’s administration revealed that the Charter School is not documenting in its board meeting minutes if a board member abstains from voting on a particular issue or the reason for an abstention as required by the Ethics Act. Moreover, the Charter School was unable to provide evidence that it has a prescribed method for documenting board abstentions and the reason why. Charter School officials indicated that they were not aware of these requirements, but added that there

¹⁴ 65 Pa.C.S. § 702(a) and (b).

¹⁵ 65 Pa.C.S. § 708(a).

*Criteria relevant to the finding
(continued):*

Additionally, since charter schools are incorporated as nonprofit entities, the Nonprofit Corporation Law of 1988 (Law) applies and contains a general requirement for nonprofit entities, including charter schools, to keep minutes of board meetings and accurate books or records of account. Specifically, Section 5508(a) of the Law states:

“Required records.--Every nonprofit corporation shall keep minutes of the proceedings of the members, the directors and any other body, and a membership register, giving the names and addresses of all members and the class and other details of the membership of each. The corporation shall also **keep appropriate, complete and accurate books or records of account.** . . .” [Emphasis added.] See 15 Pa.C.S. § 5508(a).

Section 1103(j) (Voting conflict) of the Public Official and Employee Ethics Act states, in part:

“. . . Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall **abstain from voting and, prior to the vote being taken publically announce and disclose the nature of his interest** as a public record in a written memorandum filed with the person responsible for recording the minutes . . .” [Emphasis added.] See 65 Pa.C.S. § 1103(j).

were no instances during our review when a board member had to abstain from voting.

Without a documented process for properly recording board abstentions, we could not determine if there were any instances of board abstentions, or if there were any reasons for concern about a related party transaction or potential conflict of interest resulting from an abstention. Failure to record this type of information in board meeting minutes results in a lack of disclosure of vital information that board members are obligated to be transparent about and may give rise to a possible violation of the Ethics Act.

Summary

In summary, the Charter School was in noncompliance with the Sunshine Act by not announcing the purpose of its Board’s executive sessions on 30 of 31 occasions. The Charter School also did not record its Board’s possible need for abstentions, for which the reason for an abstention must also be made part of the public record in a written memorandum filed with the person responsible for recording the minutes pursuant to the Ethics Act. These instances of noncompliance were the result of District personnel being unaware of the requirements for maintaining board meeting minutes under the Sunshine Act and the possible need to disclose the nature of a potential conflict of interest under the Ethics Act. Failure to adhere to the requirements of the Sunshine Act and the Ethics Act lessens transparency and accountability to the public.

Recommendations

The *Lehigh Valley Charter High School for the Arts* should:

1. Adhere to the provisions of the Sunshine Act, specifically related to announcing and recording the purpose of each executive session.
2. Ensure that all board members are aware of their obligations under the Ethics Act to disclose any conflicts of interest and that they must abstain from any related vote.
3. Record any abstentions along with the reasons for abstaining in the minutes.

4. Develop a form to document abstentions that should be filed with the Board Secretary or the person responsible for recording the minutes, in accordance with Section 1103(j) of the Ethics Act, 65 Pa.C.S. § 1103(j).¹⁶

Management Response

Charter School management provided the following response:

“While the Charter Arts Board of Directors did comply with documenting the reasons for closed Executive Sessions in its minutes, the board recognizes the Auditor General’s finding that it must announce the reasons for these sessions immediately prior or subsequent to the sessions. 68 Pa. C.S. 708(b). Charter Arts changed the procedure of the board meetings to announce the reason going into Executive Session beginning with the April 2018 Board of Directors’ meeting and will continue to do so going forward.

The School will take steps promptly to ensure “that all board members are aware of their obligations under the Ethics Act to disclose any conflicts of interest and that they must abstain from any related vote.” Further, the board will record “any abstentions along with the reasons for abstaining in the minutes.” The School will also develop a form “to document abstentions that should be filed with the board secretary or person responsible for recording the minutes, in accordance with Section 1103(j) of the Ethics Act, 65 Pa. C.S. § 1103(j).”

Auditor Conclusion

Management’s reply indicates that the Charter School’s Board documented the reasons for closed executive sessions in its minutes. We believe the Charter School is referencing private, executive session meeting minutes that it may maintain, but which were not included in our review since executive sessions are confidential. Any privately maintained notes would be separate from and in addition to the Sunshine Act’s requirements aimed at public transparency and accountability.

¹⁶ See the Sample Conflict Memo (No. 5 in the Table of Content) in the attached: http://gfoapa.org/Conference2015/Resources/Handouts/ethics_act_state_ethics_commission.pdf, accessed on July 6, 2018.

Specifically, this finding pertains to our review of the Sunshine Act's requirement to document the purpose of executive sessions in **public** board meeting minutes. Our review of the Charter School's public board meeting minutes for almost a five year period revealed that the reasons for the executive sessions were not noted for any of the executive sessions. Consequently, we continue to recommend that the Charter School record the purpose of each executive session in its public board meeting minutes in compliance with the Sunshine Act.

However, we are encouraged that the Charter School reports that it implemented new procedures for announcing executive sessions beginning with its April 2018 board meeting. Additionally, we are pleased that the Charter School plans to take prompt steps to ensure that all board members are aware of their obligation to disclose any conflicts of interest, abstain from any related vote, and properly document the reason for any abstention pursuant to the Ethics Act.

We will review the effectiveness of new procedures and any additional corrective actions implemented by the Charter School during our next scheduled audit.

Finding No. 2

The Charter School Failed to Comply with the 75 Percent Certified Staff Requirement of the Charter School Law

Criteria relevant to the finding:

The Charter School Law (CSL) and the Pennsylvania Department of Education's (PDE) Guidelines relevant to this finding are as follows:

Section 17-1724-A(a) of the CSL requires “. . . [a]t least seventy-five per centum of the professional staff members of a charter school shall hold appropriate State certification.” See 24 P.S. § 17-1724-A(a).

PDE's *Teacher Certification Requirements for Charter Schools* issued June 2016 provides guidance regarding the 75 percent calculation, which states, in relevant part, as follows:

“. . . professional certificates must be **active and valid** to be counted toward the required 75 percent certified educators who must be **properly certified for all areas / subjects being taught**, OR hold emergency permits for the proper area/subject being taught to be counted toward the required 75 percent.

. . . 75 percent of the professional staff of a charter school must hold appropriate state certification should be as follows:

- The number of professional personnel who hold active and valid certificates in the areas/subjects being taught 100 percent of the time shall be counted.

We reviewed professional employees' certification and assignments for the 2016–17 school year to determine compliance with the requirements of the Charter School Law (CSL) and certification guidelines issued by the Pennsylvania Department of Education (PDE). We found that the Charter School did not meet the CSL's requirement to have at least 75 percent of its professional staff hold appropriate State certification. This certification deficiency was caused by the Charter School's lack of properly certified teachers and its misunderstanding of how the 75 percent calculation should be performed.

75 Percent Requirement

Under the CSL, charter schools are permitted to have up to 25 percent of their professional staff either noncertified or partially certified.¹⁷ However, a minimum of 75 percent of professional staff must hold an active and valid Pennsylvania teaching certificate.

For the 2016–17 school year, we found that the Charter School employed 66 professional staff, of which 19 were noncertified. The Charter School's noncertified staff consisted mainly of dance and music teachers. Consequently, we calculated that the Charter School had 71 percent certified staff, which is below the required 75 percent threshold. The Charter School disputed our calculation method because it believes that instructional time should be pro-rated by class periods taught and **not** the actual number of teachers on staff, regardless if they are certified or noncertified and full-time or part-time.

¹⁷ Partially certified refers to situations where an individual is certified to teach a particular subject on his/her schedule, but also teaches a subject(s) outside of his/her certification for which he/she is **not** certified.

*Criteria relevant to the finding
(continued):*

- If 75 percent or more of the professional staff hold active and valid certificates in the areas/subjects they teach, then no additional calculations are needed.
- If fewer than 75 percent of the professional staff hold active and valid certificates in the areas/subjects they teach 100 percent of the time, then the percentage for the remaining professional personnel who do not hold active and valid certificates in the areas/subject being taught shall be calculated.
- An aggregate total of partially certified personnel will be added to the number of fully certified staff to determine whether 75 percent of the professional staff holds appropriate State certification.”

Additionally, PDE issued *Clarification of Professional Certification Requirements for Professional Staff in Charter Schools* on June 7, 2018, offering further clarification of the above calculation guidance to charter schools. This clarification document, in relevant part, states:

- “Per statute, at least **75 percent of the professional staff members** of a charter school must hold appropriate state certification. Charter school law does not make any reference to or distinction between part-time and full-time staff members. . . .
- What is essential to the 75/25 calculation is whether an individual staff member is certified or uncertified in their assignment, regardless of full-time or part-time status.

PDE Determination

PDE is responsible for regulating State certification requirements and teacher credentials. As such, information pertaining to the Charter School’s noncertified staff, as well as calculation procedures related to part-time staff, were submitted to PDE for determination of compliance with applicable requirements. In response, PDE issued a written determination that confirmed the results presented in this finding, which was shared with the Charter School.

Charter schools are not subject to any monetary sanctions as the CSL does not hold charter schools accountable for certification irregularities in the same manner as traditional schools, which are subject to a monetary fine for certification deficiencies. However, the Charter School’s failure to employ at least 75 percent certified professional staff could result in the Charter School’s students not receiving the quality education to which they are entitled. In addition, noncompliance with the 75 percent teacher certification requirement may be one of the factors considered by an authorizing school district when it is determining whether to renew a charter because the charter school has not fulfilled its obligations.

Recommendations

The *Lehigh Valley Charter High School for the Arts* should:

1. Comply with the 75 percent certified staff requirement by ensuring that a sufficient number of employees identified as noncertified during our audit obtain proper State certification or an emergency certificate, or are re-assigned to a position for which proper certification is held.
2. Ensure that administrative personnel are provided with sufficient training in order to understand the certification requirements and to monitor compliance with the CSL, the Public School Code, and PDE’s certification guidelines.

*Criteria relevant to the finding
(continued):*

- An uncertified staff member who only performs duties in areas for which certification is required is considered to be 100 percent uncertified for these assignments and must be calculated in the 25 percent, regardless of their part-time or full-time status. . . .”

Management Response

Charter School management provided the following response:

“While the amount of certified core academic faculty met the required certification requirement, the amount of certified artistic faculty fell short of the Charter School Law’s 75% certification provision, coming in at 71%, based on the Auditor’s calculations (but see below).

Due to the nature of the arts curriculum at Charter Arts, the school employs subject matter experts for artistic instruction, as no certification exists for Dance or Figure Skating. Charter Arts believes that students benefit a great deal from being taught by professional artists practicing in the performing art world. Although these teachers are not certified by PDE because there is no certification available, these teachers are experts in their field and possess Master and Doctoral degrees.

Charter Arts’ interpretation of the CSL regarding certification is this: if no certification exists in the field, then there can be no shortfall based on the lack of certification. The CSL speaks of having staff with “appropriate State certification.” 24 P.S. 17-1724-A(a). And the PDE’s *Requirements* provide that 75% must be “properly certified.” But, if no certification criteria have been established for certain fields (e.g. dance and figure skating), then the State cannot require those instructors to be certified, and the “uncertified” instructors in those area should not be included in the calculation. Therefore, Charter Arts believes that it is in compliance with the CSL. Regardless, the school has committed to abiding by applicable laws and to appropriately increasing the amount of certified artistic faculty immediately.”

Auditor Conclusion

We are encouraged that the Charter School is committed to abiding by applicable laws and appropriately increasing the amount of certified artistic faculty immediately to meet the 75 percent certification requirement pursuant to the CSL. We understand the Charter School’s desire to employ both state certified staff and field experts, and we are pleased with the Charter School’s willingness to consult with PDE about proper certification options for its artistic faculty.

Pursuant to PDE's guidance, there are possible state certification options and special policy provisions for dance professionals, in particular. As such, we continue to encourage the Charter School to work with PDE to ensure proper state certifications are held by its teaching staff, and that the Charter School meets the CSL's minimum certification requirement. We will review the outcome of the Charter School's corrective actions during our next scheduled audit.

Status of Prior Audit Findings and Observations

Our prior audit of the Lehigh Valley Charter High School for the Arts (Charter School) released on January 3, 2012, resulted in three findings and one observation, as shown below. As part of our current review, we determined the status of corrective action taken by the Charter School to implement our prior audit recommendations. We reviewed the Charter School's written response provided to the Pennsylvania Department of Education (PDE), interviewed Charter School personnel, and performed audit procedures as detailed in each status section below.

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Prior Finding No. 1: Certification Deficiencies and Failure to Comply with the 75 Percent Certified Staff Requirement of the Charter School Law

Prior Finding Summary: During our prior audit, we found that one principal and one assistant principal were not certified during the 2007-08 school year. For the 2008-09 and 2009-10 school years, one assistant principal did not hold a principal certificate, which is required by the State Board of Education. Additionally, the Charter School was in violation of the Charter School Law's (CSL) requirement to have at least 75 percent of its professional staff appropriately certified in their area of administrative responsibility or subject area in which they teach. Instead, the percentage of certified professional personnel to total professional staff was 72.73 percent for each year under the audit period.

Prior Recommendations: We recommended that the Charter School should ensure that:

1. Professional employees are properly certified for their area of administrative responsibility or subject in which they teach, for the entire school year, in compliance with the CSL and PDE's Certification and Staffing Policies and Guidelines (CSPGs).
2. The individuals cited in this finding obtain proper certification or are re-assigned to a position for which proper certification is held.
3. Administrative personnel are provided with sufficient training in order to understand and manage charter school certification requirements as defined by the CSL and PDE's CSPGs.

Current Status: We determined the Charter School took corrective action and implemented our recommendations, except as otherwise noted in Finding No. 2. We found that the Charter School continues to not meet the minimum 75 percent certification requirement under the CSL for professional staff.

Prior Finding No. 2: Unmonitored Vendor System Access and Logical Access Control Weaknesses

Prior Finding Summary: During our prior audit, we noted that the Charter School personnel should improve controls over remote access to its computers. In particular, controls should be strengthened over outside vendor access to their student accounting applications.

Prior Recommendations: We recommended that the Charter School should:

1. Develop an agreement with the vendor to provide student accounting applications and related information technology (IT) services. The agreement should cover legal, financial, organizational, documentary, performance, security, intellectual property, and termination responsibilities and liabilities (including penalty clauses). All contracts and contract changes should be reviewed by legal advisors.
2. Ensure that its contract with the vendor is kept current.
3. Ensure the contract with the vendor is reviewed by legal counsel.
4. Establish separate IT 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.
5. Develop policies and procedures to require written authorization when adding, deleting, or changing a userID.
6. Maintain documentation to evidence that terminated employees are properly removed from the system in a timely manner.
7. 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).
8. Implement a security policy and system parameter settings to require all users, including the vendor, to use passwords that are a minimum length of eight characters.

9. Implement a security policy and system parameter settings to require all users, including the vendor, to use passwords that include alpha, numeric and special characters.
10. Require the vendor to assign unique userIDs and passwords to vendor employees authorized to access the charter school system. Further, the Charter School should obtain a list of vendor employees with access to its data and ensure that changes to the data are made only by authorized vendor representatives.
11. Only allow access to their system when the vendor needs access to make pre-approved changes/updates or requested assistance. This access should be removed when the vendor has completed its work. This procedure would also enable the monitoring of vendor changes.
12. 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.
13. Back up the application(s) before placing program changes into production to ensure it could recover if problems are encountered.
14. Develop and maintain a list of authorized individuals with access to the hardware (servers) that contains the membership/attendance data.

Current Status:

We found that since our prior audit was released, the Charter School contracted with the local Intermediate Unit (CLIU 21) for the majority of their technology services. A contract for PowerSchool (child accounting) and Technology Support Services was signed in June 2014. A separate contract for internet services was signed in May 2015. The contracts are current and adequately address the system and logical access control weaknesses identified in the prior audit.

Prior Finding No. 3: Public Official and Employee Ethics Act Violations

Prior Finding Summary: During our prior audit for the calendar years ending December 31, 2009, 2008 and 2007, we found that one board member filed a Statements of Financial Interest (SFI) form late for 2009; two

board members and one administrator failed to file their SFI form and three board members' SFI forms were filed incomplete for 2008; and five board members failed to file a SFI form and four board members' SFI forms were filed incomplete for 2007.

Prior Recommendations: We recommended that the Charter School should:

1. Seek the advice of the State Ethics Commission in regard to the Board of Directors' responsibility when administrators and board members fail to file or file incomplete Statements of Financial Interest.
2. Develop procedures to ensure that all individuals required to file their Statements of Financial Interest form do so in compliance with the Ethics Act.

Current Status: Our review of SFI forms for the period July 1, 2013 through June 30, 2017 found that the Charter School significantly improved in this area. While we did find some insignificant discrepancies, we determined that the Charter School had considered our recommendations and taken corrective action to ensure that board members and administrators are properly filing their SFIs.

Prior Observation: Annual Reports Not Filed Timely

Prior Observation Summary:

During our prior audit, we found that the Charter School did not file annual reports with PDE and the chartering school districts for the 2006-07, 2007-08, and 2009-10 school years by August 1st as required by the CSL. Also, we were unable to verify that the annual reports filed with PDE after the filing deadline were ever provided to the chartering school districts.

Prior Recommendations: We recommended that the Charter School should:

1. Prepare and submit its annual report to the chartering school district(s) and PDE by the August 1st filing deadline each year as required by the Law.
2. Adopt a board policy requiring the administration to review and verify the information provided in the annual report and to ensure that it is timely filed prior to the August 1st deadline.

Current Status: We found the Charter School implemented our prior recommendations and filed its annual reports timely.

Appendix: Audit Scope, Objectives, and Methodology

Objectives/Methodology

In order to properly plan our limited procedures engagement and to guide us in selecting objectives, we reviewed pertinent laws and regulations, board meeting minutes, annual financial reports, annual budgets, policies and procedures, and the independent audit report of the Charter School's basic financial statements for the fiscal years July 1, 2013 through June 30, 2017. We also determined if the Charter School had key personnel or software vendor changes since the prior audit.

Limited procedures engagements draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws, regulations, third-party studies, and best business practices. Our review focused on the Charter School's efficiency and effectiveness in the following areas:

- ✓ Governance
- ✓ Construction Contracting and Bidding
- ✓ Related Party Transactions
- ✓ Certification
- ✓ School Safety

As we conducted our review procedures, we sought to determine answers to the following questions, which served as our review objectives:

- ✓ *Did the Charter School's Board of School Directors and administration maintain best practices in overall organizational governance? Was the Charter School operating with appropriate accountability related to governance in compliance with the Charter School Law, the Public Official and Employee Ethics Act, and the Sunshine Act?*
 - We obtained and reviewed the board meeting minutes from August 2013 through December 2017. We determined if executive sessions were properly announced, documented, and were for purposes allowed by the Sunshine Act. We conducted multiple interviews with Charter School officials and the school principal. We also considered general internal controls over business practices and reviewed the Charter School's board approved policies and procedures. Finding No. 1 contains the results of our review.
- ✓ *Was the Charter School's construction project properly procured, approved, executed, and monitored in accordance with the Charter School Law, the Public School Code, the Public Official and Employee Ethics Act, and best practices? Did the Charter School's Board of Directors properly approve activities related to the new school building construction project?*

- To address this objective, we reviewed board meeting minutes, loan agreements, bidding documents, grant documents, and laws and regulations to determine compliance with contracting and bidding laws. We also conducted numerous interviews with Charter School officials and obtained major contracts regarding the construction of the new school building. We reviewed these contracts to determine if these were done through arms-length transacting. We also reviewed Statements of Financial Interest to determine if any potential conflicts of interest existed. Accounting records, as well as independently audited financial statements, were also reviewed. Our review of this objective did not disclose any noncompliance or other reportable issues

However, it is important to note that while we found that the construction project was procured and executed in the name of the Charter School Foundation rather than the Charter School itself, our Office of Chief Counsel evaluated the applicable provisions of the Charter School Law and opined that the Foundation is not subject to the same requirements as the Charter School. We believe that this is a loophole in the Charter School Law that should be addressed immediately by the General Assembly and, therefore, we submitted a letter to the General Assembly requesting such a change to the law.

- ✓ *Were all Board of Directors and school administrators in compliance with the Public School Code and the Public Official and Employee Ethics Act regarding the filing of Statements of Financial Interest?*
 - We reviewed the Statements of Financial Interest for the calendar years 2013 through 2017 for board members along with applicable administrators to determine if their statements were filed both timely and completely. Our review of this objective disclosed insignificant items as discussed in the Status of Prior Audit Findings and Observations section above but did not disclose issues that we considered to be significant/reportable.
- ✓ *Did the Charter School comply with Pennsylvania law requiring that at least 75 percent of the professional staff members hold appropriate State certification?¹⁸ Also, did all noncertified Charter School teachers have the proper background clearances?*
 - To address this objective, we obtained the 2016-17 school year Professional Personnel Listing, along with the corresponding professional staff assignments. We then reviewed the listing along with staff certifications to determine if these employees were properly assigned according to the certification held. We then calculated the number of staff who hold active and valid certificates compared to those who do not, and we determined that the Charter School failed to have at least 75 percent of its professional staff members hold appropriate State certification. Finding No. 2 contains the results of our review of the 75 percent requirement.

¹⁸ 24 P.S. § 17-1724-A.

- We also reviewed the required background clearances for all noncertified professional staff and found that the Charter School properly obtained and maintained all necessary clearances.

✓ *Did the Charter School take actions to ensure it provided a safe school environment?*¹⁹

- To address this objective, we reviewed a variety of documentation including, safety plans, training schedules, anti-bullying policies, fire drill documentation, and after-action reports. In addition, we conducted an on-site building inspection of the Charter School building to assess whether the Charter School had implemented basic safety practices.²⁰ Due to the sensitive nature of school safety, the results of our review for this objective area are not described in our audit report. The results of our review of school safety were shared with Charter School officials, PDE, and other appropriate agencies deemed necessary.

¹⁹ 24 P.S. § 13-1301-A *et seq.*

²⁰ Basic safety practices evaluated were building security, bullying prevention, visitor procedures, risk and vulnerability assessments, and emergency preparedness.

Distribution List

This report was initially distributed to the Executive Director/CEO of the Charter School, the Board of Directors, and the following stakeholders:

The Honorable Tom W. Wolf

Governor
Commonwealth of Pennsylvania
Harrisburg, PA 17120

The Honorable Pedro A. Rivera

Secretary of Education
1010 Harristown Building #2
333 Market Street
Harrisburg, PA 17126

The Honorable Joe Torsella

State Treasurer
Room 129 - Finance Building
Harrisburg, PA 17120

Mrs. Danielle Mariano

Director
Bureau of Budget and Fiscal Management
Pennsylvania Department of Education
4th Floor, 333 Market Street
Harrisburg, PA 17126

Dr. David Wazeter

Research Manager
Pennsylvania State Education Association
400 North Third Street - Box 1724
Harrisburg, PA 17105

Mr. Nathan Mains

Executive Director
Pennsylvania School Boards Association
400 Bent Creek Boulevard
Mechanicsburg, PA 17050

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