
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK CITY
DEPARTMENT OF
EDUCATION**

**MONITORING OF
CHARTER SCHOOL
PERFORMANCE**

Report 2005-N-8

AUDIT OBJECTIVES

One of our objectives was to determine whether the New York City Department of Education (DoE), in its oversight of charter schools sponsored by the DoE, monitors the schools' progress in achieving the goals established in their charter, and requires corrective action on the part of schools not making satisfactory progress. Another objective was to evaluate the adequacy of DoE's charter school application and renewal processes for charter schools it sponsors.

AUDIT RESULTS - SUMMARY

Charter schools are independent public schools governed by not-for-profit boards of trustees and managed according to the terms of a performance contract or "charter." Such schools are required to establish various goals, which become part of their charters. As of the 2005-06 academic year, New York City had a total of 47 charter schools. DoE sponsors and oversees 23 of the 47 charter schools, the first four of which opened in 2000.

The 23 charter schools are required to report annually to DoE on their progress in achieving their goals and on certain other aspects of their educational and fiscal performance. However, all 11 annual reports we reviewed lacked critical, required performance information. We recommend DoE ensure charter schools fully comply with their annual reporting requirement and promptly follow up with any noncompliant schools to obtain all missing information.

We further determined that DoE lacks a formal process for reviewing the performance information that is reported. In our review of this information, we identified a number of instances in which a school's annual report

narrative of progress in achieving goals was general providing few specifics on how progress was actually determined. We recommend DoE formalize its annual report review process and ensure adequate detail is provided on progress toward goals. We also found that DoE does not require schools to develop corrective action plans if they are not making satisfactory progress in the achievement of their goals. We recommend that corrective action plans be required.

The Chancellor of the DoE is authorized as a chartering entity under Article 56 of the State Education Law (Law). Applicants seeking to open a charter school under DoE auspices are required to complete a formal application process, while schools seeking to continue operations beyond the five-year term of their initial charter are required to complete a formal renewal process. All DoE approved applications are submitted to the State Board of Regents for the final issuance of the charter.

We attempted to evaluate the adequacy of DoE's application and renewal processes, but were unable to fully evaluate the processes because records documenting some of DoE's evaluations and assessments were not retained. We recommend such records be retained. We also recommend that certain other actions be taken to make DoE's charter renewal process more thorough, more reliable and more constructive.

This report, dated September 19, 2007, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

In December 1998, the Legislature of New York State passed a law authorizing the creation of charter schools. This legislation, Article 56, Sections 2850 through 2857 of the Education Law (Law), is known as the New York Charter Schools Act of 1998. It authorizes the establishment of charter schools as independent public schools governed by not-for-profit boards of trustees and managed according to the terms of a five-year performance contract or “charter.” Such schools provide opportunities for teachers, parents, community members, and not-for-profit organizations to establish and maintain schools that operate autonomously of existing schools and school districts.

Applicants seeking to establish a charter school in New York City must submit an application to one of three chartering entities or authorizers: the Chancellor of the New York City Department of Education (DoE), the Board of Regents of the New York State Education Department (SED), or the Board of Trustees of the State University of New York (SUNY). DoE and SUNY forward their recommendations to SED, as the Board of Regents is the only entity authorized to issue the final charter.

As of the 2005-06 academic year, New York City had a total of 47 charter schools, 23 of which were authorized by DoE (see Exhibit A for a listing of these 23 schools). The remaining 24 schools were authorized by either SED or SUNY. The first four DoE-authorized charter schools opened in the 2000-01 academic year, two more opened in the 2001-02 and 2002-03 academic years, five more opened in the 2004-05 academic year, and 12 more opened in the 2005-06 academic year.

DoE established the Office of New Schools (ONS) to, among other things, implement its responsibilities as an authorizer under the New York Charter Schools Act of 1998. ONS is responsible for reviewing charter school applications and recommending to the Chancellor which schools should be approved. ONS also provides ongoing oversight and monitoring of the schools’ operations and their progress in meeting the goals set forth in their charters. ONS is also responsible for monitoring the schools’ compliance with applicable laws and charter provisions. Finally, ONS reviews renewal applications and recommends to the Chancellor whether a charter should be renewed or revoked.

There have been several personnel changes in ONS since it was created. At the time of our audit, ONS had a total of five employees, each of whom had served in his or her position for fewer than two years.

It takes about six months for a charter school application to be processed and evaluated by DoE. If the application is approved, it can take another two to three months for the Board of Regents to review the application. If the Board of Regents approves the application, a charter is issued to the applicant and DoE enters into a contract with the applicant. This contract, which becomes part of the school’s charter, sets forth the terms and conditions under which the school is to operate.

All charter school applicants are required to establish educational and other goals for their schools. If their applications are approved, the goals are included in their charters. The schools are required to report annually on their performance to DoE and DoE is required to monitor the schools’ progress in achieving these goals.

AUDIT FINDINGS AND RECOMMENDATIONS

Charter School Goals

We found charter schools do not always report required performance information (such as progress in goal achievement) to DoE. DoE lacks a formal process for reviewing the performance information that is reported, and DoE does not generally require schools to take corrective action if they are not making satisfactory progress in the achievement of their goals. We recommend that a number of improvements be made in DoE's monitoring practices.

Reporting Goal Achievement and Other Performance Data

According to provisions in the Law and the individual charter agreements, each charter school is required to submit an annual report to DoE and the Board of Regents on the overall performance of the school. This report is to contain three components: (1) a school report card (information about the school's performance in certain academic and fiscal areas); (2) a narrative of the progress made by the school in achieving its charter goals, and (3) certified financial statements. The first two components are to be submitted by August 1 of each year and the certified financial statements are to be submitted by November 1 of each year.

At the time of our review, the annual reports for the 2005-06 academic year were not yet due. Thus, a total of 32 annual reports should have been submitted to DoE by the 11 charter schools that opened prior to the 2005-06 academic year. We asked DoE officials for copies of these 32 annual reports, but they were able to provide us with only 25 of the 32 reports (the seven missing reports related to

four different schools and three different academic years). Since DoE does not formally log in the reports when they are received, we could not determine whether the seven missing reports were lost, never submitted or discarded. To help ensure adequate control is maintained over these important documents, we recommend DoE formally log in annual reports when they are received and ensure the reports are retained for a reasonable period of time.

The most recent annual report related to the 2004-05 academic year. DoE had copies of this report for 10 of the 11 schools from which the report was due, and we were able to obtain a copy of the 11th school's report from SED. We reviewed these 11 annual reports to determine whether they were complete. We considered an annual report to be complete if it contained all three components required by the Law and addressed all of the school's charter goals in its narrative about goal achievement.

We found that none of the 2004-05 annual reports were complete, as none contained complete school report card information and only 5 of the 11 reports contained a narrative of the progress made by the school in achieving all its charter goals.

The school report card component of the annual report should include basic educational data (such as student enrollment by grade, gender, and race/ethnicity), a report of academic performance (e.g., students' performance on various standardized tests), and a report of fiscal performance (e.g., revenues, expenditures, salaries, measures of per pupil expenditures). However, the first two components (the basic educational data and the report of academic performance) were not included in any of the 2004-05 annual reports.

In the narrative on goal achievement, the annual report should address all the goals included in the school's charter. However, in 6 of the 11 reports, the school omitted certain goals, did not discuss its progress in achieving some of its goals, and/or modified some of its goals. For example:

- One annual report did not even mention four of the school's six goals. The annual report referred to the other two goals, but contained no discussion of the progress made toward their achievement.
- Another annual report did not include eight of the ten goals that had been established by the school. The other two goals were addressed, but they were slightly different than the goals that had been approved by DoE. For example, one of the goals originally stated, "By the end of the 5-year charter, 85 percent of students at the school will score at least a Level 3 on both the ELA and Math Exams by the end of the school's 5-year charter at a rate that is 20 percent above the local public school district's scores." However, the goal in the annual report stated, "Students attending the school will score at least a level 2 on both the English Language Arts and Math Exams." We note that the modified goal in the annual report called for a lower level of academic performance than the original goal.

If DoE does not obtain critical, required performance information from charter schools, we question how DoE can effectively monitor the schools' performance. We recommend DoE ensure charter schools fully comply with their annual reporting requirements and promptly follow up with any noncompliant schools to obtain all missing information.

When we reviewed the annual reports that did discuss charter school goals, we found several instances where the narrative of progress achieving goals lacked details necessary to understand how progress was actually determined. For example, a goal for one of the schools was to have "95 percent of students and staff report that the school and residential environment are nurturing, aesthetically inspiring, and integrate the interdependent efforts of home, school and the community in order to enhance each student's self-concept and academic and personal growth." The school's 2004-05 annual report stated that, based on surveys of students and faculty, the goal had been achieved. However, the annual report did not disclose any details of the surveys, such as how many students and faculty participated in the surveys.

Because many of these reports lacked details relating to goal achievement, we question how closely the narratives were reviewed by DoE and whether the narratives provide DoE with adequate assurances about progress toward goals.

Further, we note that there are no written procedures to guide ONS staff in their review of the annual reports and no written records maintained to document the reviews made by DoE staff. In the absence of such formalization, there is less assurance annual reports are reviewed as thoroughly as they should be. We recommend formal procedures be developed and that written records be maintained. The procedures should require ONS staff to ensure that the annual reports are complete and claims of goal achievement are adequately detailed by the school's annual report. The DoE's written records documenting their staff reviews should also show that this has been done.

In response to our audit findings, DoE officials stated that they intended to adopt Performance and Compliance Standards to guide ONS staff in their assessments of the charter schools' compliance with their various requirements.

Corrective Action

Corrective action plans are commonly used to address deficiencies in performance. When we interviewed the charter school authorizer in North Carolina, we learned that charter schools in that state are required to develop such plans when major operational deficiencies are identified. While the law does not specifically mention corrective action plans for charter schools, DoE is authorized to supervise and oversee the charter schools which it sponsors. Accordingly, we believe DoE can require charter schools to prepare corrective action plans similar to corrective action plans that charter schools in North Carolina have been required to prepare.

Although DoE has developed written procedures to guide ONS in its monitoring of charter school operations, these procedures do not address the need to develop corrective action plans when school performance needs to be improved. We recommend DoE's procedures be revised and ONS be required to help charter schools develop corrective action plans when it is determined that a school is not making satisfactory progress in the achievement of their goals. Requiring corrective action plans and following up on their status would be effective tools for helping DoE to determine whether to revoke or to terminate a charter renewal or place a school on probationary status.

In response to our audit findings, DoE officials stated that they intended to develop written procedures outlining specific remedies

for substandard performance, short of putting a school on probation or revoking its charter.

Recommendations

1. Ensure all charter schools file the annual reports and promptly follow up on all reports not filed. Formally log in charter school annual reports when they are received, recording the date of receipt, and ensure the reports are retained for a reasonable period of time.

(DoE officials agreed with this recommendation and indicated that protocols are now in place to ensure that annual reports are formally logged when received and that they are retained for a reasonable period of time i.e., until a school charter is renewed.)

2. Develop written procedures to guide ONS staff in their review of charter schools' annual reports, and require ONS to maintain written records documenting the review process. Such procedures should require that annual reports are complete and all claims of goal achievement are adequately detailed.

(DoE officials partially agreed with this recommendation. They contend that they began using a performance and compliance framework in 2006 to guide staff in their review of the annual reports. This procedure will be formally documented and kept on file beginning in school year 2007-08.)

3. Require charter schools to develop and implement corrective action plans when DoE staff determines a school is not making satisfactory progress in the achievement of their goals.

(DoE officials agreed that schools will be required to develop corrective action plans, where appropriate.)

Application Review Process

Charter school applicants must complete a formal application and be interviewed by ONS. DoE has established written procedures for the application review and interview processes. According to these procedures, when an ONS staff member reviews an application, the evaluation of the application is to be supported by a “rubric” (a rubric is a standardized template that is filled in by the reviewer as the various components of the application are assessed and rated). The procedures also require the reviewer to prepare a written summary of the application review and use this summary as a guide when interviewing the applicant.

We requested copies of the application review rubric, the written summary of the application review, and any written notes summarizing the applicant interview for each of the 23 charter schools authorized by DoE. DoE was unable to provide any of these documents. In the absence of this documentation, neither we nor DoE management can be assured that the applications were thoroughly reviewed and appropriately evaluated and there was a sound basis for DoE’s decision to recommend the applicants be approved. We therefore recommend this documentation be maintained.

In response to our audit finding, DoE officials stated that they intended to implement new procedures that would require ONS to prepare and maintain a written summary of the overall application review/interview process. This summary would identify the applicant’s strengths and weaknesses and could substantiate the decision to recommend approval or not.

Recommendation

4. Ensure that the application review/interview process is documented and the documentation is retained.

(DoE officials agreed with this recommendation. They indicated that the Department’s Associate Director of School Development for Charter Schools currently complies, reviews, synthesizes, summarizes and retains evidence of the application and review process).

Renewal Review Process

According to the Law, if a charter school intends to continue operating beyond its initial five-year term, it must apply for a renewal of its charter. A charter can be renewed for a period of one to five years. Applicants seeking renewal must complete a formal application and allow on-site observations and interviews to be conducted by their authorizer (DoE, SED or SUNY). The purpose of this renewal site visit is to verify and supplement information reported in the renewal application.

The authorizer is then required to prepare a renewal report for the Board of Regents that recommends either renewal or non-renewal. If renewal is recommended, a renewal period should also be recommended, and conditions for renewal may also be recommended (e.g., renewal may be contingent on the school making certain improvements). According to DoE procedures, the renewal report should reflect the school’s cumulative record to date, and be based on information in the renewal application, findings from the renewal site visit, results of ongoing oversight visits and interactions with school officials, and information from the annual reports.

In 2005, renewal applications were submitted by the four charter schools that opened in the 2000-01 academic year. DoE recommended that all four charters be renewed for a period of five years.

The site visit documentation indicated that DoE developed a detailed agenda for the renewal site visits and this agenda appeared to be reasonable. However, DoE did not document the results of the actual visits at any of the four schools, and the renewal reports made no specific mention of the visits. As a result, neither we nor DoE management can be assured that the visits were conducted as intended. We recommend that the results of these visits be documented and the documentation be retained.

We found that the renewal reports lacked important details and generally did not substantiate either their conclusions or their recommendations to the Board of Regents. For example, the reports contained few, if any details about what was observed, reviewed or verified either during the renewal site visits or during regular monitoring visits. The reports also contained no evidence indicating that DoE's renewal decisions were based on the schools' cumulative performance over their initial charter periods. Such evidence could include references to annual reports, monitoring visits, or ongoing interactions with school officials. The renewal decisions could also take into account whether satisfactory progress has been made on any corrective action plans filed with DoE for the charter school.

In an example of an unsupported conclusion, a school states in their application that they will have a "collaborative setting for teachers, administrators, support staff and parents to work closely together to support student achievement." The renewal report for this school, when discussing the subject of

collaboration, states that "the atmosphere of the school is clearly collaborative whether between teacher and students, among teachers or among the school leaders." However, the report does not indicate how the review team reached this conclusion.

For comparison purposes, we reviewed a renewal report prepared by SUNY. We found this report to be much more detailed and to contain information that substantiated the SUNY reviewers' conclusions.

DoE had recommended that all four charters be renewed for a period of five years. The Board of Regents renewed two of the charters for five years, but would not agree to renew the other two charters for five years. When we asked SED officials why not, we were told that the information in DoE's renewal reports did not justify five-year renewals. Instead, the Board of Regents granted the schools the minimum one-year renewal, which effectively meant that DoE had to repeat the entire renewal process for the two schools.

We recommend DoE develop a quality assurance process for its renewal reports to ensure that the information in the reports is sufficiently detailed, a school's cumulative performance during the review period is appropriately considered, references are made to other relevant sources of information (such as the renewal application and the school's annual reports), and report conclusions are adequately supported. We also recommend DoE develop formal criteria for the length of renewal terms to guide the staff making renewal recommendations. Such guidelines would help ensure consistency in the recommendations and help prevent inappropriate recommendations.

To identify possible best practices in the charter school renewal process, we interviewed or obtained information from

other charter school authorizers in New York State and elsewhere. We identified a practice that could be beneficial for DoE. DoE does not initiate its charter renewal process until a school is in the last year of its charter. However, officials at SED and SUNY told us that they initiate their renewal process in a school's third year of operation. Similarly, North Carolina's charter school authorizer explained that his office's monitoring and renewal process requires each school to prepare a corrective action plan if any major deficiencies are identified during the first three years of operation. He said he believes this earlier intervention makes it possible for the renewal process to be proactive, helping the school correct any deficiencies before the actual renewal year begins.

We recommend DoE initiate its renewal process before a school enters the final year of its charter. We also recommend DoE representatives regularly meet with SED and SUNY representatives to share information about charter school monitoring and renewal activities and identify best practices for these activities.

In response to our audit findings, DoE officials stated that they have started to implement some of our recommendations. For example, they stated that they intended to develop Performance and Compliance Standards that will allow them to formally start the renewal process earlier. In addition, they are developing a Renewal Process Protocol, which includes guidelines for reviewing renewal applications, conducting renewal site visits, and presenting renewal report findings. Included in this Protocol is an explanation of how determinations will be made about renewal and the various types of renewals that a school can receive. DoE officials also noted that they have invited SED to participate in joint renewal visits and will meet with SED and SUNY quarterly to

share best practices and discuss challenges and opportunities in the renewal process.

Recommendations

5. Develop a quality assurance process for renewal reports to ensure that the information in the reports is sufficiently detailed, a school's cumulative performance during the review period is appropriately considered, references are made to other relevant sources of information (such as the renewal application and the school's annual reports, monitoring visits, ongoing interaction with school officials and satisfactory progress on corrective action plans) and report conclusions are adequately supported.
6. Develop procedures that require the results of renewal site visits to be documented and the documentation to be retained, and ensure compliance with these procedures.
7. Develop formal criteria for the length of renewal terms to guide staff making renewal recommendations.
8. Start the charter renewal process before schools enter the final year of their charters.
9. Meet regularly with SED and SUNY representatives to share information about charter school monitoring and renewal activities and identify best practices for these activities.

(DoE officials agreed with recommendations 5, 6, 8 and 9. They indicated that protocols are currently in place or will be implemented in school year 2007-08 to ensure that renewal reports are sufficiently detailed and reflect

input from relevant sources, renewal site visits results are documented and retained, the charter renewal process is started early, and increased interaction occurs among authorizers.

(DoE officials partially disagreed with recommendation 7, asserting that a protocol for implementation in 2007-08 will provide guidance on the length of charter renewals. However, they contend that judgment about school success cannot be a function of automatic criteria.)

Oversight Visits and Monitoring Reports

DoE is required by the Law to provide ongoing oversight that ensures charter schools are in compliance with applicable laws, regulations and charter provisions. To fulfill this requirement, DoE is obliged to conduct periodic oversight visits to the schools, and after each visit, issues a monitoring report to the school summarizing its observations. Procedures developed by DoE for the 2005-06 academic year require two oversight visits to be made during a school's first year of operation and one annual visit to be made thereafter. Prior to the 2005-06 academic year, neither DoE's procedures nor the charter agreements indicated how frequently oversight visits should be made; however, DoE officials told us the practice was to visit each school at least once annually.

According to DoE's written procedures, DoE's oversight visits should address compliance issues and/or educational issues. The five following areas of a school's performance should be assessed during a compliance oversight visit: teacher certification, staff and teacher fingerprinting, student immunizations, special education, and English language proficiency. During an educational oversight visit, DoE should review for such things as the school's

progress towards achieving their charter goals and conduct classroom observations. We found a number of instances where we were unable to determine if all compliance and educational areas had been addressed, as there was no mention of at least one of the required areas in the report. For example, in the spring 2004 monitoring report prepared for a visit made to a Bronx charter school, there is no mention of whether DoE reviewed fingerprinting or made any classroom observations.

We note that, while DoE's procedures address oversight visits, they do not address monitoring reports. Consequently there are no written guidelines describing what should be included in a monitoring report. We recommend such guidelines be developed. We also recommend DoE ensure that all required areas are addressed during oversight visits.

If DoE identifies a deficiency during an oversight visit, the deficiency is reported to the school and the school is expected to correct the deficiency. However, DoE has not established a process for following up on such observations to ensure that the deficiencies are corrected. As a result, there is less assurance the deficiencies will be corrected. During our review of the monitoring reports, we often could not readily determine whether deficiencies that had been identified in prior reports were corrected, because there was no mention of the matters in subsequent reports.

For example, in one instance, an earlier monitoring report for a school had identified staircase safety hazards. However, none of the subsequent monitoring reports for this school (or other documents provided to us by DoE) mentioned these safety hazards or noted whether corrective action had been taken. When a deficiency is identified during an oversight visit, we recommend that the next

monitoring report be required to note whether corrective action had been taken.

To determine whether monitoring reports are prepared in a timely manner, we analyzed the timeliness of the 33 reports that were prepared prior to the 2005-06 academic year. We determined that, on average, the reports were prepared 59 days after the oversight visits were made. The times ranged from 7 days after the visit was made to 221 days after the visit was made. If reports are not prepared in a timely manner, the deficiencies identified during the visits may not be corrected promptly and the other information in the report may not be as useful as it could be.

DoE has not established expected time frames for report preparation and issuance. We contacted other authorizers to see if they had such time frames and found that they did. For example, SED and SUNY officials told us that they require monitoring reports to be prepared within 30 days of an oversight visit. A representative of the North Carolina Office of Charter Schools told us they require monitoring reports to be issued on-line within 24 hours after a visit. We recommend DoE establish expected time frames for its reports, monitor preparation times to determine whether the time frames are being met, and take corrective actions when reports are not timely.

DoE's Office of Auditor General (OAG) has assisted ONS by overseeing some of its financial reviews of charter schools. However, OAG has not assisted ONS in other areas of its responsibility, even though OAG oversight could help ensure that ONS is functioning as intended. We recommend OAG oversee additional ONS activities.

In response to our audit findings, DoE officials stated that they intended to develop content guidelines for monitoring reports,

time frames for report preparation, and a process for addressing deficiencies that are identified in oversight visits. DoE officials also stated that OAG will work with ONS to determine how it can assist ONS in other areas.

Recommendations

10. Ensure that oversight visits address all required areas of school performance.
11. Develop guidelines for the content of monitoring reports.
12. When a deficiency is identified during an oversight visit, require the next monitoring report for that school to note whether the deficiency has been corrected.
13. Establish expected time frames for the preparation of monitoring reports, monitor preparation times to determine whether the time frames are being met, and take corrective actions when reports are not timely.

(DoE officials agreed with recommendations 10, 12 and 13 and indicated that protocols are already in place or will be developed for the 2007-08 school year to ensure that oversight visits address all areas of a school's performance, timeframes are established for the preparation of monitoring reports, and these reports note whether deficiencies have been corrected in a timely manner. However, officials partially disagreed with recommendation 11. They contended that their detailed school visit agendas and subsequent monitoring reports allow staff to focus on those salient areas that are more likely to lead to student success).

14. Instruct OAG to oversee additional ONS activities.

(DoE officials disagreed with recommendation 14. They indicated that the roles of ONS and OAG are different. They assert that the ONS is charged with monitoring and encouraging high performance from its charter schools, while OAG has an auditing role. They contend that although the ONS and OAG do collaborate on specific aspects of charter oversight, their primary focus will remain on their respective roles.)

AUDIT SCOPE AND METHODOLOGY

We audited DoE's oversight of charter schools authorized by the DoE for the period January 1, 2000 through June 30, 2006. To accomplish our objectives, we interviewed officials of DoE. We also discussed chartering processes with officials of SED, SUNY and the North Carolina Office of Charter Schools. In addition, we reviewed the internet web sites of chartering offices in various other states to obtain information about the chartering processes used in those states. We also interviewed an official of the New York City Center for Charter School Excellence, a not-for-profit organization that provides assistance, guidance and access to resources for the planning and operation of New York City charter schools. In addition, we reviewed and analyzed records, data and supporting documentation maintained by DoE.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State

contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

This audit was performed in accordance with the State Comptroller's authority under Article V, Section 1 of the State Constitution, and Article III, Section 33 of the General Municipal Law.

REPORTING REQUIREMENTS

Draft copies of this report were provided to DoE officials for their review and comments. Their comments were considered in preparing this report and are included as Appendix A. DoE officials state that corrective action to address many of the concerns raised in our report was already under way at the time our audit. However, they generally agree with many of the recommendations. Our rejoinders to the DoE's comments are presented in Appendix B, State Comptroller's Comments.

Within 90 days of the final release of this report, we request that the Chancellor of the New York City Department of Education report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Kenrick Sifontes, Tom Trypuc, Sheila Jones,

Brenda Maynard, Irina Kovaneva, Tania Atria, Hector Arismendi, Teeranmattie Mahtoo, Huanan Zhang and Dana Newhouse.

**Charter Schools Authorized by the New York City Department of Education
As of the 2005-06 Academic Year**

| Charter School | Borough | Year Opened |
|---|----------------|--------------------|
| Brooklyn Charter School (formerly Clearpool Charter School) | Brooklyn | 2000-01 |
| John V. Lindsay Wildcat Academy Charter School | Manhattan | 2000-01 |
| KIPP Academy Charter School | Bronx | 2000-01 |
| Renaissance Charter School | Queens | 2000-01 |
| Beginning with Children Charter School | Brooklyn | 2001-02 |
| Explore Charter School | Brooklyn | 2002-03 |
| Harlem Children's Zone/Promise Academy Charter School | Manhattan | 2004-05 |
| Peninsula Preparatory Academy Charter School | Queens | 2004-05 |
| Bronx Lighthouse Charter School | Bronx | 2004-05 |
| Opportunity Charter School | Manhattan | 2004-05 |
| Williamsburg Charter High School | Brooklyn | 2004-05 |
| Achievement First-Crown Heights Charter School (formerly Achievement First-Bushwick Charter School) | Brooklyn | 2005-06 |
| Achievement First-East New York Charter School | Brooklyn | 2005-06 |
| Future Leaders Institute Charter School | Manhattan | 2005-06 |
| Harlem Children's Zone/Promise Academy II Charter School | Manhattan | 2005-06 |
| Hellenic Classical Charter School | Brooklyn | 2005-06 |
| KIPP A.M.P. Charter School | Brooklyn | 2005-06 |
| KIPP Infinity Charter School | Manhattan | 2005-06 |
| Manhattan Charter School | Manhattan | 2005-06 |
| New Heights Academy Charter School | Manhattan | 2005-06 |
| New York Center for Autism Charter School | Manhattan | 2005-06 |
| South Bronx Charter School for International Culture & the Arts | Bronx | 2005-06 |
| Williamsburg Collegiate Charter School | Brooklyn | 2005-06 |

APPENDIX A - AUDITEE RESPONSE



THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, *Chancellor*

OFFICE OF NEW SCHOOLS
52 Chambers Street, Room 405, New York, NY 10007
Phone: 212-374-2478 Fax: 212-374-5581

April 25, 2007

Steven E. Sossei
Audit Director State Audit Bureau
Office of the State Comptroller
110 State Street – 11th Floor
Albany, New York 12236

Re: Draft Audit Report on New York City
Department of Education's
Monitoring of Charter School
Performance (2005-N-8)

Dear Mr. Sossei:

Per your letter of March 9, 2007, enclosed are the New York City Department of Education's ("DOE") formal comments on the draft audit report by the Office of the State Comptroller ("OSC") in its audit of the DOE's Monitoring of Charter School Performance, to be included as an Appendix to the OSC's final audit report.

In summary, we are committed to high quality authorizing and oversight practices and welcome the opportunity to improve these practices and deliver on the vision of the charter school law. We appreciate the OSC's efforts to support and improve our work in the monitoring of charter school performance, and we recognize that many of the OSC's recommendations represent best-practices for Charter School authorizers, in the task of holding charter schools established under charter law accountable for achieving measurable student achievement results, operating a viable organization, and maintaining compliance with all applicable laws and regulations.

The following response highlights the DOE's oversight framework, which NYCDOE developed out of our engagement with the National Association for Charter School Authorizers (NACSA) during 2005 and 2006, and which was put in place for the 2006-2007 school year. The audit discussion notes these improvements as prospective; in fact, most were being implemented as the OSC audit was being conducted, and are in place currently. As a result, while we disagree with many of the factual findings regarding the audit period, and believe that our own self-initiated authorizing study has already moved the DOE authorizing procedures toward the best practices noted in the OSC Audit, we nonetheless appreciate and recognize the insight provided by the OSC audit.

Thank you for the opportunity to respond to this audit. We note that the audit started over a year ago, and that the audit period is even more distant. NYCDOE believes that its authorizing process have always met the intent of the law, and that they have improved dramatically in recent years. We appreciate the recommendations of the OSC audit, believe that many have already been implemented, and believe that some others reflect positive and appropriate recommendations for ongoing development of NYCDOE's authorizing responsibility.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Harries".

Garth Harries
Chief Executive Officer
Office of New Schools

cc: Kristen Kane
Michael Best
Brian Fleischer
Miriam Sondheimer
Nader Francis

NYC-DOE Response to OCS Audit of Monitoring of Charter School Performance

Summary:

Strong authorizing practices underscore the accountability that charter operators earn in exchange for autonomy in the education of public school students. The DOE believes that our authorizing practices have and do appropriately reflect the significance and complexity of that task. Excessive oversight intervention stifles the flexibility and innovation fundamental to charter schools. But appropriate oversight ensures that schools remain focused on the fundamentals of improving student performance.

The OSC audit makes a number of recommendations to strengthen DOE authorizing and oversight practices. While DOE disagrees with many of the factual findings concerning our operation during the audit period, and while we highlight that many of the recommended improvements were already in place prior to the audit based on our own self-initiated improvements, we nonetheless agree that many of the recommendations laid out by the OSC reflect best practice authorizing. As such, we expect to continue to improve our authorizing and oversight practices over time, to ensure that charters set and meet rigorous goals, that the highest quality charter schools are approved to operate in NYC, and that renewal and oversight processes confirm successful student achievement among DOE-authorized charter schools. In this improvement, the recommendations of the OSC audit are useful guideposts.

Section 1: Charter School Goals

The OSC audit makes a number of findings and recommendations about the evaluation of charter school goals. Charter school goals are incorporated in their charter contract, and represent a core component of the charter school's performance accountability. Success against the goals is the gating factor to the on-going operation of charter schools, and is evaluated through multi-faceted review, including annual visits, the school's annual report, and other sources of performance information available to the DOE. As an overall matter, while DOE oversight and evaluation procedures have evolved, we are confident that our ultimate judgments about charter success against their goals have always been sound, and appropriately informed by available information. Moreover, we believe that the performance and compliance framework we have created and implemented, coupled with the DOE's larger accountability initiative across all DOE public schools, reflects best practice authorizing.

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Receipt and maintenance of annual reports

By statute, the DOE receives an annual update on performance, self reported by each DOE authorized charter school, and developed according to the template and timing established by the Commissioner of the State Education Department. The OSC audit alleges that not all annual reports were on file at the DOE, and that many reports did not include required school report card information. In fact, as discussed with the audit team, the relevant portions of all annual reports were available in our files, which were made available to the audit team in their entirety. The DOE specifically provided the 7 annual reports the audit team indicated they had not seen. Furthermore, the school report cards are disseminated by the SED, and the links to the SED's website were made available to the audit team.

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While NYCDOE questions the finding of fact about the receipt and maintenance of annual reports, we nonetheless agree that the NYCDOE should formally log all annual reports when they are received, and that the NYCDOE should retain the reports for a reasonable period of time. As explained previously during the audit, NYCDOE protocol for bulk mailing annual reports to SED on August 1 of each year required all annual reports to be in hand at the same time. This protocol ensured that all were received, without separate logging. However, in the summer of 2005, the NYCDOE initiated new procedures of logging the receipt of annual reports, as now recommended by the OSC audit. NYCDOE intends to retain annual reports on file at least to the point of charter school renewal.

* See State Comptroller's Comments, page 21

Review of annual reports, and documentation of review

The OSC audit questions how closely the DOE reviewed charter performance as reflected in the annual report, and recommends that the DOE strengthen its procedures for review of annual reports. First, it is important to understand that monitoring of school performance is a multifaceted process. Full review of charter school performance has always called for consultation of multiple sources, including the annual report, site visits, and any other available feedback. As discussed with the OSC audit team, in the summer of 2006 the DOE began using a performance and compliance framework to guide the review of all school performance materials, including the annual reports. The review of the school's annual report is one component of this monitoring. For this component, DOE has procedures to guide ONS staff in their review of charter schools' annual reports, and the information should then be incorporated into the DOE's comprehensive assessment of the school's progress. The procedures requiring staff to review annual reports and generate a comprehensive assessment of the schools annual progress will be formally documented and kept on file.

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Corrective Action Plans

When a charter school is falling short of its goals, such that it may not demonstrate sufficient progress to be renewed, or is otherwise not conforming to core standards for charter school operation, it is the role of the authorizer to request that the school take corrective action. The audit recommends that the DOE adopt the practice of other authorizers in requiring corrective action plans when the NYCDOE determines that a school is not making sufficient progress in the achievement of goals.

Throughout the period covered by the audit, DOE oversight reports are replete with concrete suggestions to charter schools on ways their operation will need to improve, if the school in question is to avoid probation, non-renewal, or closure. NYCDOE believes that this practice is consistent with the underlying concern of the OSC audit's corrective action recommendation: namely, the authorizer directing concrete and specific focus on areas where charter schools are falling short in their accountability. More importantly, as shared with the audit staff, NYC DOE has already instituted a multi-dimensional rubric for dealing with substandard performance, including 6 levels of formal action from notice of concern to charter revocation, possible triggers for each status, and levels of action/response required from the school from performance improvement plan to corrective action plan. The existence of this NYCDOE framework reflects our agreement with the OSC audit recommendation, to utilize corrective action plans when appropriate. We disagree, however, that this practice needs to be incorporated into the charters; as authorizers, we believe we have the right to require corrective action plans under appropriate circumstances irrespective of whether it is included in the written charter.

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OSC Recommendation 1: Ensure all charter schools file the annual reports and promptly follow up on all reports not filed. Formally log in charter school annual reports when they are received, recording the date of receipt, and ensure the reports are retained for a reasonable period of time. *DOE response:* Agree, protocol already in place.

OSC Recommendation 2: Develop written procedures to guide ONS staff in their review of charter schools' annual reports, and require ONS to maintain written records documenting the review process. Such procedures should require that annual reports are complete and all claims of goal achievement are adequately detailed. *DOE response:* Agree in part, protocol in development for implementation in 2007-2008 school year.

OSC Recommendation 3: Request charter schools to develop and implement corrective action plans when DOE staff determines a school is not making satisfactory progress in the achievement of their goals. Revise future charters and all renewal charters to include such a requirement. *DOE Response:* Agree in part, disagree in part. Protocol already in place.

Section 2: Application Review Process

In the review and approval of charter school applications, the NYCDOE must determine prospectively what operators and what proposals are likely to operate the highest quality schools, based on review of written applications, in-person interviews, and a review of team capacity. The OSC audit recommends that NYCDOE ensure that the review/interview process is documented and the documentation is retained. NYCDOE has agreed with this recommendation; indeed, beginning with the approval process for schools opening in September 2005, the NYCDOE has required that the Associate Director of School Development for Charter Schools compile, review and synthesize the feedback of all individual reviewers, and develop a summary feedback memo which captures the strengths and weaknesses of the applicants and provides evidence supporting the decisions made about approval. That summary feedback is retained in NYCDOE files.

OSC Recommendation 4: Ensure that the application review/interview process is documented and the documentation is retained. *DOE Response:* Agree, protocol already in place.

Section 3: Renewal Review Process

The OSC audit makes a number of recommendations about the renewal review process. As a general matter, we agree with the intent of the recommendations, a number of which are already in place based on our own self-assessment of our authorizing practices. Renewal decisions depend on core determinations of performance: has the school been an academic success, is the school a viable organization, and has the school operated in compliance with all applicable laws and regulations. As the OSC report notes, evidence to support these determinations may be wide ranging, including the charter school's cumulative record, the renewal application, findings from the renewal site visit, the results of ongoing oversight visits, interaction with school officials, and information from the annual reports.

As discussed with the audit team, the NYCDOE has already developed and implemented performance and compliance standards for charter schools, which provide a detailed rubric for schools and reviewers to use in assessing progress toward renewal. In the future, renewal reports will be based on this rubric. We believe this tool addresses the OSC recommendation to ensure that renewal reports are sufficiently detailed and reflect a full range of inputs. As the OSC discussion notes, the NYC DOE is also in the process of developing a Renewal Process Protocol, building from our experience with the first year of renewals evaluated by the OSC audit. This Renewal Process Protocol will build from the performance and compliance process. Using the performance and compliance standards, we have already begun working with charters in their third year of operation, to prepare for the renewal decision two years later. We expect that the process will require some summary feedback from the renewal site visit, and that this renewal visit summary feedback will be retained to inform the summative renewal recommendation. While the protocol will include guidance to staff on evaluating the length of renewal to recommend, and conditions under which it is appropriate to recommend full 5 year renewal, partial renewal, or no renewal, it would be inappropriate to understand that guidance as "criteria", as recommended by the OSC audit. Renewal determinations are synthetic across many different dimensions, focused largely on school and student performance, and NYCDOE does not believe the judgment about school success can be a function of automatic criteria.

Finally, even before the start of the OSC audit, the NYCDOE Office of Charter Schools, the SUNY Charter School Institute, and the State Education Department had already begun regular meetings and communications: indeed, the goal of the NACSA joint-authorizer study conducted in 2005 and 2006 was to move toward common best practices for authorizing and oversight of charter schools in New York City.

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* See State Comptroller's Comments, page 21

OSC Recommendation 5: Develop a quality assurance process for renewal reports to ensure that the information in the reports is sufficiently detailed, a school's cumulative performance during the review period is appropriately considered, references are made to other relevant sources of information (such as the renewal application and the school's annual reports, monitoring visits, ongoing interaction with school officials and satisfactory progress on corrective action plans) and report conclusions are adequately supported. *DOE response:* Agree, protocol in development for implementation in 2007-2008 school year.

OSC Recommendation 6: Develop procedures that require the results of renewal site visits to be documented and the documentation to be retained, and ensure compliance with these procedures. *DOE response:* Agree, protocol in development for implementation in 2007-2008 school year.

OSC Recommendation 7: Develop formal criteria for the length of renewal terms to guide staff making renewal recommendations. *DOE response:* Agree in part, disagree in part. Protocol in development for implementation in 2007-2008 school year.

OSC Recommendation 8: Start the charter renewal process before schools enter the final year of their charters. *DOE response:* Agree, protocol already in place

OSC Recommendation 9: Meet regularly with SED and SUNY representatives to share information about charter school monitoring and renewal activities and identify best practices for these activities. *DOE response:* Agree, meetings and communication already in place.

Section 4: Oversight Visits and Monitoring Reports

As the OSC discussion notes, in order to monitor the performance of charter schools, to note successes and challenges as they occur and to maximize the potential for successful school operation, the NYCDOE conducts annual educational and compliance monitoring of the charter schools. Although oversight and monitoring is multifaceted, and may respond to many inputs, a core evaluation typically occurs through an oversight visit, directed to either educational issues or compliance issues. While we agree with some of the OSC audit recommendations in this area, it is important to note that charter authorizing is NOT in itself an audit process: it is a performance monitoring process, where the goal is to measure and encourage progress against overall school objectives, particularly effective student learning. The distinction between performance monitoring and compliance monitoring is important.

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The OSC audit notes that the NYCDOE agenda for oversight visit includes all relevant segments of oversight visits. However, reporting requirements do not require that each segment of the visit earn specific mention in the oversight report: instead, NYCDOE reports are focused on the salient successes and challenges, in the judgment of the reviewing staff. The OSC is concerned that without written documentation, it is possible that not all relevant segments of charter school performance and operation would be reviewed. Similarly, when deficiencies have been noted in previous reports, the OSC audit is concerned that without specific mention in subsequent oversight reports, areas of deficiency may in fact not receive attention in the subsequent visit.

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NYCDOE agrees that prior deficiencies should be addressed in subsequent reports, but disagrees with the assertion that reporting requirements give equal attention to all oversight areas. With our performance and compliance framework already in place, and with our detailed school visit agendas, NYCDOE is confident that staff are adequately addressing relevant areas of performance and compliance through the course of our oversight. NYCDOE believes it is entirely appropriate for staff to focus the visit and written report on the most salient areas for commentary, much as the OSC audit does not comment on all within its scope, but instead notes the areas the audit finds are most salient for commentary. Focus on the significant areas for comment makes it most likely that the school, and subsequent oversight, will focus on the areas most likely to lead to student success. However, once an area of deficiency has been noted in an oversight report, it is appropriate to specifically follow up on that deficiency, and it is to the benefit of both the NYCDOE and the school to formally

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* See State Comptroller's Comments, pages 21-22

note the resolution of the issue, or its ongoing nature, in subsequent oversight reports. The DOE will adjust its procedures for oversight reports, to ensure areas of deficiency receive specific commentary in subsequent reports.

The OSC audit recommends that NYCDOE establish specific timeframes for completion and publication of the oversight reports. We agree with this recommendation, and effective immediately, oversight reports will be issued within 60 days of the oversight visit.

Finally, the OSC audit recommends that the Office of the Auditor General oversee more aspects of the work of the Office of New Schools (ONS), the NYCDOE office charged with executing Charter authorizing responsibilities. Although ONS and OAG do work together on specific aspects of charter oversight, and although there are times when auditing is appropriate for ONS activities, as it is for any other NYCDOE activity, ONS is charged with creating and executing a performance monitoring function, consistent with the Charter Law and intended to encourage high performance from DOE authorized charter schools. This is not the same thing as an auditing function, where the purpose is to provide evidentiary rigor in the verification of information. The difference between performance monitoring and audit monitoring are significant and profound. Therefore, ONS will continue to work with OAG to support aspects of the NYCDOE's authorizing role, and OAG will conduct audits of ONS as appropriate.

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OSC Recommendation 10: Ensure that oversight visits address all required areas of school performance. *DOE response:* Agree, protocol already in place.

OSC Recommendation 11: Develop guidelines for the content of monitoring reports. *DOE response:* Agree in part, disagree in part, protocol already in place.

OSC Recommendation 12: When a deficiency is identified during an oversight visit, require the next monitoring report for that school to note whether the deficiency has been corrected. *DOE Response:* Agree, protocol in development for 2007-2008 school year.

OSC Recommendation 13: Establish expected time frames for the preparation of monitoring reports, monitor preparation times to determine whether the time frames are being met, and take corrective actions when reports are not timely. *DOE Response:* Agree, protocol in place effective immediately

OSC Recommendation 14: Instruct OAG to oversee additional ONS activities. *DOE Response:* Disagree.

* See State Comptroller's Comments, page 22

APPENDIX B - STATE COMPTROLLER'S COMMENTS

1. We are not questioning the soundness of DoE's ultimate judgments regarding the success of its charter schools. However, we maintain that DoE should clearly document the basis for evaluating charter school goals in its monitoring of annual reports, as well as in the rubrics that are used to evaluate new charter school applications.
2. By statute, an annual report must contain three components; a school report card that includes information about the school's performance in certain academic and fiscal areas, a narrative of the progress made by the school in achieving its charter goals, and certified financial statements. The annual reports provided to us were incomplete; they did not contain complete school report card information. Moreover, only some of the reports contained a narrative of the progress made by the school in achieving all its charter goals.
3. Despite repeated requests, DoE did not provide us with the seven annual reports in question.
4. We agree that the monitoring of school performance is a multi-faceted process that includes, among other components, a review of the annual report card. However, the annual report card is a major component of this process and, as such, its review should be fully documented. Based on the information provided to us by DoE during the audit, we could not determine the extent of any reviews done by DoE of the annual reports (e.g., what they specifically looked at, what they found, etc.) and how DoE incorporates these reviews in their decisionmaking. We are pleased that DoE has agreed to formally document and keep on file procedures requiring staff to review annual reports and to generate a comprehensive assessment of the schools annual progress.
5. The oversight reports discuss problems that are identified during the monitoring visits. However, neither the oversight reports nor other information we reviewed required the schools to develop a plan of action for correcting unsatisfactory progress in achieving their goals. A corrective action plan would be useful because it would include specific steps the school should take to correct a problem and timetables for implementing such corrections, thus making the school more accountable. There was no evidence a multi-dimensional rubric for dealing with the substandard performance of a charter school was implemented during our audit. However, when implemented, such a rubric could be consistent with a corrective action plan.
6. Recommendation 3 was modified.
7. During the audit, DoE officials provided us with rubrics they had recently developed for new charter school applications. We believe that similar rubrics would prove beneficial for future renewal charter reviews.
8. We acknowledge that there are some distinct differences between performance monitoring and compliance monitoring. However, both types of monitoring are important and integral in determining the overall success of charter schools and should be documented fully and clearly.

9. During the course of the audit, DoE had no written guidelines that described what should be included in monitoring reports. As a result, the information reported contained numerous inconsistencies. Thus, we recommend that DoE develop written guidelines for preparing monitoring reports.

10. We do not assert that all oversight areas should receive equal attention. However, since DoE does have written guidelines for conducting oversight visits (e.g., educational and compliance areas to review), we assert that the written reports of the visits should mention all such areas,

and that, if the monitor decides not to review an area, the decision should be stated in the monitoring report.

11. We recognize the differences between performance and audit monitoring and between the duties and responsibilities of OAG and ONS. However, as noted in our report, ONS has just five employees who are responsible for oversight of charter schools. Under those circumstances, and because of the deficiencies noted during our audit, we believe that increased oversight by OAG would ensure that ONS meets its commitment to high quality authorizations and oversight.