



Brighter Choice Charter Middle School For Girls Financial Operations

Report of Examination

Period Covered:

July 1, 2011 — June 30, 2014

2014M-301



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

March 2015

Dear School Officials:

A top priority of the Office of the State Comptroller is to help school officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support school operations. The Comptroller oversees the fiscal affairs of schools statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard school assets.

Following is a report of our audit of the Brighter Choice Charter Middle School for Girls, entitled Financial Operations. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Section 2854 of the New York State Education Law, as amended by Chapter 56 of the Laws of 2014.

This audit's results and recommendations are resources for school officials to use in effectively managing operations and in meeting the expectations of taxpayers, students, and their parents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Brighter Choice Charter Middle School for Girls (School) is located in the City of Albany in Albany County. A charter school is a public school financed by local, State and federal resources that is not under the control of the local school board and is governed under Education Law Article 56. The oversight for School operations is provided by the Board of Trustees (Board) which comprises five members. The Board is responsible for the general management and control of the School's financial and educational affairs. The Board appoints the Principal of the School (Principal) who is the chief executive officer responsible, along with other administrative staff, for the day-to-day management of the School under the direction of the Board. The Director of Finance and Operations is the chief accounting officer and is responsible for maintaining custody, depositing and disbursing of School funds, maintaining the financial records, preparing the annual budget and preparing monthly and annual financial reports.

Charter schools have fewer legal operational requirements than traditional public schools. Most of the regulations for a charter school are contained in the entity's bylaws, charter agreement and the fiscal/management plans, which are part of the charter school application. Charter schools are required to set both financial and academic goals. A school's renewal of its charter is dependent on meeting these goals. The School's current charter was issued in November 2009.

The School's 2013-14 fiscal year operating expenditures totaled \$3.5 million. These expenditures were funded primarily with revenues derived from billing the area school districts for resident pupils (92 percent) and from certain State and federal aid attributable to these pupils (8 percent). During the 2013-14 school year, the School had 203 students and 27 employees.

The School contracts with a not-for-profit foundation (Foundation) for various services. The Foundation provides start-up grants, School facilities, a revolving loan fund and technical assistance to a number of charter schools.

Objective

The objective of our audit was to evaluate the effectiveness of the School's compact¹ contract with the Foundation. Our audit addressed the following related question:

¹ An official contract or formal agreement between two or more parties

- Did the School receive all the services from the Foundation as outlined in the compact contract and is the fee structure of the compact contract reasonable?

**Scope and
Methodology**

We examined the School’s relationship and contracts with the Foundation for the period July 1, 2011 through June 30, 2014.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

**Comments of
School Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with School officials, and their comments, which appear in Appendix A, have been considered in preparing this report. School officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Secretary’s office.

Compact Contract

Schools require a number of services to adequately conduct business. A school can choose to obtain these services by having employees perform these services or hiring independent service providers. Ultimately, it is the board's responsibility to choose a method that provides the services required by the School in the most efficient manner. If an independent provider is selected, the board should ensure that the contract for services includes a sufficient description of the benefits, rights and responsibilities of all parties, and the board should use this information to monitor compliance with the contract. When soliciting independent service providers, all board members must disclose any interest in an actual or proposed contract on their part, or their spouse, in writing to the board.²

The Board has contracted with the Foundation to provide services to the school, including legal assistance, advocacy, curriculum design and test administration for fees totaling \$115,779 from 2010-11 through 2013-14. However, the compact contract with the Foundation is not sufficiently detailed to determine how the delivery of services will be measured and the fee structure does not appear to be reasonable. As indicated in Figure 1, later in this report, the fees to the Foundation are increasing because they are calculated as increasing percentages of pupil revenues. There is no relationship between the fees to be paid to the Foundation and the services to be provided by the Foundation to the School's attendance and tuition revenue. Although the Board President recused himself from voting on the compact contract because he was the Executive Director of the Foundation, he did not disclose this information on the financial disclosure forms that he filed during our audit period, as required.

On June 7, 2011, the Board approved a compact contract between the School and the Foundation. This current contract, which supersedes the original contract, was approved by the Board on January 31, 2013. The compact contract states that the Foundation will provide legal and financial assistance, technical support and advocacy at State and local levels to the School.

When asked to describe the specific services being provided to the School, school officials stated that the School receives curriculum design, test administration and educational software, among other services, from the Foundation. The fee for these services in 2011-12 was 1 percent of total pupil revenue from the prior academic year.

² Effective May 28, 2010, Chapter 101 of the Laws of 2010 made the disclosure requirement of Section 802 of New York State General Municipal Law (GML) applicable to charter schools.

Under the current compact contract, the fee for 2012-13 remained at 1 percent of total pupil revenue from the prior academic year. The fee increased to 1.5 percent in 2013-14 and will increase to 2 percent for 2014-15. The fee due to the Foundation for the 2011-12 school year was \$6,239, for the 2012-13 school year was \$15,804 and for the 2013-14 school year was \$33,757. The fee is projected to be \$59,978 for 2014-15.

School officials provided us with narrative documentation of the services received under the compact from the Foundation. While it appears the School is receiving services from the Foundation, management does not have sufficient information to determine if it is receiving services commensurate with the fee payments. There is not a dollar-for-dollar cost breakdown of services received.

The revised compact contract, approved on January 31, 2013, provides further detail about the specific services that the Foundation could provide the School and increases the fee from 1 percent for the 2012-13 school year to 1.5 percent for the 2013-14 school year and 2 percent for the 2014-15 school year. The increase in the fee percentage will place an additional financial burden on the School. See Figure 1:

Figure 1: Fees to the Foundation

Payment Date	Based on Academic Year	Total Pupil Revenue	Fee Percentage	Fee Due/Paid
February 22, 2012	2010-11	\$623,987	1.0%	\$6,240
May 24, 2013	2011-12	\$1,580,364	1.0%	\$15,804
January 17, 2014	2012-13	\$2,250,499	1.5%	\$33,757
July 1, 2015	2013-14	\$2,998,889	2.0%	\$59,978
Total Fees Charged to School Under the Compacts				\$115,779

We reviewed the revised compact contract and could not determine how the delivery of services will be measured because the revised compact was not sufficiently detailed. As a result, School officials do not have a means to determine whether the School receives the services commensurate with the amount of fees paid under the compact. Further, School officials have not explored whether there is a more cost-effective means to provide the services in-house that are currently being provided on a contract basis by the Foundation. The compact does not contain an adequate description of specific services that could be provided, nor how the services would be billed or measured against the fee. Some of the vaguely described services in the compact include “establish a best practices resource bank” and “create internal pathways for developing future leaders.” The fee

structure based on a percentage of pupil revenue does not appear to be reasonable because there is no relationship between the services to be provided by the Foundation and the number of students at the School or the New York State Education Department Charter School Tuition rate.³ Per a discussion with the current Board Chairman, a percentage of pupil revenue was used so that the fee would reflect the school's growth or contraction. Therefore, the fee increases in the revised compact contract because the Foundation intends to expand the services it provides to the School as the School moves forward and grows. The charter school board has entered into a contract in which there is no way to measure service delivery under its terms. This increases the risk that the School is paying more than it should for the services rendered.

GML requires Board members to disclose their interests in School contracts in writing to the Board, with the written disclosure being made a part of the Board minutes. The Board President was the Executive Director of the Foundation during the audit period, and he filed annual financial disclosure forms with the Charter Schools Institute,⁴ but he did not disclose his relationship with the Foundation on the forms. Although the President did not have a prohibited interest in the compacts between the School and the Foundation,⁵ he was required to provide written disclosure of his interests in the compact to the Board. School officials stated the President resigned from the Board in May of 2014 to focus his energies on the Foundation's activities in his role as Executive Director.

When the School enters into contracts that do not provide sufficient detail about the services being provided or have a reasonable fee structure — and decision makers have not provided all information regarding potential conflicts of interest — the School is susceptible to incurring costs that are greater than necessary for the services it receives or paying for services which it didn't need.

The Board should:

³ The tuition rate to be used by public school districts with resident students attending charter schools

⁴ The Charter Schools Institute assists the Board of Trustees of the State University of New York (SUNY) in meeting its responsibilities under the New York State Charter Schools Act of 1998 and in furthering SUNY's role in charter school governance.

⁵ As an officer or director of the Foundation, a Board member would be deemed to have an "interest" in the School's contracts with the Foundation (see GML Section 800[3][c]). As a member of the Board, even if the individual possessed one or more powers or duties that could give rise to a prohibited interest in the contracts between the School and the Foundation, the Board member's interests in these contracts are not prohibited because there is a statutory exception for interests in contracts with a voluntary non-profit corporation or association, such as the Foundation (see GML Section 802[1][f]).

Recommendations

1. Ensure that contracts include a sufficient description of the benefits, rights and responsibilities of all parties to the contracts.
2. Use contract information to monitor compliance with the contract.
3. Determine what services are currently being provided by the Foundation.
4. Determine what services will be contracted out and which of those services will be acquired from the Foundation.
5. Ensure that Board members disclose their interests in School contracts in writing to the Board, with the written disclosure being made a part of the record of the Board's proceedings.

APPENDIX A
RESPONSE FROM SCHOOL OFFICIALS

The School officials' response to this audit can be found on the following pages.



February 23, 2015

Office of the State Comptroller
Andrew A. SanFilippo, Executive Deputy Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor
Albany, NY 12236

Dear Mr. SanFilippo:

The Board of Directors and school leadership has reviewed the draft report of your examination of the financial operations of the Brighter Choice Charter Middle School for Girls. Accountability is one of the hallmarks of a charter school and it pushes us toward our goal of providing the best educational opportunities to students and families. We appreciated your thorough review of our fiscal operations and are encouraged that it yielded limited findings. We have reviewed the draft report and prepared the following responses.

The audit addressed the compact contract with the Brighter Choice Foundation to achieve high-quality instruction and operations at our school. It is common practice for district schools, private schools and charter schools to contract educational service providers in the areas of curriculum design and consulting, student benchmarking and performance, staff professional development, legal services and board governance training, financial management, accounting, human resources, strategic planning and regulatory affairs. The board believes that the most efficient manner to receive these services is through this compact agreement.

The Foundation has supported the school since inception, beginning with the complex real estate development services to assemble 26 parcels of land for our facility. They also secured an \$8 million bridge loan to ensure that the building opened on time and provided a \$150,000 grant to help fund first-year expenses. In 2011 the school and Foundation recognized that the school would benefit from a more formal arrangement for on-going services to ensure the long-term success of the school. The spirit of the relationship was not intended to be purely transactional, as with an attorney or consultant. Rather, it was intended to be a partnership where both parties are pursuing the same goal of academic and operational excellence on behalf of our Brighter Choice students and their families.

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The Board signed an amended and expanded compact agreement in 2013 to provide more clarity to the relationship after identifying a growing need for services. In the past two years, the Foundation has more than doubled the size of their staff available to service the needs of our school. Those individuals are now in our schools regularly, consulting with our teachers and administrative leaders to develop and improve our implementation of the Common Core Standards, community engagement, organizational capacity, and fiscal management. The current agreement expires at the end of the 2014-2015 school year, and we are working with the Foundation to develop an updated agreement to continue this relationship. The new agreement will include additional detail about responsibilities of both the school and the Foundation to ensure effective academic and financial operations. The board will ensure the Foundation documents the impact of their support to more effectively monitor the quality of services provided.

The board considered that the cost of acquiring those services from individual providers (attorneys, educational consultants, testing services, marketing consultants, etc.) would likely exceed the amount to be paid in compact fees. We also recognized that the need for such services also increases with every new student the school enrolls, as does the relative need for classrooms, teachers, administrative staff, and so forth. Similar educational service providers offer a suite of services for fees ranging from 1% to 12% of per-pupil revenues, depending on the level of service and degree of management provided. With these considerations, the board determined that the 1% to 2% per-pupil revenue fee structure was the most cost-effective method of providing these services on a gradually increasing scale. As noted in your report, this structure also allows the school some relief should enrollment and revenues decline.

Your report also noted the disclosure requirements of our board member who was also a director of the Foundation, a relationship which always been very transparent to all involved parties. As stated in your report, that member did not have a prohibited interest in these agreements, though he did recuse himself from voting on the compact agreement. Going forward, we will ensure that the board minutes and disclosure forms are completed appropriately to reflect these circumstances in writing.

The board has carefully monitored the level of service provided by the Foundation and believes that the school has benefited greatly from this partnership. Because our board members and school staff have worked so closely with Foundation's staff, we are confident that the Foundation has complied with the terms and the spirit of the contract to strengthen our school. We also determined that this was a very cost-effective method of acquiring the necessary support services for the school. We appreciate the disclosure recommendations and will implement them immediately. As the current compact term comes to a close, we will improve clarity of services and responsibilities in the new contract so that the board can continue to monitor compliance.

Thank you for this opportunity to participate in this review process and respond to your findings.

Sincerely,

Marcus Puccioni
Director of School Quality
Brighter Choice Charter Middle School for Girls

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard School assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: general governance, financial oversight, third-party relationships, inventory controls, control environment, cash receipts and disbursements, purchasing, payroll and information technology.

During the initial assessment, we interviewed appropriate School officials, performed limited tests of transactions and reviewed pertinent documents, such as the School's charter, financial policies and procedures manuals, Board minutes and financial records and reports. Further, we reviewed the School's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of potential fraud, theft or professional misconduct. We then decided on the reported objective and scope by selecting for audit the area most at risk. We selected compact contracts for further audit testing.

To accomplish our audit objective and obtain valid audit evidence, our procedures included the following steps:

- We reviewed the compact contract, Board minutes and invoices and interviewed School officials to determine the compact contract terms.
- We selected expense codes where services outlined in the compact contract would be recorded.
- We reviewed all claims for the expenses for the selected codes to determine what services were provided and whether the services should be provided by the Foundation as part of the compact contract. The expense codes selected were accounting and auditing services, payroll services, legal services, marketing and fees.
- We reviewed Board minutes to determine when the Board approved the compact contract and which Board members were present at the Board meeting.
- We reviewed the Board members' conflict of interest forms submitted to the Charter Schools Institute to determine if any Board member had a conflict of interest with the Foundation, and, if a Board member did, we determined whether that Board member voted.
- We interviewed School officials to determine if any Board member with a conflict of interest was involved in the presentation and discussion regarding the compact contract.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX C

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