



Ben Gibson, *Chair*  
Ryan Petty, *Vice Chair*  
*Members*  
Monesia Brown  
Esther Byrd  
Grazie Pozo Christie  
Kelly Garcia  
MaryLynn Magar

JLAC Received  
9-6-23

September 6, 2023

Melinda Miguel  
Chief Inspector General  
Office of the Chief Inspector General  
The Capitol  
Tallahassee, Florida 32399-0001

Dear Ms. Miguel:

In accordance with Section 20.055(6)(h), Florida Statutes, attached is the six-month status of corrective actions taken in response to Auditor General Report #2023-131, Operational Audit - Charter School Administration and Prior Audit Follow-Up.

If you have any concerns regarding this status report, please contact Mike Blackburn by phone at 850-245-9418 or by email at [Mike.Blackburn@fldoe.org](mailto:Mike.Blackburn@fldoe.org).

Sincerely,

  
Manny Diaz, Jr.

Attachment

cc: Mike Blackburn, Inspector General  
Suzanne Pridgeon, Deputy Commissioner, Finance and Operations  
Andre Smith, Deputy Commissioner of Innovation, Division of Technology and Innovation  
Adam Emerson, Executive Director, Office of Independent Education & Parental Choice  
Legislative Auditing Committee

**Finding 1: Charter School Oversight** - The Department, as the State Education Agency and grantor of State and Federal funds to public schools, including charter schools, is uniquely positioned to work with charter school sponsors and, as necessary, the Legislature, to promote an appropriate level of operational oversight regarding potential charter school conflict of interest, related party, and separation of duty issues, and encourage transparency in the use of for-profit and nonprofit management organizations by charter schools.

**Recommendation:** Consistent with Federal guidance, we recommend that Department management work in concert with charter school sponsors and, as necessary, the Legislature, to enhance the oversight of potential charter school conflict of interest, related party, and separation of duty issues, and encourage transparency in the use of for-profit and nonprofit MOs by charter schools.

**Response as of March 2, 2023:**

This finding is concerning for multiple reasons. Primarily, it incorrectly asserts that either the Florida Department of Education or charter school sponsors in Florida can regulate certain activities between charter schools and the management companies with whom they contract. The recommendation herein cannot, in fact, be implemented without additional legislative authority, as will be described below. Moreover, much of what follows supporting the Department’s position would have been provided to auditors beforehand. However, the Department was unaware that the Auditor General was examining charter schools and their relationships to management companies in this manner until the two exit conferences held with the Department on December 2022 and January 2023.

The federal guidance identified in the explanation of this finding and the recommendation in the preliminary and tentative audit findings fail to account for the restrictive regulatory climate in which the Department must operate. First and foremost, the authority of the Department is limited to that which has been granted by the Legislature. Second, the vast majority of sponsors in Florida are distinct constitutional entities, school districts, that have the express authority to operate the day-to-day operational control of public schools which include charter schools. The Department has vigorously implemented the authority it has been granted and diligently works to see that its efforts are adhered to by the schools and the school districts. Additional legislative authority is required to further address the recommendation made in the report.

Consistent with its statutory authority the State Board of Education has adopted in rule several model forms that all charter schools and their sponsors must use. These forms include a standard charter agreement between the parties.

Section 9.E. of that standard agreement contains the following provisions regarding the employment of management companies:

- A. *If an organization (management organization), including but not limited to: 1) a management company, 2) an educational service provider, or 3) a parent organization, will be managing or providing significant services to the School, the contract for services between the management organization and the Governing Board shall be provided to the Sponsor and attached as an appendix to this Charter. Any contract between the management organization and the School must ensure that:*
1. *Members of the Governing Board or their spouses will not be employees of the management organization, nor should they be compensated for their service on the Board or selected to serve on the Board by the management organization.*
  2. *The Governing Board retains the right to hire an independent attorney, accountant, and audit firm representing and working for, or on behalf of, the School. Notwithstanding, the Governing Board and the management organization may contract for such services as determined by the management agreement and as otherwise allowed by law. The Governing Board shall use an audit firm that is independent from the management organization for the purposes of completing the annual financial audit required under section 218.39, Florida Statutes.*
  3. *The contract will clearly define each party's rights and responsibilities including specific services provided by the management organization and the fees for those services and specifies reasonable and feasible terms under which either party may terminate the contract.*
  4. *All equipment and furnishings that are purchased with public funds will be the property of the School, not the management organization and any fund balance remaining at the end of each fiscal year will belong to the School, not the management organization.*
  5. *All loans from the management organization to the School, such as facility loans or loans for cash flow, will be appropriately documented and will be repaid at a rate no higher than market rates at the time of the loan.*
  6. *A copy of any material changes to the contract between the management organization and the Governing Board shall be submitted to the District within*

*five (5) days of execution. The Sponsor shall have 30 days to review the material changes. If the changes violate the terms of this Charter or applicable law the Sponsor shall provide written notice to the School which shall include a description of the violations. The School may address the concerns or initiate the dispute resolution process included in this Charter.*

7. *The management organization will perform its duties in compliance with this Charter.*

B. *Any default or breach of the terms of this Charter by the management company shall constitute a default or breach under the terms of this Charter by the School unless the School cures such breach after written notice.*

This language has been in State Board rule since December 2014. Also adopted in State Board rule is a model charter school application that must be used for any charter proposal submitted to a sponsor in Florida. That application contains a section on Education Service Providers and demands that an applicant seeking to work with a management company explain why that company was selected, document the company's track record, describe its legal and organizational relationship with the school and provide evidence that the school's governing board will have an arms-length relationship with and independence from the company. Further, the application demands that the prospective school must show its sponsor how it will oversee and evaluate the work of the management company.

Also, if the school's governing board intends to enter into a financing agreement with the management company, it must:

- Ensure that agreements are or will be separately documented;
- Provide evidence that the agreement was or will be reviewed by the governing board's independent legal counsel; and
- Describe how such agreements will be repaid.

The completed and approved application also is incorporated into the standard charter agreement. Failure to adhere to the claims in the application or to the provisions in the executed charter agreement may provide grounds for the termination of the charter.

Further, it is misleading to assert, as this audit does, that "the Department's standard charter contract allowed charter school governing bodies to contract with for-profit and nonprofit management organizations, education service providers, or parent organizations, to manage the day-to-day operations of the charter school." Neither the standard charter agreement nor

the rule in which it is incorporated could regulate the profit-making status of a charter management company or an education service provider. Only the legislature can do that. Moreover, some of the specific findings regarding charter schools and their management companies referenced in this audit would have to be addressed by the legislature, and not the sponsor or the Department.

For example, the audit states that 12 charter schools leased their premises from the management company with whom they contracted, or leased facility space from a subsidiary to that management company. In previous legislative sessions, lawmakers proposed amendments to statute to regulate this practice, but those proposals were never adopted in law. Neither the Department nor any charter school sponsors can sidestep the legislature in this regard.

In fact, the only finding from the Auditor General examination of 40 charter schools identified here that is explicitly governed by state law is the failure of two charter schools to disclose on their websites their association with a management company.

The Department has committed to providing training and rigorous professional development to charter school sponsors for the past decade. In 2014 and 2015, the Department developed and published the *Florida Principles and Standards for Quality Charter School Authorizing*. This document has formed the basis of all our technical assistance to sponsors. The Department will continue to provide sponsors the training and development they need to ensure not only that the charter schools in their portfolio are and remain high-quality, but that they are compliant with all applicable law and with the provisions in the charter agreement.

#### Follow-Up to Management’s Response

Department management indicated in their written response that the standard charter agreement between charter schools and their sponsors includes various provisions regarding the employment of management companies and that it is misleading for the audit to assert that either the agreement or Department rules regulate the profit-making status of charter management companies. While we acknowledge the various charter contract provisions governing relationships with management companies, such requirements do not adequately substitute for appropriate oversight activities. Additionally, the purpose of citing the standard charter contract was not to assert that either the contract or any Department rule could regulate the profit-making status of a charter management company, but instead was to establish that charter schools could contract with such companies, regardless of their profit-making status. Consequently, the finding and related recommendation stand as presented.

**Response as of September 1, 2023:**

The Department maintains that neither it nor the entities that sponsor charter schools can develop policies or procedures that regulate the activities between charter schools and the management companies with whom they contract. That is the domain of the legislature. The Department and charter school sponsors must work within the statutory authority that they have. It is important to note, however, that public charter schools operate in an incredibly transparent landscape. As provided for in our previous response, as part of the application process, a potential charter operator must disclose to the sponsor if a management company will be used, how they will be selected, the services they will provide, the fee structure, how the non-profit board will evaluate the performance of the management company, and more.

Additionally, every charter school is required, by law, to maintain a website “that enables the public to obtain information regarding the school; the school’s academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school’s annual budget and its annual independent fiscal audit; the school’s grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings”; (Section 1002.33(9)(p)1., Florida Statutes).

Every charter school in Florida is also required to complete an annual accountability report which includes whether the school has a contract with an education service provider or management company. That report is available to the public on the Department’s website.

Finally, the *Florida Principles and Standards for Quality Charter School Authorizing* referenced in the Department’s March 2 response provides guidance to sponsors when it comes to the oversight of Florida charter schools and management companies. Principle among these standards is to clearly establish the primacy of the contract between school and sponsor over the contract between school and management company. This is also a best practice among charter school sponsors nationwide. The *Florida Principles and Standards* is a document that has served as a benchmark of the Department’s training and professional development of sponsors. And we will continue to utilize this guide in future trainings, including the upcoming Florida Charter School Conference in October 2023.

**Anticipated Completion Date & Contact:** Ongoing, and the Florida Charter School Conference October 18-20, 2023; contact is Adam Emerson, Executive Director, Office of Independent Education and Parental Choice.

**Finding 2: Charter School Appeal Commission Independence** - Department controls need enhancement to ensure that members of the Charter School Appeals Commission document that they are independent of, and have no conflicts of interest related to, the charter school appeals they review and recommend to the State Board of Education to either uphold or deny.

**Recommendation:** We recommend that Department management enhance controls to ensure that Commission members disclose, in writing, all possible actual or potential conflicts of interest related to appeal reviews and recuse themselves from participating in any review where a conflict of interest is encountered.

**Response as of March 2, 2023:** The Department’s Office of Independent Education and Parental Choice (IEPC) has developed a conflict-of-interest form that each member has to complete before participating in a charter school appeal hearing. Before scheduling the most recent meeting of the commission in September 2022, we required that members complete the form. In the future, The Department will retain the completed forms as recommended.

**Response as of September 1, 2023:**

The Department has no change to its response from March 2, 2023. The Office of Independent Education and Parental Choice (IEPC) has developed a conflict-of-interest form that each member must complete before participating in a charter school appeal hearing. There have been no scheduled appeals since the time of the audit.

**Anticipated Completion Date & Contact:** Completed. Contact is Adam Emerson, Executive Director, Office of Independent Education and Parental Choice

**Finding 3: Governance Training Plans** - The Department did not always substantively review charter school governance training plans for compliance with governing laws and rules.

**Recommendation:** We recommend that Department management ensure that charter school governance training plans are substantively reviewed for compliance with governing laws and rules prior to renewal.

**Response as of March 2, 2023:** IEPC has begun plans to conduct more rigorous evaluations of approved governing board trainers seeking to renew their work, even if they state that there is no change to their previously approved plans. At the conclusion of the 2023 legislative session, IEPC will begin rule development to revise Rule 6A-6.0784, F.A.C., Approval of Charter School Governance Training, and its incorporated forms to update and make clear any new evaluation criteria along with any other new changes to statute.

**Response as of September 1, 2023:**

The Department has initiated rule development on Rule 6A-6.0784, F.A.C., Approval of Charter School Governance Training. This rule amendment is aimed at making more explicit new evaluation criteria to ensure that even previously approved training plans are at least up to date in terms of statutory changes or other policy changes.

**Anticipated Completion Date & Contact:** October 18, 2023, State Board of Education meeting (for scheduled rule adoption); contact is Adam Emerson, Executive Director, Office of Independent Education and Parental Choice.

**Finding 4: Governance Training Oversight** - The Department is distinctively positioned as a recipient of all charter school board member governance training records to assess through periodic reviews whether the governance accountability standards set in State law are being sufficiently evaluated by sponsors and adhered to on a Statewide basis.

**Recommendation:** To promote the adequate oversight of governance training requirements by sponsors and Statewide compliance, we recommend that Department management periodically review submitted charter school governance board training records for adherence to applicable requirements.

**Response as of March 2, 2023:** IEPC is drafting and will distribute annually to all charter schools and their sponsors a communication that outlines the governing board training requirements of section 1002.33(9)(j)5., F.S., and Rule 6A-6.0784. The Department is developing procedures to randomly cross-check the records IEPC has on governing board membership at individual schools with the reports trainers provide to the Department pursuant to 6A-6.0784(5)(a), F.A.C. IEPC will document how this work is being performed.

**Response as of September 1, 2023:**

The Office of Independent Education and Parental Choice (IEPC) sent a memorandum to all charter schools and sponsors at the start of the 2023-2024 school year reminding each of the training requirements of charter school governing board members as stated in Section 1002.33(9)(j)5., F.S., and Rule 6A-6.0784, F.A.C. Further, IEPC aims to randomly cross-check the records from the most up-to-date charter school accountability report on governing board membership with the reports trainers provide to the Department.

**Anticipated Completion Date & Contact:** Random cross-checks should be completed by December 2023; contact Adam Emerson, Executive Director, Office of Independent Education and Parental Choice.



**Finding 5: Information Security Manager** - The organizational placement of the Department’s Information Security Manager (ISM) did not effectively promote the independence of the ISM function and ISM appointments were not made in accordance with State law. A similar finding was noted in our report No. 2021-029.

**Recommendation:** We continue to recommend that Department management take steps to ensure that the ISM is organizationally placed outside the line of authority of those responsible for the Department’s daily IT operations and that ISM designations are made by the Commissioner in accordance with State law.

**Response as of March 2, 2023:** In accordance with Florida Statute 282.318, The Florida Department of Education’s Information Security Manager (ISM) reports directly to the Commissioner of Education with respect to the duties of the (ISM). Although the current incumbent of the ISM position also functions as the Executive Staff Director in the Division of Technology and Innovation (DTI), it is for the duties of the Executive Staff Director that the incumbent reports to the Deputy Commissioner of Technology and Innovation. Thus, functionally and organizationally, the ISM position is independent of DTI and is in compliance with state statute.

With respect to the Information Security Manager designation letter, the Florida Department of Education, on December 15, 2022, submitted its annual designation letter to the Chief Information Security Office of the Florida Digital Service designating the ISM and was signed by the Commissioner of Education, complying with statute.

**Response as of September 1, 2023:** The Department of Education has complied with Florida Statute 282.318 as described in our March 2, 2023, response.

**Anticipated Completion Date & Contact:** Completed; contact Bryan Hudnall, Information Security Manager.

**Finding 6: Security Controls – User Authentication and Logging and Monitoring** - Certain security controls related to user authentication and logging and monitoring need improvement to ensure the integrity and availability of Department data and related IT resources.

**Recommendation:** We recommend that Department management improve certain security controls related to user authentication and logging and monitoring to ensure the integrity and availability of Department data and related IT resources.

Department of Education  
Office of Inspector General – Internal Audit  
Six-Month Status Report on: Charter School Administration and Prior Audit Follow-Up  
Report #2023-131 Issued: March 2, 2023  
Status as of September 1, 2023

Response as of March 2, 2023: The Office of Independent Education and Parental Choice (IEPC) has already begun discussions with the Department’s Division of Technology & Innovation (DTI) to conduct a risk categorization of the IT resources IEPC employs for select charter schools. IEPC will immediately comply with any recommendations or directives from DTI.

**Response as of September 1, 2023:**

The Department’s Division of Technology & Innovation has completed its risk categorization of the resources IEPC uses for its management of select charter schools, and IEPC has begun implementing its recommendations.

**Anticipated Completion Date & Contact:** December 2023; contact Adam Emerson, Executive Director, Office of Independent Education and Parental Choice.