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June 27, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: Mr. Craig J. Johnson

RE: STAFF REPORT: AUDIT OF SELECTED CHARTER SCHOOLS BY PED

Introduction

On April 12, the Public Education Department (PED) announced the audit of selected public school districts. In an April 27 memorandum, Ms. Hanna Skandera, Secretary-designate of Public Education, announced initial findings by district. This memo also noted that PED would conduct similar audits on charter schools, thereby addressing a concern raised by staff of the Legislative Education Study Committee (LESC). On April 29, PED issued a news release identifying the 28 charter schools to be audited. According to PED, the charter school audits were to begin on Tuesday, May 3, 2011. On June 2, PED released a memorandum outlining the results of the charter school audits.

This staff report provides a context of the audits with a summary of the:

- PED Meeting with Legislative Staff;
- PED Audit of Charter Schools;
- Initial PED Findings; and
- LESG Staff Observations.

PED Meeting with Legislative Staff

In an April 22 meeting with staff from the LESC and the Legislative Finance Committee (LFC) to discuss the audit, PED staff provided charter school data outlining changes from March of school year 2009-2010 to March of school year 2010-2011 for the following membership categories:

- student membership;
- A/B special education students;
- ancillary FTE;
- ratio of ancillary FTE to special education students;
- ratio of special education students to total membership;
- C-C gifted membership; and
- D-D gifted membership.

For each of these categories, the documents compared the growth for individual charter schools to the average growth for charter schools statewide. To aid in the selection of charter schools to be audited, PED established a threshold of 200 percent or more of the statewide average growth. For example, PED data indicated that D-D Gifted membership increased by 23.2 percent for charters statewide. Therefore, any charter school that experienced growth in D-D Gifted membership of 46.4 percent or more exceeded the threshold. PED staff also provided a summary document indicating the number of times individual charter schools exceeded the threshold. The document showed a checkmark by each charter school to indicate the number of membership category thresholds the charter school exceeded. The checkmarks varied from zero for some to as many as four checkmarks for one charter school.

LESC staff expressed the same concerns about the methods of the charter school audit as were previously expressed about the school district audits. Specifically, LESC staff questioned why:

- PED used 80th day data as opposed to the 80th/120th day average, which is more closely aligned to actual funding practices;
- the expedited timeline for the audit was necessary; and
- PED used data reflective of year-over-year growth, but did not conduct an analysis of long-term trend data.

Although the Director and staff at the LESC support efforts to ensure a correct distribution of funds, concerns regarding the audit – primarily the timeline and the data and methods used to select charter schools – compelled the LESC Director to request that the LESC staff not be included in the PED audit.

PED Audit of Charter Schools

A press release issued on April 29 identified the 28 charter schools that would be audited (see Attachment 1). On the same date, PED sent a letter to each of the 28 charter schools selected for an audit.

Special Education Component

According to PED:

- Based on the data provided through the state's Student Teacher Accountability Reporting System (STARS) and through charter school records – including the number of students identified as eligible for special education services (including gifted students), the number of personnel (FTE) providing these services, and Developmentally Delayed preschool enrollment – budget and finance staff and program staff from the department's Special Education Bureau were to audit charter schools reporting data higher than the statewide average, showing noteworthy differences from the previous year, or other unusual trends.
- In general, the audits were to include a random sample of 10 files of Individualized Education Programs (IEPs) at each school, although in small charter schools all files were reviewed. The reviews were intended to ensure that:
 - data included in the IEPs matches the information provided through STARS;
 - funds for services provided are reasonable based on an individual students needs; and
 - data reviewed from charter schools are in compliance with state and federal guidelines under the *Individuals with Disabilities Education Act (IDEA)*.

Teacher Training and Experience Component

With regard to the teacher Training and Experience (T&E) component of the audit, the department reported that:

- based on information provided by charter schools on salaries and benefits for instructional staff, specifically years of experience of teachers and their academic degrees, department program staff were to audit 13 charter schools reporting data higher than the statewide average, showing noteworthy differences from the previous year, or other unusual trends; and
- audits by department staff were to include on-site review of district records and additional accountability measures.

Initial PED Findings

In a memorandum dated June 2, 2011, Secretary-designate Skandera announced initial findings for charter schools, although the memorandum does not include details describing the nature of the findings by individual charter school (see Attachment 2).

PED noted that the minor compliance findings were often due to:

- compliance issues not consistent with state or federal laws;
- poor data quality;
- inaccurate or delayed record-keeping; and
- discrepancies between data submitted to PED and data included in a student's IEP.

PED noted that the major compliance findings were often due to:

- compliance issues not consistent with state or federal laws;
- unusually high rates of ancillary services provided; and
- failure to provide services to children despite receiving dollars for these services from the state.

According to the memorandum, the 28 charter schools were categorized into four compliance categories for the special education component and for the T&E Index component, as follows:

Special Education findings:

- nine charter schools were cleared through the audit;
- seven charter schools were cited for minor compliance issues;
- six charter schools were cited for major compliance issues; and
- one charter school, Nuestro Valores Charter School, in Albuquerque, was selected for additional audit measures based on initial findings.

For Nuestro Valores, the memo cited the following issues:

- severe data quality issues;
- inability to verify data reported to PED;
- inability to validate records and provider service logs;
- inability to verify students were receiving services; or
- unusual trends needing additional review.

Training and Experience findings:

- one charter school, Rio Gallinas, was cleared through the audit;
- seven charter schools were cited for minor compliance issues; and
- five charter schools were cited for major compliance issues.

For charter schools cited for minor or major compliance issues, PED committed to “follow up with these charter schools within the next two weeks outlining specific remedies and a timeline for coming into compliance.”

According to the memorandum, the review of charter school data, not only found errors and inconsistencies, but also raised broader systemic issues regarding the way New Mexico identifies special education students and their needs.

LESC Staff Observations

To the extent that school districts or charter schools may be misrepresenting data, either accidentally or intentionally, the department’s efforts to identify erroneous reporting are appropriate. If a charter school is intentionally misrepresenting data, it should be held accountable. While supportive of efforts to ensure a correct distribution of funds, LESL staff offer the following observations:

- It appears that the audit methodology used by the department was not sufficient to clearly identify formula chasing. The audit procedures and tools focused on an assessment of special education compliance as opposed to an audit to ensure accurate data reporting for funding purposes.
- The selection of charter schools was not always based on the number of times the charter school exceeded statewide growth in the data sets that PED provided to legislative staff. For example, four charter schools exceeded the thresholds in three or more categories: Cariños de los Niños Charter School, Jefferson Montessori Academy, La Resolana Leadership Academy, and Robert F. Kennedy Charter School. However, only Cariños de los Niños Charter School and Robert F. Kennedy Charter School were audited.
- Student growth in one special education category was viewed in isolation from a possible decrease in other special education categories. For example, growth in C level students could be explained by a decrease in D level students.

In an effort to assess charter school experiences with the audit, LESC staff conducted a survey of charter schools and will report the results in a separate staff report.

Next Steps

Any audit of school districts should emphasize the need for timely high-quality data. State law requires accurate records about public school membership to be reported to PED on three occasions:

- first reporting day: second Wednesday in October (called 40th day);
- second reporting day: December 1 or the first working day in December (80th day); and
- third reporting day: second Wednesday in February (120th day).

Legislators and staff rely on data to make consequential decisions. School districts, charter schools, and PED need to make accurate and timely data submission a priority. Concerning timely data, the LESC may wish to consider asking PED if the department has examined:

- issues that contribute to the time period between the initial data submission and final, certified data; and
- changes in organizational structure or policies and procedures that might expedite the data certification process.



Hanna Skandera
Secretary of Education-Designate

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NEWS RELEASE

For Immediate Release: April 29, 2011

New Mexico Public Education Department Announces Audit of 28 Charter Schools

SANTA FE – Continuing in its commitment to protect taxpayer dollars, the New Mexico Public Education Department (PED) announced on Friday the next step in the audit process to better ensure fairness and transparency in school funding. Letters were sent to 28 charter schools across New Mexico to inform them PED will be performing an audit around Special Education and Training and Experience numbers. Affected charter schools will be contacted by Tuesday, May 3rd to discuss next steps in the process.

Shortly after enrollment numbers revealed a 116% increase in funding units, PED made a commitment to examine charter schools as part of the process to ensure better accuracy. "What we've found so far is a systemic problem in New Mexico when it comes to reporting accurate numbers," said Secretary-Designate Hanna Skandera. "While we are still in this audit process one result is clear, our reporting information needs to be much more transparent if we're going to spend taxpayer's dollars more responsibly," she added.

The following charter schools received letters today from the New Mexico Public Education Department:

Albuquerque Talent Development Secondary
Amy Biel – State Charter School
Anansi Charter
Carinos De Los Ninos
Corrales International
Cottonwood Classical
Ceaser Chavez - Deming
El Camino Real
Horizon Academy West
La Promesa Early Leadership
Las Montanas
Media Arts Collaborative
Middle College High
Montessori of the Rio Grande

Mountain Mahogany
Native American Community Academy
Nuestros Valores
Public Academy for Performing Arts
Rio Gallinas
Robert F. Kennedy
School of Dreams Academy
SIA Tech
Sidney Gutierrez
Southwest Intermediate Learning Center
Southwest Primary
Southwest Secondary
Taos Academy
Vista Grande

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JUN 6 2011

HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

June 2, 2011

MEMORANDUM

TO: Public School Superintendents
Charter School Officials
Local Board Presidents
Business Managers

FROM: Hanna Skandera
Secretary-designate, Public Education Department

RE: **Initial Findings of the Public Education Department's Audit of 2011-2012 Charter School Data**

Public Education Department Conducts Audit of 2011-2012 Charter School Data:

To deliver on her commitment to protect classroom spending, establish strong fiscal and academic accountability for schools and yield a smarter return on taxpayers' investment in education, Governor Susana Martinez is establishing unprecedented transparency in New Mexico schools. Under her leadership, the Public Education Department recently conducted an expedited review of charter school data to determine the reasons for unusually high increases in special education student identifications, special education services and expenses for teacher training and experience reported for the coming school year. The audit was undertaken to ensure information is being reported accurately and taxpayer dollars are protected.

Audit Process: Special Education and Related Services and Teacher Training and Experience:

As announced on April 29, 2011, based on a preliminary review of data, the Department identified 28 charters as the primary focus of our audit. These 28 charters reported high rates of special education students, special education services or expenses for teacher training and experience. Each exceeded the average statewide growth by at least 200 percent, the initial statistical bar set for the audit.

Auditing of Special Education and Related Services:

Based on the data provided through the state's Student Teacher Accountability Reporting System (STARS) and through charter school records – including number of students identified as eligible for special education services (including gifted students) and the number of personnel (FTE) providing these services – budget and finance staff and program staff from our Special Education Bureau audited charter schools reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends not in compliance with state and federal laws under the Individuals with Disabilities Education Act (IDEA).

Based on the extent of abnormalities, our staff conducted several onsite and desktop reviews of charter school records. Audits included random sampling of 10 files of affected populations reviewed in the majority of charters (or in the case of small charter schools all of the files were reviewed) – of Individualized Education Programs (IEPs) by Department staff to evaluate whether:

- Data included in Individualized Education Programs (IEPs) matches the information provided through the state's Student Teacher Accountability Reporting System (STARS).
- Funds for services provided is reasonable based on an individual student's needs.
- Data reviewed from charter schools are in compliance with state and federal guidelines under the Individuals with Disabilities Education Act (IDEA).

Auditing of Teacher Training and Experience:

Based on information provided by charter schools on salaries and benefits for instructional staff, specifically years of experience of teachers and their academic degrees, we audited 12 charters reporting data higher than the statewide average, showing noteworthy differences from the previous year or other unusual trends. These audits by Department staff included on-site review of charters records and additional accountability measures.

Department Announces Initial Audit Findings By District:

Charter Schools Cleared through the Department's Audit (9 Charters):

Based on a review of records and additional accountability measures established by the Department's auditing team, nine charter schools were cleared of all issues regarding special education, special education services and expenses for teacher training and experience. In the majority of cases, these charters exhibited exemplary data quality, accurate record keeping, strong accountability and no compliance infractions. These charters include:

Special Education:

- El Camino Real Academy
- Amy Biehl
- Taos Academy
- Vista Grande High School
- Cottonwood Classical Prep
- Media Arts Collaborative Charter
- Public Academy for Performing Arts
- School for Integrated Academies and Technologies

Training & Experience:

- Rio Gallinas Charter School

Charter Schools Cited for Minor Compliance Issues (13 Charters):

Based on a review of records and additional accountability measures established by the Department's auditing team, thirteen charter schools were cited for minor compliance issues not consistent with state or federal laws. Minor compliance issues identified include poor data quality, inaccurate or delayed record keeping, discrepancies between data submitted to the Department and data included in a student's Individualized Education Program and potential additional questions regarding the level of services provided to a special education student. The Department will follow up with these charters within the next two weeks outlining specific remedies and a timeline for coming into compliance. In many cases, this may be as simple as correcting unintentional technical errors. The charters identified include:

Special Education:

- Montessori of the Rio Grande
- Mountain Mahogany
- Las Montañas
- Southwest Intermediate Learning Center
- Corrales International
- Native American Community Academy
- School of Dreams

Training & Experience:

- Anansi Charter
- Horizon Academy West
- School of Dreams Academy
- Southwest Intermediate Learning Center
- Sidney Gutierrez Middle
- Deming Ceasar Chavez
- Nuestros Valores

Charter Schools Cited for Major Compliance Issues (9 Charters):

Based on a review of records and additional accountability measures established by the Department's auditing team, nine charter schools were cited for major compliance issues not consistent with state or federal laws. In addition to minor compliance issues, these charters showed unusually high rates of ancillary services provided or failed to provide services to children despite receiving dollars for these services from the state. The Department will follow up with these charters within the next two weeks outlining specific remedies and a timeline for coming into compliance with state and federal laws. These charters include:

Special Education:

- Robert F. Kennedy
- La Promesa
- Anansi Charter
- ABQ Talent Development Center
- Middle College High School
- Cariños de los Niños

Training & Experience:

- Robert F. Kennedy
- Las Montañas
- Southwest Primary Learning Center
- Southwest Secondary Learning Center
- Middle College High School

Charter Schools Selected for Additional Audit Measures Based on Initial Findings (1 Charter):

Based on a review of records and additional accountability measures established by the Department's auditing team, one charter school was identified as needing a more intensive and expansive audit to determine the extent of their infractions. In addition to the major compliance issues identified above, this charter exhibited severe data quality issues or could not verify data reported to the Department, could not validate records and provider service logs, could not verify students were receiving services and showed unusual trends needing additional review. This charter school is:

Special Education:

- Nuestro Valores

Ensuring Needs of All Special Education Students Are Met: A Systemic Challenge for New Mexico:

The Department's review of charter school data found not just several errors, inconsistencies and concerning patterns in several charter schools, but also raised broader systemic issues regarding the way New Mexico identifies special education students and provides for their unique needs. Challenges currently identified in charters include improving data quality, creating consistent local accountability systems to ensure the provision of services and the proper application of state and federal guidelines for identifying the needs of individual special education students.

We will continue to provide technical assistance to charters in these areas. We hope to explore ways to better guide districts through these challenges, ensuring greater transparency for our taxpayers and appropriate services for our children.

Public Education Department's Annual 2011-2012 Budget Review Process:

In challenging economic times, it is even more important to ensure our education dollars directly benefit our children and teachers. By forcing savings elsewhere in state government to prioritize education, Governor Martinez delivered on her promise to protect classroom spending in the coming fiscal year's budget.