Audit Report

Austin L. Carr Charter School

For the Period

January 10, 2001 through December 31, 2001

CH-1101-1

April 4, 2002

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Office of Audit Services
Albany, New York 12234

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April 4, 2002

Ms. Denise Geer
President
Board of Trustees
Austin L. Carr Charter School
7 Cedar Parkway
Hudson, New York 12534

Dear Ms. Geer:

The following is our final audit report (CH-1101-1) of the Austin L. Carr Charter School for the period January 10, 2001 through December 31, 2001. The audit was conducted pursuant to Sections 305 and 1950 of the Education Law in pursuit of Goal #5 of the Board of Regents/State Education Department Strategic Plan: "Resources under our care will be used or maintained in the public interest."

It is the policy of the State Education Department to consider for review matters of significant disagreement which result from the issuance of a final audit report. Appendix D describes the process to be followed in the event of such disagreement.

Ninety days from the issuance of this report, School officials will be asked to submit a report on actions taken as a result of this audit. This required report will be in the format of a recommendation implementation plan and it must specifically address what actions have been taken on each audit recommendation.

I appreciate the cooperation and courtesies extended to the staff during the audit.

Sincerely,

Daniel Tworek

Enclosure

cc: Commissioner Mills, J. Butterworth, R. Cate, D. Ford, J. Kadamus, A. King, D. Mengel, T. Sheldon, J. Baldwin, District Superintendent, Questar III BOCES, J. Clarke, Interim Superintendent, Hudson City School District, C. Foster (DOB), J. Dougherty (OSC)

Executive Summary

An application to establish the Austin L. Carr Charter School (School) was approved by the Board of Regents on December 15, 2000. The Board of Regents issued the School a charter and incorporated it as an educational corporation on January 10, 2001. The School had been scheduled to begin serving students in Columbia County in September 2001, but has delayed that opening because of the school's failure to complete the required "prior actions" set forth in its charter, including the lack of a suitable school facility. The School was awarded a Public Charter Schools Program planning grant of $149,813 for the period September 1, 2000 through August 31, 2001, and has reported incurring a total of $96,674 in grant expenditures.

Audit Results

The audit found that the School's financial position is unstable. The School does not have any material source of funds other than its planning grant, the School's accounting records are incomplete and inaccurate, and the School has an operating deficit.

The audit also found that the School's Board did not implement the necessary management controls, has not fulfilled its governance role and has not adhered to its Charter. The Board did not collectively possess or obtain the fiscal expertise to ensure the School's resources were being used efficiently and effectively and properly safeguarded, nor did it monitor the School's financial status or prevent conflict of interest transactions.

The School did not comply with the terms of its grant, incurred non-reimbursable and questionable expenditures, overspent grant funds, and must make restitution of $14,582 to the Department representing overpayment of grant funds.

Comments of School Officials

School officials' comments to this report were considered in preparing this report and are included as Appendix B. In response to the audit, School officials acknowledge that they need to make improvements in certain areas but stated that many items in the report are inaccurate representations of the School's activities.

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Introduction

Background

An application to establish the Austin L. Carr Charter School (School) was approved by the Board of Regents on December 15, 2000. The Board of Regents issued the School a charter and incorporated it as an education corporation on January 10, 2001. It was chartered to increase learning opportunities for students through innovative educational programs in a small class environment in Columbia County. The School describes its mission as the preparation of every student for college so that he or she may become a successful global citizen in a multicultural world. The School was initially scheduled to begin serving students in September 2001. This opening was delayed because of the School's failure to complete the required "prior actions" set forth in its charter, including the lack of a suitable school facility.

The School was awarded a $149,813 planning grant with funds authorized by the Public Charter Schools Program for the period September 1, 2000 through August 31, 2001. The School reported incurring $88,230 in grant expenditures. Subsequently, the School reported an additional $8,444 in amendments for a total of $96,674.

Objectives, Scope and Methodology

The audit examined selected management practices, records, and documentation for the period January 10, 2001 through December 31, 2001. This was a financial related audit and our objectives were:

- to verify the current financial position of the School;
- to evaluate the adequacy of the School's system of management controls; and
- to verify the accuracy of grant expenditures and compliance with grant requirements.

To accomplish our objectives, we reviewed applicable laws, regulations, policies and procedures, and the School's Charter Agreement (Charter); interviewed State Education Department (Department) and School management and staff; examined records and supporting documentation; and sampled transactions on a non-statistical basis. We did not review the School's audited financial statements because no such statements were prepared at the time of our audit.

We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operational records and applying other audit procedures considered necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that the audit provides a reasonable basis for our findings, conclusions and recommendations.

Comments of School Officials

School officials' comments were considered in preparing this report. Their comments to this report are included as Appendix B. In response to the audit, School officials acknowledge that they need to make improvements in certain areas but stated that many items in the report are inaccurate representations of the School's activities.

Report on Current Financial Position

The School has experienced fiscal stress since its Charter was first granted in January 2001. The School's grant for the period September 1, 2000 through August 31, 2001 has been the School's primary source of funds. The only other revenues reflected in the School's accounting records were $350 in donations. The School also received over $9,000 from its institutional partner in the form of expenditures paid by it on the School's behalf. The School, however, did not record either the expenditures or the corresponding loan or donation in its accounting records.

Records provided by the School, which are incomplete and inaccurate, show a cash balance on hand of about $37,000 as of December 31, 2001. However, the School owed the Department $46,601 for grant funds received in excess of reported expenditures. The School repaid $37,000 of this amount, but School officials stated that the School does not have the money to repay the remaining $9,601 currently outstanding and overdue. This audit has identified an additional $4,981 in non-reimbursable expenditures which the School needs to reimburse. In addition, the School is continuing to incur expenditures. According to School officials, these expenditures include the cost of an independent auditor retained to prepare the financial statements for the year ended June 30, 2001, and the cost of a school business consultant retained to bring the School's accounting records up to date.

In its application for the grant, the School stated that a bank had agreed to provide the School with a $50,000 bridge loan to fund expenditures not included in the grant. In addition, the School stated that it would apply for financial support from private and corporate foundations as well as State and federal sources. The projected budget in the School's Charter application also includes a $45,000 bank loan. However, the School did not obtain a bank loan and Board minutes do not indicate that any other funding was actually sought.

Because the School's accounting records are incomplete and inaccurate, the audit cannot determine the precise amount of the School's current deficit. However, the audit estimates that the School has a deficit of at least $14,582 but possibly as much as $30,000.

Report on Adequacy of the School's System of Management Controls

> *"Management controls, in the broadest sense, include the plan of organization, methods, and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance."*
>
> *Government Auditing Standards, 1994 Revision*

Section 5 of the School's Charter requires the School to maintain appropriate governance and management procedures and financial controls. The audit identified numerous opportunities for the School to improve its management controls. The following sections discuss these opportunities including Board governance, business management, and financial reporting.

Board Governance

A charter school's board is responsible for overseeing and managing the school's affairs, personnel and properties, and has ultimate responsibility for the fiscal health and stability of the school. A board has the final authority for policy and operational decisions of its school, though nothing prevents a board from delegating decision-making authority to its officers and employees of the school. Individual members of a school's board may not act in place of the board, except as the board specifically delegates, as stipulated by its charter.

The Board and Its Officers

The School's Charter states that the School will form a Board of Trustees which, during the first year from the time that the Charter is effective, will consist of the individuals specifically identified in the Charter Application, together with such other additional members who are duly elected and appointed. Further, all individuals elected or appointed to the Board shall possess the qualifications for such position as set forth in the application. The Board did not properly elect its officers, did not elect initial members to specific terms, did not maintain the original members for the required period of time, did not elect new Board members promptly, and did not appoint a Treasurer upon the resignation of the former Treasurer.

- The Board minutes must reflect all official actions taken by its members and should indicate which members were present or absent. At its first meeting, the Board appointed its officers, although the minutes do not reflect any resolution to this effect. In addition, the minutes do not distinguish Board members from non-Board members, and do not reflect the names of absent members.

- The minutes do not reflect the terms of office for any of the Board members, even though the initial trustees must be elected for terms of one to three years so that as nearly as possible an equal number will be elected each year thereafter. At the April 17, 2001 meeting, a new Board member was elected but the term was not specified. A list of the initial Board members shows each with a three-year term of office.

- Board members are expected to attend all regularly scheduled Board meetings insofar as possible, and to inform themselves on the issues to be considered at those meetings. The Board minutes do not reflect the attendance of two of the initial Board members at any Board meetings. One of these individuals resigned April 20, 2001, and the other's resignation is not reflected in any Board minutes.

- The Treasurer of a board is responsible for the fiscal affairs of a school, including the accounting records, banking, and financial reporting. A Board member assumed the Treasurer's position on the Board at its inaugural meeting of February 6, 2001. The Treasurer resigned from the Board five months later and, as of our December 4, 2001 site visit, had not been replaced. As a result, the School has not had any one Board member responsible for the fiscal affairs of the School. According to School officials, a new Treasurer has since been appointed.

Comprehensive Fiscal Policy

Section 5 of the Charter requires the School's full Board, once established, to adopt a comprehensive fiscal policy manual. A draft copy of the manual (*Draft Financial Policies and Procedures*) is included as Attachment 5-B of the Charter. The Board minutes do not refer to the preparation or approval of any comprehensive fiscal policy manual. Further, the Board and its members did not adhere to the *Draft Financial Policies and Procedures*. For example:

- financial statements were not prepared on a monthly basis and reviewed by the Board,
- check signing procedures were not established by the Board,
- bank accounts were not reconciled on a timely basis,
- a payroll system was not developed,
- the Board did not approve (revise) an annual operating budget for the current year,
- the School did not maintain a capital depreciation account,
- an independent audit was not conducted,
- insurance coverage was not obtained, and
- the borrowing of funds from the institutional partner was not approved by the Board.

The minutes of the November 13, 2001 Board meeting state that the Project Manager "took the liberty to amend financial policy and procedures…" However, the Board had not previously approved any policy or procedures, the amendment was not in the minutes, and no vote was taken to approve the amendment. As a result, the School has no Board approved financial policy or procedures.

Business Management

The School's Charter required the School to hire a professional business manager to oversee the day-to-day financial management of the School. Further, the Charter required the School to adhere to all generally accepted accounting principles, and to prepare certain internal fiscal reports. The School has not hired a business manager or fully accessed available grant funds for a business consultant, has not maintained complete and accurate accounting records, and has not prepared the internal fiscal reports.

Business Manager

A business manager should be responsible for ensuring those fiscal policies and procedures established by the Board are executed properly and that funds are expended in accordance with federal and State law. A business manager should be responsible for facility management, working with the Board on fundraising, grants management, purchasing and other business transactions, maintaining records, coordinating with the local school district, and serving as the personnel officer of the School. The School has not begun operating as planned and has not generated sufficient revenues to hire a business manager. The School's grant included $6,000 for a business consultant, but the School spent only $1,150 of this amount for business services.

Accounting Records and Reports

The School is required to maintain accounting records and to develop a payroll system. Bank accounts should be reconciled in a timely manner and financial statements should be prepared on a monthly basis and at other times as needed. An operating budget should be prepared and then approved by the Board. The School did not maintain adequate accounting records, did not develop a payroll system, did not reconcile bank accounts in a timely manner, did not prepare timely or accurate monthly financial statements, and did not prepare an operating budget.

- Accounting records should be prepared in accordance with generally accepted accounting principles in effect for not-for-profit corporations. At a minimum, books of account should include a general ledger, cash receipts journal, and cash disbursements journal. Records should be comprehensive, accurate, and current. Although the School's Charter was granted January 10, 2001, its accounting records were limited to the School's checkbook register for the first 10 months. No running totals or totals of any kind were shown in this register.

  In October 2001, a consultant to the School prepared accounting records for the period February 1, 2001 through August 31, 2001, re-created from information contained in the check register and on bank statements. The accounting records are incomplete, inaccurate, and do not reflect the School's fiscal year. For example, the Balance Sheet and General Ledger Trial Balance reflect accounts payable of $2,563, but the schedule of accounts payable, which does not appear to be connected to the other accounting records, reflects accounts payable of $12,869. In addition, because these accounting records were re-created from information contained in the check register and bank statements, they do not reflect over $9,000 in expenditures paid on behalf of the School by its institutional partner, or the corresponding loan or donation from the institutional partner. As of the audit's December 4, 2001 site visit, no accounting records, other than the check register, had been prepared since the month ending August 31, 2001.

The School subsequently submitted certain accounting records for the period October 1, 2001 through December 31, 2001. These accounting records are also incomplete, inaccurate and do not reflect the School's fiscal year. For example, the Balance Sheet for December 31, 2001 shows retained earnings of $6,664 and net income of $30,562 (or a total fund balance of $37,226). However, because the School incurred ineligible grant expenditures and had little other income, the School actually had no net income and a negative fund balance. The December 31, 2001 Balance Sheet also reflects no assets other than cash and no liabilities. However, the School had spent $6,740 for computer equipment (assets) and owed the Department $46,601 for payments received in excess of reported grant expenditures (liabilities) at that time. Finally, the income statements continue to reflect a fiscal year ending August 31, but the School's fiscal year ends on June 30.

- The School is required to develop and the Board must approve a payroll system. Although the School was scheduled to begin operations in September 2001, it had not developed a payroll system, and still has not done so as of the date of this report.

- The School is required to complete a reconciliation of each School account within 60 days of receipt of the bank statements. As of October 25, 2001, the School's consultant prepared account reconciliations for the months ending February 28, 2001 through August 31, 2001. As of the audit's December 4, 2001 site visit, reconciliations for the subsequent three months had not been completed. The School prepared reconciliations in January 2002 for the months ending October 31, 2001 through December 31, 2001, but none for the month ending September 30, 2001.

- Section 5 of the School's Charter requires the business manager to prepare monthly balance sheets and accounts payable statements for review by the principal and finance committee of the Board, and for presentation to the full Board. The Charter also requires the School's principal and business manager to develop the School's operating and programmatic budgets for review and approval by the

Board. Because the School is not operational, it has no business manager or principal. Also, the Board established no finance committee. Although a consultant to the School prepared monthly reports, these reports, like the accounting records on which they were based, are incomplete, inaccurate, and do not reflect the School's fiscal year. Also, the School did not prepare any operating budgets. Further, minutes of Board meetings do not indicate that monthly reports were submitted or discussed by the full Board.

Financial Reporting Requirements

Charter schools are required to submit certain financial reports to the Department. The School did not submit certain required reports, submitted inaccurate reports, and submitted reports in an untimely manner as follows:

- Section 5.1 of the School's Charter required the School to provide an initial statement to its Board no later than October 12, 2001, and to the Regents (along with any remedial plans) within 45 days of that date. An initial statement is a review by a certified public accountant (CPA) of the School's management and financial controls. The statement should address whether the School has generally accepted accounting principles, adequate payroll procedures, and procedures for the creation and review of the quarterly financial statements. The School has not submitted any initial statement, nor has it engaged a CPA to do so.

  According to School officials, they only realized in October 2001 that an initial statement was due at that time, despite the Department sending reminder letters in February and April 2001 to that effect. Also, the School did not have adequate operating funds to engage a CPA to prepare this statement.

- Section 5.2 of its Charter requires the School to prepare and submit to the Regents unaudited statements of income and expenditures for each quarter of the fiscal year for the School's first year of operations. Although the School submitted quarterly reports, they were inaccurate.

  Transactions not properly recorded in the accounting records are not reflected in the reports. For example, the reports do not reflect $9,020 in gifts or loans from the School's institutional partner, or the corresponding expenditures paid by the institutional partner on behalf of the School.

The quarterly report for the period ending August 31, 2001 spans two different fiscal years, although it is presented as all belonging to a fiscal year ending August 31, 2001. The report for the period ending December 31, 2001 does not reflect computer equipment (an asset) or the grant repayment due to the Department at that time (a liability). Also, it reflects a positive rather than the actual negative fund balance.

At the time of the audit's December 4, 2001 site visit, School officials were not aware that the quarterly reports, as submitted, did not conform to the School's fiscal year or otherwise meet the Charter's requirements. However, even though School officials were advised of these exceptions at that time, the subsequent report contains the same and additional exceptions.

- Section 5.3 of the Charter requires the School to retain an independent CPA to perform an audit of the School's annual financial statements. Further, the Charter requires the School to submit the audit report, along with a corrective action plan, to the Regents within 120 days of the end of the Charter's fiscal year (or by October 31, 2001).

  According to School officials, they decided not to engage a CPA to perform an audit in July 2001 after they knew the School would not be opening in September 2001. Further, they did not understand that the audit was required regardless of whether the School was operational at that time. According to School officials, the required audit was initiated January 11, 2002.

- Section 5.5 of the Charter requires the School to provide the Regents with a revised annual budget and cash flow projection for fiscal year 2001-02 not later than July 2, 2001 because projections differ in material respects from those in the Charter application. The original budget and cash flow were based on a 2001-02 student enrollment of 148 students and the resulting revenue, as well as a $125,000 grant. The School has not revised its budget or cash flow projections to reflect that the School did not open in September 2001 as planned, and that no grant funds for the current year have yet been received. At the time of our December 4, 2001 visit, School officials did not know they were required to revise the budget and cash flow statement. In addition, they did not realize that the budget and cash flow projections were no longer accurate and did not understand that the School would not be receiving any payments from any school districts until the fiscal year in which students were actually attending the School.

Report on Accuracy of Grant Expenditures and Compliance with Grant Requirements

The School was awarded a $149,813 planning grant from funds authorized by the Public Charter Schools Program. The grant was based on an application that included a project narrative, a proposed budget, and a Statement of Assurances. The application process is designed to assist applicants in planning for necessary grant expenditures and to ensure that the expenditures have received the Department's prior review and approval. During the grant period, recipients are required to periodically report their expenditures and may request additional payments up to 90 percent of the approved budget total. At the conclusion of the grant period, recipients are required to submit a Final Expenditure Report (final report) to the Department. The final report serves as a basis for the determination of any final approved expenditures or the recovery of disallowed costs. The Statement of Assurances, signed by members of the Board, states that failure to adhere to any of the assurances may constitute grounds for the termination of the grant award, the refund of grant payments, and/or the revocation of the School's charter.

The School initially reported $88,230 in grant expenditures and subsequently reported $8,444 in additional expenditures for a total of $96,674. This total includes $13,425 in non-reimbursable expenditures for services not encumbered during the grant period, duplicate payments, and sales tax resulting in a net allowance of $83,249. The School received $134,831 in grant funds and, as a result, needs to reimburse the Department $51,582. The School has repaid $37,000 of the amount due leaving a balance due of $14,582.

Reported grant expenditures also include $73,714 in questionable expenditures including self-dealing transactions, agreements not approved by the Board, dubious work product, and payments for items exceeding the budgeted amounts. Additionally, the School did not comply with certain provisions of its Charter, the Department's guidelines for fiscal management of the grant payments, and the assurances it made in the grant application.

Ineligible Grant Expenditures

According to the Department's *Fiscal Guidelines for Federal and State Aided Grants* (Guidelines), expenditures eligible for reimbursement must be necessary and reasonable for proper and efficient operation of the program, conform to the limitations of the Guidelines, and constitute the net amount of adjustments for overpayments of grant funds. The School reported $13,425 for expenditures not eligible for reimbursement including $9,944 for expenditures not spent or obligated during the grant period, $3,000 in duplicate payments to a consultant, and $481 in sales tax. Refer to Exhibit 1.

Expenditures Subsequent to the Grant Period

The Guidelines require all grant expenditures to be made within the approved grant period. The period approved for the School's grant was September 1, 2000 through August 31, 2001. The date on which an encumbrance or obligation for a non-personal service expenditure is eligible for reimbursement is the date when the binding written commitment to obtain the work is executed, if prior to the end date of the grant period. The School reported $9,944 for items not spent or obligated within the funding period. Some examples follow:

- The School made payments totaling $5,328 for a project manager after the grant period ended.
- The School reported paying $2,000 to an outside consultant three months after the grant period ended.
- The School paid $1,500 for public relations consulting services several weeks after the grant period ended.

Duplicate Payments

According to the Guidelines, reimbursable costs must be necessary and reasonable for proper and efficient operation of the program and must constitute the net amount after adjustments for overpayments. An outside consultant billed the School twice for the same service (production of an *Information Guide for Teachers*). As a result, the School overpaid the consultant and overstated grant expenditures by $3,000. The School should obtain a refund from the consultant for the overpayment.

Sales Tax

According to the Guidelines, tax exempt agencies will not be reimbursed for New York State sales tax charges. However, the School, a tax exempt entity, claimed $481 in sales tax related to equipment purchases.

Questioned Expenditures[1]

The School purchased services for various kinds of activities such as production of a newsletter, public relations, web site development, etc. Many of these services were purchased from the Vice President of the Board. Board members did not review or approve any agreements executed on the School's behalf. In fact, work products to be delivered were often vague and the cost for the work performed was not based on any form of work measure or unit cost. Finally, the School exceeded its line item grant budget in several instances. Expenditures questioned by the audit total $73,714.

Self-Dealing Transactions

According to Article 10 of the Charter bylaws, "…(a) self-dealing transaction means a transaction to which the (School) is a party and in which one or more of the Trustees has a material financial interest." Such transactions are prohibited, "…except as approved by the Board." Furthermore, Section 7.2 of the Charter precludes transactions with Board members unless the terms, "…are no less favorable than those that could be obtained …from (another) person."

The School reported payments of $37,050 to the Board Vice President for consulting services under the terms of two agreements that were not reviewed or approved by the Board. The School made additional payments totaling $10,000 to the Vice President that were neither approved by the Board nor reported to the Department. Furthermore, the School did not attempt to determine whether the services might have been procured under more favorable terms from an outside party.

[1] Questioned Expenditures: An alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditures of funds; a finding that, at the time of the audit, such cost is not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. *Source: Inspector General Act of 1978*

As such, the School did not comply with the terms of the Charter in establishing these agreements.

Agreements Not Approved by the Board

According to Article 3 of the Charter Bylaws, the Board is empowered to "…enter into contracts, leases, and other agreements which are, in the Board's judgment, necessary or desirable in obtaining the purposes or promoting the interests of the (School)." Under the provisions of Article 11, "…no officer, agent, or employee shall have any power to bind the (School) by any contract or agreement, to pledge the (School's) credit, or to render it liable monetarily for any purpose or any amount..." unless authorized by the Board through the adoption of a resolution. Article 6 obligates the Board members to exercise, "…diligence, care and skill, including reasonable inquiry…" in the performance of their duties.

The Board did not approve agreements under which the School made payments for public relations, community outreach, legal, project management, education, business, bookkeeping, and other services. Furthermore, the Board did not authorize, by resolution, an agent to act in its behalf in the engagement of the services. Board members were unaware of the Charter's provisions and, as a result, the School made payments totaling $86,835 under the terms of agreements that the Board did not review or approve, including those made to the Board's Vice President. Some examples follow:

- The School reported $22,000 in payments for services related to public relations, including $19,050 to the Vice President.

- The School reported $18,000 in payments to the Board Vice President for community outreach activities.

- The School reported $11,328 in payments for project management consulting fees.

- The School reported $11,113 in legal fees.

Questionable Work Product

The School purchased services without having specified the unit cost and work measure for those services. The deliverable work products of several agreements and invoices were vaguely described and dollar values were often not assigned to individual items. Because the Board did not review or approve transactions, the School risked paying for: services it did not receive; services of questionable quality; or services duplicated by other parties.

The School paid the Board Vice President $37,050 for public relations and community outreach activities. For example, the Board Vice President agreed to do the following:

- Develop a School web site. This service was not performed.

- Produce a School newsletter on a periodic basis. Neither the Board Vice President nor another consultant who had been paid for the same service performed this service during the grant period. Distribution of the first edition was reportedly scheduled to begin in December 2001.

- Develop a public relations planning calendar for the 2001-02 school year. The School also paid another consultant for this service.

- Prepare a School "fact sheet." The School also paid another consultant for this service.

Since the Board never approved the agreements with its Vice President, and since the work product is questionable, the Board would be within its authority to hold its Vice President personally liable. Other examples of questionable work products follow:

- The School paid another consultant to prepare reports for the Board Vice President describing the Vice President's consulting activities.

- The School did not engage the services of the project manager until the month prior to the close of the funding period. As such, the School could not reasonably expect the consultant to effectively accomplish many of the agreed items. Several services were not received.

- The School paid the project manager to develop a planning and implementation schedule. The schedule did not apply to the funding period. Furthermore, it incorrectly stated that the School had established an accounting system with internal controls and assigned primary responsibility for all fiscal matters.

- The School paid outside consultants for the preparation of two manuals, both of which were substantially reproduced from sources on the Internet. Also, one of the manuals, a *Board of Directors Training Manual,* includes information that contradicts the School's Charter.

Payments for Items Exceeded the Budgeted Amounts

The School reported expenditures on the final reports and subsequent correspondence for certain items that greatly exceeded the budgeted amounts, as noted in the following table.

Table 2: Budget Variances

Description of Service	Budget Amount	Reported Amount	Variance	Percent Variance
Project Management	6,000	11,328	5,328	88.8
Travel Expenditures	1,800	3,026	1,226	68.1
Education Consulting	12,000	18,550	6,550	54.6
Public Relations Consulting	16,000	22,000	6,000	37.5
Legal Services	8,840	11,113	2,273	25.7

Sources: Budget and final reports as submitted by the School, and audit review of expenditures

As already noted, some of the above amounts will be disallowed because they were not encumbered during the grant period.

School Expenditures

The School was required to report expenditures and request additional payments on the *Request for Funds for a Federal or State Project* (Request for Funds). On a Request for Funds, dated August 29, 2001 and certified by the Board Vice President, the School reported that it had expended $82,026 in grant funds and requested an additional $67,847, representing expenditures anticipated in the following month. Because the School was eligible to receive only 90 percent of its budget total prior to submission of the final report, the Department reduced the payment amount to $52,805. The Department paid the School a total of $134,831 prior to the School's submission of its final reports.

A review of the School's financial records indicated, however, that the School had expenditures totaling $63,882 as of August 29, 2001, or $18,144 less than the expenditures reported to the Department. Subsequently, the School reported total expenditures of only $88,230 for the grant period. Because the amount paid to the School exceeded the total expenditures it reported on the final report, the Department requested a refund of the difference, $46,601. However, the School has returned only $37,000, stating that it had "overspent" the remainder. Subsequent to its submission of the final report, the School reported additional expenditures of $8,444. Those expenditures are disallowed because they were not encumbered during the funding period.

The School submitted documentation to the Department with its repayment that contradicts financial records reviewed by the audit and also contradicts the most recent financial records provided by the School. The documentation indicated that two checks totaling $10,000 and made out to the Board Vice President in October 2001 were voided. However, both the bank records and the most recent financial records show that both checks were cashed and cleared and that the Board Vice President returned the $10,000 several weeks later. In addition, the documentation and the most recent financial records do not reflect private contributions that the Board Vice President said were made in December 2001. Because of the nature of the School's present financial position, the audit questions the School's ability to pay the overdue refund balance and costs disallowed by the audit and due the Department.

Compliance with Assurances Made in the Grant Application

The School is required to comply with the provisions of its Charter, the guidelines and the Statement of Assurances. As previously discussed, the School has not complied with certain provisions of its Charter and the Guidelines. The School has also not complied with assurances it made in its grant application, as noted below.

- The Board President certified that the School possessed "…the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project." During the grant period, the Board experienced a turnover in its membership and lost the services of its education and business systems consultants. The Treasurer's position was vacant since July 2001 and has only recently been filled. A project management consultant was not hired until the month prior to the close of the grant period. The Board did not monitor the work of its outside consultants. As a result, the School made payments for services it did not receive, services of questionable quality, and duplicative services. The School has no operating funds. Its revenue sources, other than a small amount of donations, consisted solely of the planning grant payments.

- The Board President certified that the School would "…establish a proper accounting system in accordance with generally accepted accounting principals." The approved budget included $7,200 to engage the services of a Business Systems Consultant and a CPA who would establish an accounting system. Though the School expended $1,000 in grant funds for an outside contractor who performed certain bookkeeping functions, the School did not contract with the CPA and has not established an accounting system that conforms to GAAP and the terms of the Charter.

- The Board President certified that the School would "…establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain." Furthermore, in the approved budget narrative, the grant applicants indicated that a portion of the proposed expenditures for legal services would be used for the review of contracts. The Board did not review or approve two agreements that the School entered with the Board Vice President, nor did it seek legal counsel before entering those agreements. Furthermore, the Board Vice President signed checks made out to the project manager, whose duties included monitoring the work of the School's consultants, one of whom was the Board Vice President.

- The Board President certified that the School would "…initiate and complete the work within the applicable time frame…" upon approval of the application. The School did not accomplish significant quantities of the work for which grant funds were approved. The work included the hiring of a principal and teachers, the procurement and preparation of classroom space, the acquisition of classroom furniture and education supplies, the establishment of accounting and payroll systems, and the development of various planning schedules for the grant period.

Conclusion and Recommendations

Conclusion

The School's financial position is unstable. The School does not have an operating budget or any material source of funds other than the grant provided by the Public Charter School Program. The School's accounting records are incomplete and inaccurate. The School has an operating deficit, but the amount cannot be determined from the School's accounting records.

The School's Board has not fulfilled its governance role for the direction, operation, assets and fiscal well being of the School. The Board did not adhere to its Charter and individual Board members were not adequately familiar with the terms of Charter. The Board did not collectively possess or obtain the fiscal expertise to ensure that financial resources were being used efficiently and effectively toward meeting the School's goals, and that its assets were properly safeguarded. Although the Department sent letters to the School reminding the Board of its responsibilities, the Board did not monitor the School's financial status, review and approve consultant agreements, or prevent conflict of interest transactions.

The School did not comply with the terms of its grant, incurred non-reimbursable and questionable expenditures, overspent grant funds, and is unable to repay grant funds of $14,582 currently outstanding and due to the Department.

Recommendations

1. Submit certified financial statements for the period ending June 30, 2001.

2. Ensure all accounting records are accurate and current.

3. Determine the current amount of the School's fund balance.

4. Ensure the School maintains adequate systems of management controls and conforms to its Charter.

5. Make restitution of $14,582 to the Department representing overpayment of grant funds.

Comments of School Officials

School officials did not specifically address the audit recommendations in their response to the audit report. However, they acknowledge that they need to make improvements in certain areas, and state that they have already begun to make changes.

School officials state that many items in the report are inaccurate representations of the School's activities. They state that the Board reviewed and approved all consultant agreements and all activities and purchases made by its Vice President on the School's behalf, but failed to record these actions in the Board minutes.

In addition, School officials state that the audit report does not take into consideration that the planning and implementation stage of a charter school is often a time of testing, trial and error, and learning and growth.

Appendix A

Contributors to the Report
Austin L. Carr Charter School

- Rosemary Johnson, CPA, Audit Manager
- William Mapes, Senior Auditor

Appendix C

Auditor's Notes

(1) Minutes from Board meetings include no such resolution. However, according to the August 31, 2001 Board minutes,

> A resolution was placed on the table to confirm the hiring of consultants, past and present, with written contracts that would specify the duties to be performed or work product to be delivered, timeframe for completion of contract and total fee to be paid. Within this resolution, it was decided that Lynn Carr would continue the vital work of Community Outreach Consultant and Public Relations Consultant for the term commencing September 1, 2000 and ending August 31, 2001.
>
> *August 31, 2001 Board Minutes*

The minutes include no actual resolution, voting results, or approved contract. Also, the minutes indicate a discussion of a retro-active approval of the Vice President's consulting services.

(2) According to the School's By-Laws, the term of office for the Community Trustees (non-parent members) is three years, provided that the initial trustees shall be elected for terms of from one to three years so that as nearly as possible an equal number will be elected each year thereafter.

(3) As shown in Exhibit 1 of this report, the audit questioned but did not disallow the $6,000 initially claimed for the project management consultant on the final expense report. However, the audit did disallow the additional $5,328 claimed for this consultant on subsequent expense reports because this additional amount was neither spent nor encumbered during the grant period. Although the audit questioned the $1,150 business management consultant expense because the Board did not approve it, the audit did not disallow any of this expense.

(4) The audit agrees that the computer equipment cost (excluding sales tax) did not exceed the budget amount. However, the equipment is an asset of the School, and should have been reported as such in the School's accounting records.

(5) The School's Charter defines the fiscal year as July 1 of each calendar year through June 30 of the subsequent calendar year. This definition is not dependent upon the School being in operation.

(6) Refer to Auditor's Note #3. Also, the School has provided the audit with no documentation showing that the Board approved or signed a contract for the project management consultant. According to Board minutes, the July 31, 2001meeting was adjourned due to lack of a quorum. According to the August 31, 2001 Board minutes, "a resolution was placed on the table to confirm the hiring of consultants, past and present, with written contracts that would specify the duties to be performed or work product to be delivered, timeframe for completion of

contract and total fee to be paid." The minutes include no actual resolution, list of consultants to be approved, or voting results. In addition, the School provided the audit with a copy of a project management contact proposal with a contact ending date of August 31, 2002 and a $6,000 fee. School officials did not sign this proposal.

(7) Accounting and bank records show that both check no. 118 for $3,000 and 127 for $5,000 were issued to the consultant. The $3,000 payment was for the preparation of a teacher manual. The $5,000 payment was for several services including the preparation of a teacher manual. Therefore, a duplicate payment was made for this service.

Appendix D

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF AUDIT SERVICES
AUDIT REVIEW PROCEEDINGS

Requests for Audit Review

It is the policy of the State Education Department to consider for review matters of significant disagreement which result from a final audit report issued by the Office of Audit Services.

An organization requesting an audit review must make a written application to the Associate Commissioner for Planning and Policy Development, New York State Education Department, Room 128 EB, Albany, New York 12234 within 30 days of receiving the final audit report. An organization may request a review of an audit whenever the final audit report directs the recovery of funds from the organization and one or more of the following conditions is met:

- Recovery of funds would cause immediate and severe financial hardship to the organization, thereby affecting the well-being of program participants;

- The organization's violation was caused by erroneous written guidance from the State Education Department;

- The State Education Department failed to provide timely guidance on the matter or condition when the organization had previously requested such guidance in writing; and/or

- The report contains errors of fact or misinterpretation of laws, statutes, policies or guidelines.

Organizations requesting an audit review must submit a written application describing how one or more of the above conditions have been met. This application must include all evidence and information the organization believes are pertinent to support its position.

An audit report which recommends improvements in internal controls of administrative or financial systems, but has no material financial impact on the organization, will not be considered for an audit review proceeding.