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HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 435

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1504, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1504. Audit.

(a) The Auditor of Accounts shall each year as soon as possible after July 1 audit the business and financial transactions, records, and accounts of the Department of Education, the State Board of Education, the Delaware Center for Education Technology, the Delaware Advisory Council for Career and Vocational Education, ~~and~~ the boards of education of the school districts, and, if required by 513(d) of this title, the charter schools created under Chapter 5 of this title.

Section 2. Amend § 513, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 513. Reporting and oversight.

(a) On or before December 1, each charter school shall produce an annual report for the school year ending the previous June, which shall include all of the following:

(1) ~~Discuss~~ An explanation of the school's progress in meeting overall student performance goals and ~~standards; standards.~~

(2) ~~Discuss~~ An explanation of the innovation occurring at the charter school, including but not limited to the areas of curriculum development, instruction, student culture and discipline, community and parental involvement, teacher and staff development, school operations and management, and extracurricular and after-school ~~programming;~~ and programming.

(3) ~~Contain a financial statement~~ A copy of the school's annual financial audit report, as required under subsection (d) of this section, and a copy of the school's standardized financial report setting forth by appropriate categories the school's revenues and expenditures and assets and liabilities.

(4) In the case of a single gender school, ~~the report shall include~~ an explanation of the efforts made by the charter school to further advance its students' education and a quantitative analysis of its efforts and results in recruiting and retaining economically-disadvantaged students, regardless of race.

(b) ~~Each~~ Notwithstanding subsection (a), each charter school seeking renewal of its charter shall produce the annual report ~~as outlined above~~ described in subsection (a) on or before ~~September 30~~ October 1 of the final year of its current charter term. The approving authority may, in its discretion and for good cause shown, elect to accept an annual report submitted subsequent to this deadline.

(c) To ensure that ~~such~~ annual reports under this section provide parents and approving authorities with clear and comparable information about the performance of charter schools, the Department of Education shall prescribe a uniform format for such reports, and the standardized financial report required to be included in such reports, which may be supplemented by requirements set by the approving authority for schools it has chartered.

(d)(1) ~~The~~ Unless subject to an audit by the Auditor of Accounts under paragraph (2) of this subsection, the board of directors of each charter school shall contract to have an audit of the business and financial transactions, records, and accounts after July 1 for the prior fiscal year. The results of the audit shall be shared ~~with the Department of Education by October 1~~ by October 1 with the Department of Education, the Auditor of Accounts, the Division of Accounting, and the citizen budget oversight committee established under § 1508 of this title.

(2) The Auditor of Accounts shall conduct or contract for an audit of the charter school's business and financial transactions, records, and accounts after July 1 for the prior fiscal year in the event the charter school has any of the following:

a. A financial audit opinion with any of the following in any of the prior fiscal years under the current charter term:

1. Material exceptions.

2. A going concern disclosure in the notes or in an explanatory paragraph related thereto.

3. A finding of material weakness on either internal control or compliance. For purposes of this paragraph, "material weakness" means a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis.

b. Has failed to maintain a current status with Internal Revenue Service Form 990 filings, if said filings are required of that charter school.

c. Has existed for a total of less than 5 years under its current and prior charter terms.

(3) If, however, a financial audit opinion of paragraph (d)(2)a. of this section is not the required annual audit and is, instead, performed at the request of the board of directors of its own volition and then provided to the Auditor of Accounts, then that financial audit opinion shall not form the basis for the Auditor of Accounts conducting or contracting the audit under paragraph (d)(2) of this section.

(e) The contract required by subsection (d)(1) of this section must be publicly bid no less than every 5 years and must provide for all of the following:

(1) That the auditor shall, at all times during the term of the contract, hold a valid certified public accountant permit to practice license in Delaware.

(2) That the auditor shall be peer-reviewed by the American Institute of Certified Public Accountants (AICPA) at least every 3 years, and the most recent review shall have been completed with an unqualified opinion.

(3) That the audit shall meet the requirements and standards of generally-accepted government auditing standards.

(4) That the audit required by subsection (d) of this section shall include any additional specific audit procedures which have been established in advance by the charter school or the State Auditor, or both, and which apply to the specific charter school or which the State Auditor has established for all school districts and charter schools.

(f) A charter school shall display on its website the annual report including financial statement and audit required by this subsection. A charter school shall also display on its website all standardized financial report forms for the current fiscal year and the final monthly standardized financial report forms for each previous fiscal year the 5 prior fiscal years of operation. Charter schools that are required to file Internal Revenue Service Form 990 shall post the current and prior year Form 990 on the website as well.

~~(b)~~(g) The annual report shall be submitted to the approving authority, the Department and the State Board. Employees of the school and parents of students attending the school shall receive a copy free of charge, upon request. The reports shall be public records pursuant to Chapter 100 of Title 29.

~~(e)~~(h) The Department of Education, the State Board, and the approving authority may conduct financial, programmatic, or compliance reviews of a charter school. In cooperation with the Department, the approving authority shall conduct such reviews no less often than every 3 years. ~~The State Auditor shall conduct an audit of all charter school funds annually on the same basis as applied to regular school districts.~~

~~(d)~~(i) The Department of Education shall notify the superintendents of all reorganized and vocational-technical school districts of receipt of new charter school applications within 30 days of the close of the application deadline. The

81 Department of Education shall also notify the superintendent of a reorganized school district of any applications for a major
82 charter modification submitted by a charter school with a facility located within their district.
83 ~~(e)~~(j) Local school boards shall notify the superintendents of all reorganized and vocational-technical school
84 districts of receipt of new charter school applications within 30 days of the close of the application deadline.

SYNOPSIS

This Act seeks to strengthen certain aspects of Title 14 of the Delaware Code with respect to charter school audits and seeks to improve the relevant sections of the Title for consistency and cross-reference of terms. The Act allows charter schools to contract for an audit, unless the State Auditor has to perform the audit due to any of the specified circumstances.