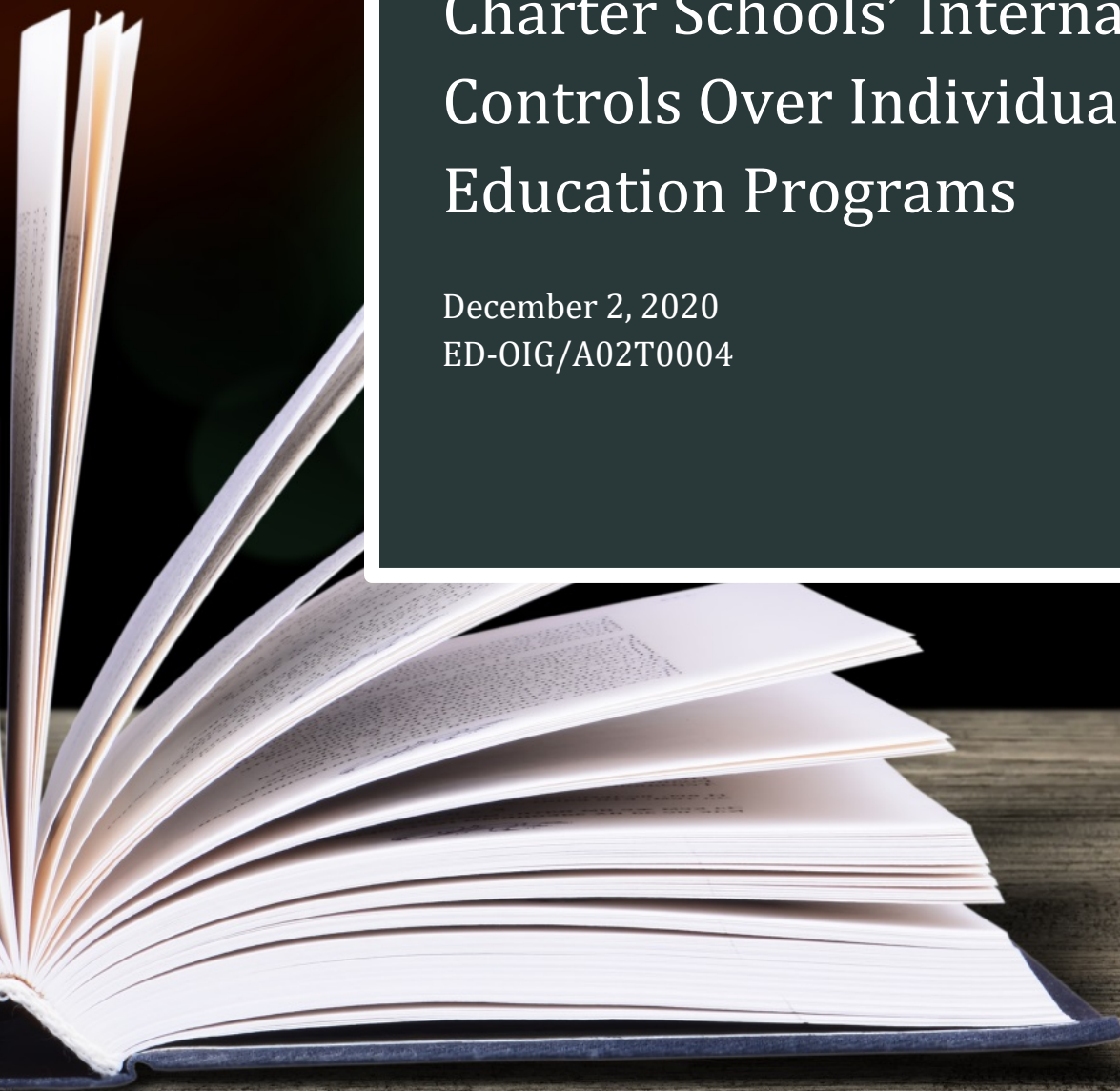




U.S. Department of Education  
Office of Inspector General

# Pennsylvania Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs

December 2, 2020  
ED-OIG/A02T0004



## NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. The appropriate Department of Education officials will determine what corrective actions should be taken.

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UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL

Audit Services

December 2, 2020

Honorable Noe Ortega  
Acting Secretary of Education  
Pennsylvania Department of Education  
333 Market Street  
Harrisburg, PA 17126

Dear Acting Secretary Ortega:

Enclosed is our final audit report, "Pennsylvania Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs," Control Number ED-OIG/A02T0004. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department of Education official, who will consider them before taking final Departmental action on this audit:

Mark Schultz  
Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

The U.S. Department of Education's policy is to expedite audit resolution by timely acting on findings and recommendations. Therefore, if you have additional comments, we would appreciate receiving them within 30 days.

Sincerely,

/s/

Alyce Frazier  
Regional Inspector General for Audit

Enclosure

# Table of Contents

Results in Brief .....	1
Introduction .....	4
Finding 1. The Pennsylvania Department of Education Generally Had Sufficient Internal Controls Over LEA IEP Development and Service Delivery for Students with Disabilities, But Could Strengthen Its Monitoring Process .....	9
Finding 2. Pennsylvania Virtual Charter School Had Sufficient Internal Controls Over IEP Development and Delivery of Services .....	14
Finding 3. Commonwealth Charter Academy Did Not Have Sufficient Internal Controls Over IEP Development and Delivery of Services .....	19
Appendix A. Scope and Methodology.....	28
Appendix B. Acronyms and Abbreviations.....	35
Appendix C. PA Education Comments .....	36

# Results in Brief

## What We Did

Our audit objective was to determine whether the Pennsylvania Department of Education (PA Education) and selected Pennsylvania local educational agencies have sufficient internal controls to ensure that individualized education programs (IEP) are developed in accordance with Federal and State requirements for children with disabilities who attend virtual charter schools and that those students are provided with the services<sup>1</sup> described in their IEPs. The audit period was July 1, 2017, through June 30, 2018. Although this audit was not conducted in response to the 2019 Novel Coronavirus Disease (COVID-19) pandemic declared in March 2020, and is focused on services provided to students attending virtual charter schools during an audit period that preceded the pandemic, it nonetheless addresses issues and requirements intended to ensure that special education and related services are provided in accordance with Part B of the Individuals with Disabilities Education Act (IDEA) to students with disabilities in a virtual learning environment.

We judgmentally selected 2 of 15 virtual charter schools in Pennsylvania,<sup>2</sup> Pennsylvania Virtual Charter School and Commonwealth Charter Academy, to include as a part of the audit. We limited our scope to services provided to students with disabilities during the audit period.

Federal funds are provided to State educational agencies under IDEA. The State educational agencies must exercise general supervision over all educational programs for children with disabilities administered within the State to ensure that the education standards of the State educational agency and the IDEA requirements are met. Accordingly, the State educational agency is responsible for ensuring that all local educational agencies (LEA) receiving these funds, including virtual charter schools operating as LEAs, implement the IDEA requirements. The LEAs must ensure that each eligible child with a disability has an IEP that describes special education and any related services the child will receive to meet his or her educational goals.

To accomplish our objective, we reviewed relevant Federal and State laws, regulations, and guidance, and assessed PA Education's and selected virtual charter schools' internal controls over IEP development and service delivery. We also reviewed a stratified random sample of 50 student files at each virtual charter school to assess whether they

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<sup>1</sup> For purposes of this report, unless otherwise specified, when we refer to services we mean special education and related services.

<sup>2</sup> In Pennsylvania, each virtual charter school is considered a local educational agency.

developed IEPs in accordance with Federal and State requirements and provided students with the services described in their IEPs.

## **What We Found**

We determined that PA Education generally had sufficient internal controls to ensure that LEAs developed IEPs in accordance with Federal and State requirements for children with disabilities who attend virtual charter schools and that these students were provided with the services described in their IEPs. These internal controls included developing model policies and procedures; monitoring LEAs; and providing technical assistance, guidance, and training. However, we found that PA Education could strengthen its monitoring process to ensure that LEAs also have written procedures on how they implemented the model policies for IEP development and how they provided and documented service delivery for students with disabilities. (See Finding 1.)

Regarding the two virtual charter schools that we reviewed, we found that Pennsylvania Virtual Charter School had sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities and provided students with the services described in their IEPs. Specifically, Pennsylvania Virtual developed sufficient written procedures for IEP development and for documenting the delivery of services for students with disabilities. Pennsylvania Virtual also used standardized forms and quarterly reviews of samples of student files to monitor the virtual charter school's compliance with IDEA requirements. These internal controls helped ensure consistency in implementation among staff and compliance with Federal and State requirements. We found, through our testing of student files, that Pennsylvania Virtual Charter School did not convene the IEP meeting within 30 days of the eligibility determination for 1 (2 percent) of the 50 students we reviewed and did not maintain 1 related service provider monthly service log as required by its own policy for another student. Because these two noncompliance issues were not indicative of any systemic control weaknesses, we concluded that Pennsylvania Virtual Charter School's controls provided reasonable assurance of compliance with applicable Federal and State requirements. (See Finding 2.)

We found that Commonwealth Charter Academy did not have sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities and provided students with the services described in their IEPs. Specifically, Commonwealth did not have sufficient written procedures for IEP development and for documenting the delivery of services for students with disabilities. As a result, Commonwealth could not ensure consistency in implementation among staff and compliance with Federal and State requirements. We found, through our testing of student files, that Commonwealth Charter Academy did not hold the IEP meeting within 30 days of the special education eligibility

determination for 6 (12 percent) of the 50 students we reviewed. It also did not maintain sufficient documentation to support that all special education or related services, as outlined in each IEP, were delivered to 11 (22 percent) of the 50 students we reviewed. (See Finding 3.)

### **What We Recommend**

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require PA Education to—

- Develop a method to ensure that LEAs have written procedures that describe their processes for ensuring that they follow IDEA requirements for developing IEPs and delivering services.
- Ensure that Commonwealth Charter Academy develops written procedures that detail how it develops IEPs and documents the delivery of services described in the IEP for students with disabilities.

### **PA Education Comments**

We provided a draft of this report to PA Education for comment. In its comments on the draft report, PA Education did not dispute our findings and described corrective actions it plans to take to address our recommendations. PA Education stated that it will modify its monitoring process to ensure that LEAs have internal controls, such as written procedures, regarding how they implement PA Education’s model policy requirements for the development of IEPs and the delivery of services for students with disabilities. We did not make any changes to the report as a result of PA Education’s response. We summarize PA Education’s comments at the end of each finding and have included the full text of its comments at the end of this report (see Appendix C).<sup>3</sup>

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<sup>3</sup> We also received comments from the U.S. Department of Education’s Office of Special Education and Rehabilitative Services and Office of the General Counsel and made minor technical and clarifying edits throughout the report.



# Introduction

## Background

The U.S. Department of Education's (Department) Office of Special Education Programs (OSEP), within the Office of Special Education and Rehabilitative Services, is responsible for ensuring that children with disabilities, from birth through age 21, and their families receive access to fair, equitable, and high-quality education and services. OSEP provides formula grants to States for meeting the excess costs of providing special education<sup>4</sup> and related services<sup>5</sup> to children with disabilities under Part B of the Individuals with Disabilities Education Act (IDEA). OSEP monitors States' implementation of IDEA. Generally, Federal funds provided to States must be passed on to local educational agencies (LEAs).

Under IDEA, LEAs must ensure that a meeting to develop an IEP is conducted within 30 days of a determination that a child needs special education and related services (34 Code of Federal Regulations (C.F.R.) § 300.323(c)(1)). According to 34 C.F.R. § 300.321(a), the IEP team must include parents, educators, and an LEA representative, among others.

Under 34 C.F.R. § 300.320(a), the IEP must include, among other things,

- measurable annual goals designed to meet the child's needs that result from the child's disability;

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<sup>4</sup> Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability (34 C.F.R. § 300.39(a)). Specially designed instruction means adapting the content, methodology or delivery of instruction (i) to address the unique needs of the child that result from the child's disability; and (ii) to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children (34 CFR § 300.39(b)(3)).

<sup>5</sup> Related services means transportation, developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education. Related services include speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, social work services in schools, parent counseling and training, orientation and mobility services, and medical services for diagnostic or evaluation purposes (34 C.F.R. § 300.34).



- a description of how and when progress toward goals and objectives will be measured;
- details regarding the special education, related services and supplementary aids and services the child will be provided to meet his or her educational goals, including projected beginning and end dates of any services, frequency of the services, and where they will be delivered; and
- how the child will participate in general education programs with children in regular classrooms.

Additionally, at the beginning of each year, the LEA must have an IEP in effect for each child with a disability within the LEA’s jurisdiction. The child’s IEP must be reviewed at least annually, or more often if necessary, at an IEP meeting. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child’s IEP. The child’s IEP must be accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Each general education teacher, special education teacher, and provider must be informed of his or her specific responsibilities related to implementing the child’s IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP (34 C.F.R. § 300.323).

If a child with a disability (who had an IEP that was in effect in a previous LEA in the same State) transfers and enrolls in a new LEA in the same State, in the same school year, the new LEA (in consultation with the parents) must provide free appropriate public education to the child (including services comparable to those described in the child’s IEP from the previous LEA), until the new LEA either adopts the child’s IEP from the previous LEA or develops, adopts, and implements a new IEP that meets the applicable requirements.

### **Virtual Schools**

The August 2016 “OSEP Dear Colleague Letter Regarding Education of Children with Disabilities Attending Public Virtual Schools” cites the Department’s EDFacts information collection’s definition of virtual school as a public school that offers only virtual courses, provides instruction in which children and teachers are separated by time or location, has interaction that occurs via computers or telecommunications technologies, and generally does not have a physical facility that allows children to attend classes on site. If the virtual charter school operates as an LEA, its responsibilities include, but are not limited to

- ensuring that each eligible child with a disability receives free appropriate public education;

- implementing the evaluation and eligibility requirements;
- carrying out the IEP requirements; and
- implementing the requirements regarding education in the least restrictive environment, including ensuring the availability of a continuum of alternative placements to provide special education and related services.

According to OSEP’s Dear Colleague Letter, IDEA requires States to ensure that each LEA, including virtual charter schools, make available a free appropriate public education in the least restrictive environment<sup>6</sup> and provide a continuum of placement alternatives for children with disabilities. According to PA Education’s Basic Education Circular, “Placement Options for Special Education,” as part of the IEP meeting, the IEP team must consider where the special education programs and services will be delivered. Like free appropriate public education, the least restrictive environment is a determination that must be made on an individual basis.

### **Pennsylvania Department of Education**

For fiscal year (FY) 2018 (October 1, 2017, through September 30, 2018), OSEP awarded \$446.9 million in IDEA special education grant funds to the Pennsylvania Department of Education (PA Education). Each charter school and virtual charter school in Pennsylvania is considered an LEA. As LEAs, virtual charter schools are eligible to receive special education grant funding. For school year 2017–2018, Pennsylvania had about 1.7 million students enrolled at 500 traditional LEAs and 179 charter schools, of which 15 were virtual. Those 15 virtual charter schools served over 7,500 (2.6 percent) of Pennsylvania’s 290,986 students with disabilities.

PA Education is the sole statewide authorizer for all virtual charter schools and is responsible for their oversight and regulation, including approving applications and renewing and revoking charter school contracts. Pennsylvania charter school law defines a virtual charter school as an independent public school established and operated under a charter from PA Education, and organized as a public, nonprofit corporation, that uses technology to deliver a significant portion of curriculum and instruction to its students through the internet or other electronic means.

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<sup>6</sup> Under IDEA, LEAs must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children without disabilities. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (Title 20 of United States Code § 1412(a)(5)).

According to the PA Education guidance document, “A Resource Guide for Charter Schools and Cyber Charter Schools: Managing the Special Education Process” (Resource Guide), each virtual charter school is responsible for ensuring that a free appropriate public education is available to each child with a disability in compliance with IDEA and Section 504 of the Rehabilitation Act of 1973. The Resource Guide also states that virtual charter schools must comply with Federal and Pennsylvania special education and disability laws and regulations.

PA Education’s Bureau of Special Education monitors all Pennsylvania virtual charter schools at least once over a 6-year cycle to ensure compliance with applicable Federal and State laws and regulations. Under this system, virtual charter schools engage actively in the monitoring process, including participating in pre-monitoring training, self-assessment, onsite collaboration with the Bureau of Special Education team, and corrective action planning and implementation. In FY 2017, PA Education conducted onsite monitoring of 57 LEAs and 31 charter schools, including 2 of the 15 virtual charter schools.

Additionally, PA Education provides technical assistance and training to LEAs to build capacity to serve students receiving special education and related services.

### **Selected Pennsylvania Local Educational Agencies**

As a part of the audit, we selected two Pennsylvania virtual charter schools: Pennsylvania Virtual Charter School (Pennsylvania Virtual) and Commonwealth Charter Academy (Commonwealth). Pennsylvania Virtual is located in King of Prussia, Pennsylvania, opened in 2001, and serves students in kindergarten through grade 12. During the 2017–2018 school year, Pennsylvania Virtual enrolled 2,074 students, including 381 students with disabilities (about 18 percent of total enrollment), and received \$391,018 in IDEA funding from PA Education.<sup>7</sup> PA Education last monitored Pennsylvania Virtual during the 2015–2016 school year.

Commonwealth is located in Harrisburg, Pennsylvania, opened in 2004, and serves students in kindergarten through grade 12. During the 2017–2018 school year, Commonwealth enrolled 8,952 students, including 1,730 students with disabilities (about 20 percent of total enrollment), and received \$1,946,153 in IDEA funding from PA Education. PA Education last monitored Commonwealth during the 2017–2018 school year.

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<sup>7</sup> Enrollment and funding data provided by PA Education.

## **Virtual Education During a Pandemic**

On March 13, 2020, the United States declared a national emergency because of the 2019 Novel Coronavirus Disease (COVID-19) pandemic. Subsequently, Pennsylvania discontinued attendance at its brick-and-mortar elementary and secondary schools and continued learning through a virtual environment. Although special education or related services needed to be adjusted, LEAs were responsible to ensure students continued to receive appropriate services during the COVID-19 mandatory closure. According to the Department’s March 2020 fact sheet “Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities,” LEAs must remember that the provision of free appropriate public education may include special education and related services provided through distance instruction virtually, online, or telephonically.

For the 2020–2021 school year, PA Education made recommendations on determining instructional models for reopening schools. PA Education left it up to each local county to decide whether schools within their jurisdictions will reopen each day with in-person instruction for all students, use a hybrid model with a reduced number of students each day, or have all students engage in all learning virtually. Although this audit is focused on services provided to students attending virtual charter schools during an audit period that preceded the pandemic, it is evident that virtual education will be widespread during this pandemic crisis and that it will be important for States and LEAs to adopt policies and procedures to ensure that students with disabilities continue to receive the services they need.

## **Finding 1. The Pennsylvania Department of Education Generally Had Sufficient Internal Controls Over LEA IEP Development and Service Delivery for Students with Disabilities, But Could Strengthen Its Monitoring Process**

We determined that PA Education generally had sufficient internal controls to ensure that LEAs developed IEPs in accordance with Federal and State requirements for children with disabilities who attend virtual charter schools and that these students were provided with the services described in their IEPs. These internal controls included developing model policies and procedures; monitoring LEAs; and providing technical assistance, guidance, and training. However, we found that PA Education could strengthen its monitoring process to ensure that LEAs also have written procedures on how they implemented the model policies for IEP development and how they provided and documented service delivery for students with disabilities.

### **Developing Model Policies and Procedures**

PA Education developed a document for LEAs to adopt to ensure that all LEAs, including virtual charter schools, were in compliance with the conditions of LEA eligibility starting at 34 C.F.R § 300.200, which requires that LEAs have in effect policies, procedures, and programs that are consistent with State policies and procedures established pursuant to the IDEA regulations.<sup>8</sup> This document, “Commonwealth of Pennsylvania Model Local Educational Agency Policies and Procedures” (model policy requirements), generally reiterates Federal and State requirements for identifying and educating students with disabilities. PA Education ensured that these requirements were fulfilled, at least in part, by requiring LEAs to annually sign an attestation stating that they adopted the State’s model policy requirements. Because all virtual charter schools do not use the same processes to develop IEPs or deliver services, the model policy requirements document does not prescribe how a virtual charter school should implement Federal and State requirements for IEP development and the delivery of services for students with disabilities. We found that although the two LEAs we reviewed signed the annual attestation stating that they adopted the State’s model policy requirements, one of them did not have policies and procedures that described its processes for implementing Federal and State requirements for IEP development and the delivery of services for students with disabilities, as discussed further below.

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<sup>8</sup> Specifically, 34 C.F.R. §§ 300.101-163 and §§ 300.165-74.

## **Monitoring LEAs**

PA Education conducted monitoring of all LEAs at least once every 6 years and monitored new schools at least once during their first 3 years of operation. This process, referred to as cyclical monitoring, consisted of a facilitated self-assessment the LEA completed and an onsite monitoring review PA Education conducted. PA Education may also conduct focused monitoring of LEAs.<sup>9</sup>

### **Facilitated Self-Assessment**

During cyclical monitoring, PA Education required LEAs to complete a facilitated self-assessment template that collects information on the LEA's compliance with Federal and State IDEA requirements. The template included elements of the LEA's IEP process such as the timeliness of IEP development, team member participation, assessment of the student's needs, and content of the IEP. It also included areas relating to service provisions, such as standards for assistive technology, procedures to identify special needs children that may need related services, and the steps the PA Education reviewer should take to determine compliance.

We found that the self-assessment was a positive element of PA Education's system of internal control because it assisted LEAs in understanding compliance areas along with the need for related risk management and control processes. The self-assessment also allowed PA Education to make initial assessments of LEA compliance and effectively plan follow-up activities for its onsite monitoring.

### **Onsite Monitoring**

PA Education's onsite LEA monitoring activities and protocol included processes (such as interviews with multiple stakeholders and a file review) designed to gain additional information to more effectively assess the LEA's compliance with key Federal and State IDEA requirements. The onsite interviews could include administrative staff, special education teachers, and parents to assess compliance and services from their perspectives.

The onsite monitoring team also reviewed a sample of student files using a template with questions to assess compliance with Federal and State special education requirements. Most questions were directly related to IEP development; whether the location, frequency, start date, and duration of related services was included in the IEP;

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<sup>9</sup> PA Education conducted focused monitoring of LEAs when information from any source, such as a complaint or other dispute resolution data or single audit report findings, suggested a pattern or systemic concern that officials believed warranted review.

and whether the student’s most recent evaluation report contained recommendations for the provision of related services.

PA Education provided the LEA with a final monitoring report and within 60 days met with the LEA to discuss the findings and deadlines for corrective actions. PA Education verified that all corrective actions were completed. Updated data must demonstrate 100 percent compliance with regulatory requirements before PA Education will close the finding. All noncompliance findings must be closed within 1 year of the date of the monitoring report.

### **LEA Monitoring Assessment**

Based on our review of the monitoring templates, we concluded that the self-assessment and file review templates (both of which are based on Federal and State IDEA regulations) were sufficient to assess compliance with applicable requirements. In addition, PA Education’s processes enabled it to identify compliance issues similar to those we found for the 2017–2018 school year, as discussed further below.

### **Providing Technical Assistance, Guidance, and Training**

PA Education used multiple resources to provide technical assistance, training, and guidance to LEAs to help them meet relevant Federal and State requirements. For example, it developed several Basic Education Circulars and a Resource Guide that included guidance for virtual charter schools. PA Education also assigned special education advisors and other resources to LEAs to provide technical assistance, guidance, and training. Technical assistance would typically be provided if an LEA was experiencing a specific issue related to IDEA implementation. Additionally, PA Education provided resources, training, and online courses on special education such as “IDEA Training for Charter Schools” and “Seven Steps of Progress Monitoring.”

### **LEA Monitoring Could be Improved**

Although PA Education’s procedures helped it identify problems with IEP development and service delivery at Commonwealth during the 2017–2018 school year, we found that PA Education’s corrective action verification plan for Commonwealth did not contain corrective actions to develop written procedures addressing these issues.

Further, PA Education did not ensure that LEAs had an adequate process to implement PA Education’s model policy requirements. Specifically, PA Education did not have a step in its monitoring protocol to ensure that LEAs have written procedures and controls to ensure implementation of the model policy requirements for IEP development and the delivery of services.



We reviewed the most recent cyclical monitoring report for Commonwealth, which covered the 2017–2018 school year. The reviewers found over 50 instances of noncompliance during the onsite review, including issues with document timeliness and the development and content of IEPs. However, PA Education’s monitoring of Commonwealth did not find that the LEA lacked written procedures detailing how it developed IEPs to ensure compliance with IDEA requirements and how it documented the delivery of services to students with disabilities. As of May 14, 2019, the corrective actions for 50 of the issues found had been cleared. Four corrective actions remained open with a revised extension date of May 1, 2020. Two corrective actions remained open and had not been given an extension date.

The PA Education Bureau of Special Education’s Eastern Division Chief stated that during its cyclical monitoring, PA Education reviewed whether the LEAs had, at a minimum, written policies and procedures about child find, behavioral support, and confidentiality but relied on the LEAs’ adoption of its model policy requirements for all other areas.

According to 2 C.F.R. § 200.303, a non-Federal entity (such as PA Education) must establish and maintain effective internal control over the Federal award that provides reasonable assurance that it is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Further, the non-Federal entity must also evaluate and monitor its compliance with statute, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States<sup>10</sup> or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission. In addition, 2 C.F.R. § 200.331 states that pass-through entities (such as PA Education) must ensure that the Federal award is used for authorized purposes and that performance goals are met.<sup>11</sup>

OSEP’s Dear Colleague Letter dated August 5, 2016, provided guidance to State educational agencies and LEAs to assist in implementing IDEA in the virtual education environment, including virtual charter schools that operate as LEAs. The letter stated that the State educational agency retains ultimate responsibility for ensuring that the

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<sup>10</sup> All references in the report to the Government Accountability Office’s “Standards for Internal Control in the Federal Government” are to the 2014 revision.

<sup>11</sup> A pass-through entity is a non-Federal entity that provides a subaward to a subrecipient (such as a virtual charter school) to carry out part of a Federal program.

requirements of IDEA are met in all educational programs for children with disabilities administered within the State (34 C.F.R. §§ 300.149 and 300.600).

Although PA Education relied on the LEA certification, by not having a step in its monitoring protocol to verify that LEAs have written procedures for IEP development and the delivery of services to students with disabilities, PA Education could not ensure LEAs developed sufficient procedures to implement PA Education's model policy requirements. We found that Commonwealth did not have sufficient written procedures for the processes it used for IEP development and delivery of services. During its monitoring, PA Education did not find that this virtual charter school lacked written procedures. PA Education also may not be recommending appropriate corrective actions, such as the creation of written procedures, when it identifies weaknesses in the development of IEPs and the delivery of services to students with disabilities.

### **Recommendation**

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require PA Education to—

- 1.1 Develop a method to ensure that LEAs have written procedures that describe their processes for ensuring that they follow IDEA requirements for developing IEPs and delivering IEP services.

### **PA Education Comments**

PA Education did not dispute the finding and identified corrective actions that it plans to take to address the recommendation. In its response, PA Education stated that it will require LEAs, including virtual charter schools, to address personnel training for IEP development in the special education plans and annual reports that they submit to PA Education. PA Education will verify compliance with this training requirement during its cyclical monitoring by revising the facilitated self-assessment template to include IEP development as a training topic. In addition, during monitoring, PA Education will review relevant documentation and determine compliance along with any needed corrective action. Finally, PA Education stated that it will modify its monitoring protocol to ensure that LEAs have internal controls, such as written procedures, regarding the development of IEPs and the delivery of services.

### **OIG Response**

PA Education's corrective actions, if properly implemented, should address our recommendation.

## **Finding 2. Pennsylvania Virtual Charter School Had Sufficient Internal Controls Over IEP Development and Delivery of Services**

We found that Pennsylvania Virtual had sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities and provided students with the services described in their IEPs. Specifically, Pennsylvania Virtual developed sufficient written procedures for IEP development and for documenting the delivery of services for students with disabilities. Pennsylvania Virtual also used standardized forms and quarterly reviews of samples of student files to monitor the virtual charter school's compliance with IDEA requirements. These internal controls helped ensure consistency in implementation among staff and compliance with Federal and State requirements.

To test Pennsylvania Virtual's internal controls over IEP development and the delivery of services, we reviewed a stratified random sample of 50 student files. We found noncompliance issues for only two students in our sample. Specifically, Pennsylvania Virtual did not convene the IEP meeting for one student within 30 days of the eligibility determination because the special education teacher miscalculated the 30-day date. Pennsylvania Virtual also did not maintain one related service provider monthly service log for one student. Because these two noncompliance issues were not indicative of any systemic control weaknesses, we concluded that Pennsylvania Virtual's controls provided reasonable assurance of compliance with applicable Federal and State requirements.

### **IEP Development**

Pennsylvania Virtual had sufficient written procedures for IEP development, including determining student eligibility for special education and related services through initial evaluation or reevaluation, writing and reviewing IEPs, scheduling and holding IEP meetings, and finalizing the IEPs. In addition to adopting PA Education's model policy requirements, Pennsylvania Virtual developed written procedures to show how it implemented IDEA requirements and to ensure consistency in implementation among staff. Pennsylvania Virtual used a web-based student information system, Sapphire, to store special education data for students with an IEP. The system provided forms for writing IEPs and related documents, which helped standardize the IEP development process. Pennsylvania Virtual staff used uniform checklists and tracking spreadsheets to help ensure compliance with Federal and State requirements for IEP development and that staff developed and reevaluated IEPs by required deadlines. The written procedures, forms, checklists, and tracking spreadsheets were electronically stored and readily available to special education teachers and school administrators.

Pennsylvania Virtual’s written procedures also provided sufficient guidance on the roles and responsibilities of special education teachers and administrative staff, including guidance on various aspects of the IEP development process. Specific procedures

- identified the process for developing annual IEPs and the roles of various Pennsylvania Virtual officials, including the school psychologist, special education teachers, and support services coordinators responsible for specific tasks in the IEP development process;
- described the steps special education teachers and staff were required to take from eligibility determination to initiating and holding the IEP meeting, obtaining the parent’s signature on the notice of recommended educational placement,<sup>12</sup> and finalizing the IEP in Sapphire;
- detailed the IEP records required to be finalized in the system after the IEP meeting; and
- stated that each special education teacher would have their own IEP paperwork tracking spreadsheet assigned to them.

In addition, Pennsylvania Virtual’s special education teachers and staff used another tracking spreadsheet to ensure that IEP meetings were scheduled within 30 days of determining the student was eligible for services as required.

Further, Pennsylvania Virtual had three support services coordinators who provided administrative support to the special education teachers. The support services coordinators tracked all special education-related paperwork, shared information with other Pennsylvania Virtual special education staff, and maintained spreadsheets that tracked due dates for annual IEPs. The special education project manager also tracked the due dates of IEP meetings on this spreadsheet, which special education teachers had access to.

As an additional internal control, the Assistant Director of Special Education Support Services reviewed all draft IEPs before the IEP meeting to ensure the IEP contained accurate and complete information in accordance with Federal and State requirements. This official used an IEP review log that listed the student, the assigned special education teacher, comments on any component of the IEP that required correction (for

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<sup>12</sup> In Pennsylvania, the notice of recommended educational placement is a written notice required by the IDEA that is prepared by the LEA and provided to parents to indicate the parental consent for the placement, the goals, and the specially designed instruction that will define their child's special education program. Under IDEA, the IEP forms the basis for the child’s placement (34 C.F.R. § 300.116(b)).

example, when fields were blank or dates were incorrect), and when the correction was completed. Additionally, the Director of Special Education performed quarterly reviews of 10 randomly selected IEPs to ensure compliance with Federal and State requirements. The Director used the same template that PA Education used to conduct its onsite LEA monitoring.

## **Delivery of Services**

Pennsylvania Virtual had sufficient written procedures and developed processes to ensure timely implementation and delivery of special education and related services detailed in each student's IEP. The procedures included, among other things, instructions on preparing and completing progress notes; deadlines for IEPs, progress notes, and reports; related service provider instructions and referral forms; and a service provider agreement template.

We found that Pennsylvania Virtual implemented all IEPs for the 50 students we reviewed within 10 school days after the IEP was completed as required by Title 22 of Pennsylvania School Code Chapter 711 § 711.41(c). In addition, we found that for the four students in our sample who transferred to Pennsylvania Virtual during the 2017–2018 school year, the virtual charter school met requirements for providing comparable services to the student's existing IEP from the previous LEA until Pennsylvania Virtual developed and implemented a new IEP. For two of these transfer students who withdrew shortly after enrollment, Pennsylvania Virtual provided comparable services until the time of withdrawal.

Pennsylvania Virtual required special education teachers and related service providers to submit reports showing student progress. These reports included data to show that students received special education and related services, as well as details about the student's progress on IEP goals. These progress reports provided adequate evidence to support delivery of special education and related services.

## **Special Education**

Pennsylvania Virtual had sufficient written procedures and developed processes to ensure timely implementation and the delivery of special education as detailed in each student's IEP. These procedures included detailed instructions on preparing and completing IEPs, progress notes, and progress reports, along with their related due dates.

Pennsylvania Virtual's special education teachers delivered special education using virtual classroom technology. The special education teacher and each student accessed the virtual classroom through a computer by logging into Blackboard, a virtual learning environment. The system allowed for virtual interaction between the special education teacher and a student and for delivery of special education and testing materials

tailored to each student based on his or her IEP. The special education teacher controlled the specific information the student accessed or received as part of classwork or homework assignment. The special education teacher provided special education in group settings to students with disabilities based on the student's educational placement<sup>13</sup> and offered students small group resource room sessions at the end of the school day. During our audit period, Pennsylvania Virtual's special education teachers tracked each student's attendance by marking the student present or absent for the day when the student logged into Blackboard.<sup>14</sup>

Pennsylvania Virtual used quarterly progress reports that special education teachers prepared to document the delivery of special education to students. The special education teachers also used progress notes to document each student's progress toward meeting their IEP goals based on the special education provided. According to the Director of Special Education, special education teachers were expected to enter progress notes into Sapphire each week but were only formally required to input the notes into quarterly progress reports, which parents received. The progress reports were how Pennsylvania Virtual formally tracked special education and a student's progress towards meeting their IEP goals, and included the report date and the period the progress was measured, the description of each goal, how the progress toward each goal was measured, the data obtained, and the status of student progress.

### **Related Services**

Pennsylvania Virtual had sufficient written procedures and developed processes to ensure timely implementation and delivery of related services detailed in each student's IEP. Pennsylvania Virtual had formal written procedures for verifying that progress reports for related services were received and were complete and accurate. The special education teachers ensured that the related service providers submitted complete and timely progress notes each quarter in Sapphire and followed up on any missing and incomplete progress notes. Once the notes were complete, the special education teachers would finalize the progress reports, and then submit to one of the support services coordinators an electronic copy and a hardcopy of each completed progress report for recordkeeping.

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<sup>13</sup> Educational placement must be based on the student's IEP. Among the information contained in a student's IEP is the amount of time in each school day that children with disabilities are educated with children without disabilities in the least restrictive environment.

<sup>14</sup> Starting in school year 2018–2019, Pennsylvania Virtual implemented a new attendance system that tracked student attendance by period when the student logged into Blackboard for each class.

Pennsylvania Virtual’s project manager ran a quarterly report from the related services database to determine whether the progress notes from the related service providers were received and complete. The report included details about related services that were received, the provider of the related service, and the number of times per week the student was to receive the related service. The project manager contacted providers if data about the related services were missing from the related services database.

Pennsylvania Virtual’s additional processes to ensure timely implementation and delivery of related services included the following:

- a report listing related services needed for any new student or new related services for current students,
- a related service referral form, and
- a requirement for the related service providers to notify Pennsylvania Virtual staff if the student did not show up for a session or if the providers had a problem contacting the family.

Pennsylvania Virtual also had formal written procedures for its business office staff and special education staff who used the related services database to track related service information, including provider contact information, and for each student assigned to the provider, the type of service, and the frequency, location, and the length of the sessions. The related service providers submitted monthly service logs<sup>15</sup> with their monthly invoices to Pennsylvania Virtual’s business office showing the dates of service, length of sessions, and no shows or cancellations. The business office staff used the related services database and monthly service logs to verify the accuracy and completeness of related services provided. In addition, Pennsylvania Virtual staff communicated with parents and the related service providers to resolve any issues.

Overall, we determined that Pennsylvania Virtual’s internal controls provided reasonable assurance that IEPs were developed in accordance with Federal and State requirements for children with disabilities and that students were provided with the services described in their IEPs.

### **PA Education Comments**

PA Education did not dispute the finding.

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<sup>15</sup> We used the service logs, which included the same information as the invoices, for our review of a sample of student files.



## **Finding 3. Commonwealth Charter Academy Did Not Have Sufficient Internal Controls Over IEP Development and Delivery of Services**

We found that Commonwealth did not have sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities and provided students with the services described in their IEPs. Specifically, Commonwealth did not have sufficient written procedures for IEP development and for documenting the delivery of services for students with disabilities. A recent management structure change required Commonwealth to replace systems and processes that were previously provided by an education management organization. This change contributed to Commonwealth's lack of formal written procedures on IEP development and the delivery of services for students with disabilities. As a result, Commonwealth could not ensure consistency in implementation among staff and compliance with Federal and State requirements.

To test Commonwealth's internal controls over IEP development and the delivery of services, we reviewed a stratified random sample of 50 students' files. We found that the controls did not provide reasonable assurance of compliance with applicable Federal and State requirements. Specifically, Commonwealth did not develop IEPs timely for 6 (12 percent) of the 50 student IEPs we reviewed and did not maintain documentation to support that special education and related services were provided to students with disabilities for 11 (22 percent) of the 50 student files we reviewed.

### **IEP Development**

Although Commonwealth adopted PA Education's model policy requirements, it did not have sufficient written procedures on how it implemented the policies for IEP development. Commonwealth lacked written procedures on how to determine student eligibility for special education through initial evaluation or reevaluation, write and review the IEP, schedule and hold the IEP meetings, and finalize the IEPs.

Commonwealth's officials used a web-based special education data management system, IEP Writer (which Commonwealth had recently transitioned to at the time of our audit), to write IEPs and prepare IEP-related forms. Although Commonwealth's staff received training on the use of IEP Writer before the start of the 2017–2018 school year, officials did not ensure the special education staff were consistently using IEP Writer and all of the system's functionalities. Instead, Commonwealth's staff relied primarily on ad hoc procedures they developed for their own individual use, such as tracking spreadsheets or checklists, to help ensure IEPs were developed in compliance with applicable requirements. The following are some examples of the ad hoc procedures staff used.

- One of five master teachers<sup>16</sup> developed a spreadsheet and a checklist to track key steps in the development of the IEP, such as the IEP due dates, meeting invitations, feedback from meeting participants, transition planning, and special education.
- Commonwealth’s special education administrative assistants used a spreadsheet created by one of the administrative assistants to track due dates for annual IEPs.
- The Dean of Students for Special Education<sup>17</sup> created and shared a checklist with the special education teachers who worked with the Dean to track IEP development, actions, and deadlines. The Dean also used informal handwritten notes to track when to review an IEP.
- Before IEP meetings, master teachers and managers reviewed all draft IEPs using checklists they developed to ensure that the IEPs were complete and included all of the components in accordance with Federal and State requirements.

Although these ad hoc procedures were intended to allow staff members to track IEP due dates, they were not always effective in ensuring the timeliness of IEP meetings. Because Commonwealth did not formalize these processes and the tools, the staff responsible for IEP development did not consistently share and use information related to developing IEPs.

Commonwealth’s insufficient internal controls over IEP development may have been a contributing factor for it not holding an IEP meeting within 30 calendar days of the special education eligibility determination for 6 (12 percent) of the 50 students we reviewed. The IEP meetings for these 6 students were held 34 to 54 calendar days from the eligibility determination date (42 calendar days, average). For example, one student was determined eligible for special education services on December 21, 2017. The IEP meeting should have been held by January 20, 2018, but it took place on February 5, 2018, 45 calendar days after the eligibility determination, because the IEP

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<sup>16</sup> A master teacher serves as a mentor to special education teachers and provides support and coaching to special education teachers during the IEP development process. Depending on student enrollment, master teachers may develop IEPs for students assigned to them.

<sup>17</sup> The Dean of Students for Special Education provides leadership and support to special education teachers and parents. The Dean of Students also assists the special education teachers in the IEP development, participates in IEP meetings, and monitors IEP due dates and special education related paperwork to ensure compliance with processes and timelines.

team used the date the evaluation report was provided to the parent (January 4, 2018) to determine the date the IEP meeting must occur by. The Assistant Director for Special Education stated that the same method was used to calculate the IEP meeting due date for all of the students in our sample who did not have timely IEP meetings.

According to 34 C.F.R. § 300.323(c)(1), the LEA must convene a meeting to develop an IEP within 30 days of a determination that the child needs special education and related services. PA Education's Resource Guide states that LEAs must convene the IEP meeting within 30 calendar days after the completion of an evaluation report or reevaluation report. According to Commonwealth's Assistant Director for Special Education, IEP meetings were not held within 30 days of the special education eligibility determination because the IEP team used the date the evaluation or reevaluation report was provided to a parent and not the date when the report was completed. The Assistant Director for Special Education also stated that Commonwealth's former school psychologists advised the special education staff to use the date when the report was provided to the parent. As a result of our testing, the Assistant Director for Special Education stated that Commonwealth has changed its practices and is using the date that the evaluation report was completed to determine the date by which the IEP meeting should occur.

## **Delivery of Services**

Commonwealth's internal controls did not ensure that it retained accurate and complete documentation to support the delivery of services to students as described in their IEPs. Specifically, Commonwealth did not have sufficient written procedures that detailed how it documented the delivery of services for students with disabilities and how it ensured that the documentation, such as progress reports and related service provider invoices, was complete, correct, and retained. Commonwealth also did not design control activities to ensure that staff completed progress reports and that related service providers submitted both progress reports and monthly invoices.

Commonwealth used monthly invoices as documentation of delivery of services for all students served by the related service provider during the month, but it did not require supporting documentation, such as service logs, to show that services were provided and to compare them with the invoices.

Despite these control issues and the insufficient documentation of service delivery described below, we found that Commonwealth implemented all IEPs for the 50 students we reviewed within 10 school days after the IEP was completed as required by Title 22 of Pennsylvania School Code Chapter 711 § 711.41(c). In addition, we found that for the six students in our sample who transferred to Commonwealth during the 2017–2018 school year, the virtual charter school met requirements for providing comparable services to the student's existing IEP from the previous LEA until Commonwealth developed and implemented a new IEP. For three of these transfer

students who withdrew shortly after enrollment, Commonwealth provided comparable services until the time of withdrawal.

### **Special Education**

Commonwealth did not have sufficient written procedures that detailed how it documented the delivery of special education for students with disabilities. Although Commonwealth had a user manual for IEP Writer, its special education data management system, Commonwealth did not develop its own guidance for staff on how to prepare, review, and retain progress reports using IEP Writer.

Once the IEP was developed, Commonwealth's special education teachers implemented it by delivering special education to the student as specified in their IEP. All instruction, including special education, took place through the use of virtual classroom technology in group settings with other general education students or students with disabilities based on the student's educational placement. The special education teacher and student accessed the virtual classroom by logging into Commonwealth's learning management system, Connexus, which was also used to store student information. The special education teachers also provided one-on-one specialized instruction sessions for their students, and were available during office hours and at other times to provide additional assistance.

During our audit period, Commonwealth's special education teachers tracked daily attendance when a student logged into Connexus by marking the student present or absent for the day.<sup>18</sup>

Although Commonwealth's special education teachers entered notes on students' progress toward each goal listed in the student's IEP for each quarterly marking period in IEP Writer, without written procedures there is a greater risk that this practice will not be applied consistently by future special education teachers. Progress reports were prepared using these notes and were stored in IEP Writer. Progress reports included the period the progress was measured, the description of each goal, how the progress toward each goal was measured, the data obtained, and the status of student progress. However, without sufficient written procedures detailing how to document the delivery of special education, there is a greater risk that progress reports will not be completed and retained for all students with disabilities.

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<sup>18</sup> Starting in school year 2018–2019, Commonwealth implemented a new learning management system, Education for Individualized Outcomes, that also tracks a student's classroom attendance when the student logs in for each class and assesses the student's engagement during each session.

## Related Services

Commonwealth did not have sufficient written procedures or effectively implement other processes to ensure the timely implementation and delivery of related services detailed in each student's IEP. Specifically, Commonwealth did not have written procedures pertaining to related service providers' submissions of progress reports and the processes it described did not always ensure that documentation was complete, correct, and retained. Commonwealth had written procedures pertaining to related service providers' submissions of monthly invoices, but the procedures did not require service providers to include supporting documentation or require staff to verify that invoices were received for all students who should have received related services. Finally, Commonwealth did not have an effective process to review sources of information that could identify patterns of missed service sessions and ensure that these sessions were rescheduled or made up.

Commonwealth used quarterly progress reports as one form of documentation to support the delivery of related services, but it did not ensure the finalized progress reports were uploaded to each student's file and retained in IEP Writer. Commonwealth officials told us that they expected that related service providers would record students' progress in IEP Writer, special education teachers would ensure the completeness and timeliness of the service providers' data, and the Assistant Director for Special Education would follow up with the service providers when progress reports were missing or incomplete. Once all information was complete, the progress reports were expected to be finalized by the special education teachers and retained in the system in each student's file. However, we found that the processes described did not always ensure that quarterly progress reports were retained.

Commonwealth also required related service providers<sup>19</sup> to submit monthly invoices to its business office for all students served by the related service provider. According to Commonwealth's agreements with related service providers, these invoices should list the name of the therapist, type and date of service, frequency, location, and length of the sessions. Although Commonwealth required the providers to keep documentation to support all charges, it did not require the providers to submit any supporting documentation, such as service logs, along with their monthly invoices. As a result, business office staff did not compare the monthly invoices with any supporting documentation. This was the case for all 50 students with disabilities in our sample. IDEA does not require LEAs to keep service logs showing that services were provided, but this type of supporting documentation enables LEAs to evaluate and monitor their

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<sup>19</sup> All related service providers were external contractors.

implementation of students' IEPs on an ongoing basis and provides a means to validate other documentation of related services delivery, such as monthly invoices.

Further, Commonwealth had a process for its business office staff to enter invoice information into its database and compare it to the related service provider information for the students and IEP information in IEP Writer; however, it did not have a process for staff to verify whether invoices were received for all students who should have received related services during the month.

Lastly, Commonwealth did not have a process for ensuring that related service providers rescheduled or made up missed service sessions. According to the agreements with related service providers, Commonwealth required the related service providers to submit a log<sup>20</sup> for three consecutive missed sessions within 24 hours after the student missed the third consecutive session, but did not require related service providers to reschedule or make up missed sessions. Although business office staff were required to report when students missed more than half of their services, we did not find any evidence that the business office staff communicated this information to the special education staff. We noted that Commonwealth maintained communication logs for each student that included contact between special education teachers and parents. The log would include any issues a parent or special education teacher had with a related service provider.

As a result of the insufficient internal controls over delivery of services, Commonwealth did not maintain sufficient documentation to support that the special education or related services outlined in each IEP were delivered to 11 (22 percent) of the 50 students we reviewed. For 4 of the 11 students, the quarterly progress reports were missing. For 7 of the 11 students, either the monthly invoices submitted by the related service provider did not sufficiently support the amount of service hours (based on the frequency and amount of time detailed in the students' IEPs and as required in the related service providers' contract) or the monthly invoices were missing.

According to 34 C.F.R. § 300.320 (a)(3)(i) and (ii), each child's IEP must contain a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

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<sup>20</sup> The related service provider prepared a missed service log that included information about the type, date, and length of missed service and the reason why the service was missed, among other things.

Without sufficient internal controls over delivery of services and by not having adequate supporting documentation for service delivery and student progress, such as progress reports or service logs to show that the services were delivered, Commonwealth could not demonstrate that it is providing special education and related services to students in accordance with their IEPs. This documentation can also be helpful in the case of a dispute regarding potential noncompliance, to the extent that it provides an accurate and complete record of events.

According to 2 C.F.R. § 200.303, a non-Federal entity (such as Commonwealth) should establish and maintain effective internal control over the Federal award that provides reasonable assurance that it is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Further, the non-Federal entity must also evaluate and monitor its compliance with statute, regulations, and the terms and conditions of the Federal award.

According to 34 C.F.R. § 300.201, an LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under §§ 300.101 through 300.163, and §§ 300.165 through 300.174.

Additionally, Government Accountability Office's "Standards for Internal Control in the Federal Government" states that management designs control activities<sup>21</sup> in response to the entity's objectives and risks to achieve an effective internal control system and clearly documents<sup>22</sup> internal control and all transactions and other significant events in a manner to make it readily available for examination. Each unit should also document policies in the appropriate level of detail to allow management to effectively monitor the control activity and management should communicate to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities. Also, management should periodically review policies and procedures for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks. If there is a significant change in an entity's process, management reviews this process in a timely manner after the change to determine that the control activities are designed and implemented appropriately.

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<sup>21</sup> Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives and address related risks.

<sup>22</sup> The documentation may appear in management directives, administrative policies, or operating manuals and should be properly managed and maintained.



## Recommendation

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require PA Education ensure that Commonwealth—

- 3.1 Develop written procedures that detail how it developed IEPs and documented delivery of services described in the IEP for students with disabilities. These controls should provide reasonable assurance that:
  - a) IEP meetings are held within 30 days of the date of determination that a student needs special education and related services.
  - b) Progress reports are completed and retained.
  - c) All related service provider invoices for all students who should have received related services are received and that staff follow up with providers in cases where this did not occur.
  - d) All related service provider invoices include the correct amount of service hours based on the frequency and amount of time detailed in the students' IEPs.
  - e) Supporting documentation, such as service logs, showing that students received services described in their IEPs is submitted with invoices and is retained.

### PA Education Comments

PA Education did not dispute the finding and identified corrective actions that it plans to take to address the recommendation. In its response, PA Education stated that it will ensure that Commonwealth develops internal controls, including written procedures, regarding the development of IEPs and the delivery of services. Specifically, PA Education will ensure that Commonwealth's internal controls provide reasonable assurance that IEP meetings are held timely and that progress reports, data, and other supporting documentation showing that students received special education and related services as described in their IEPs are completed and retained. Further, PA Education stated that although the recommendation did not specifically address the noncompliance identified for the 17 student files, it will review these student files to determine compliance and any needed corrective actions, which will include, if

appropriate, compensatory education.<sup>23</sup> Lastly, PA Education stated that it will verify that any noncompliance and corrective actions are completed within 1 year.

### **OIG Response**

PA Education's corrective actions, if properly implemented, should address our recommendation.

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<sup>23</sup> Compensatory education is an equitable form of reimbursement when the LEA did not provide free appropriate public education. Compensatory education can be in the form of additional services or reimbursement for out-of-pocket educational expenses.

## Appendix A. Scope and Methodology

Our review covered PA Education’s and two virtual charter schools’ internal controls for ensuring that IEPs for students with disabilities who attend virtual charter schools are developed in accordance with Federal and State requirements and that students are provided with the services described in their IEPs. Our review covered services provided to students with disabilities during our audit period of July 1, 2017, through June 30, 2018.

To achieve our audit objective, we performed the following procedures:

1. We reviewed Federal and State laws, regulations, and guidance relevant to our audit objective, including Part B of IDEA; 34 C.F.R. Part 300, including, but not limited to, §§ 300.2 through 300.45, 300.101 through 300.123 and 300.200 through 300.324;<sup>24</sup> 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” including, but not limited to § 200.303; the Department’s August 2016 OSEP Dear Colleague Letter Regarding Education of Children with Disabilities Attending Public Virtual Schools; Pennsylvania Charter School Law; Title 22 of Pennsylvania School Code Chapters 14 and 711.
2. We assessed PA Education’s internal controls for ensuring that IEPs for students with disabilities who attend virtual charter schools are developed in accordance with Federal and State requirements and that students are provided with the services described in their IEPs. To do this we performed the following procedures:
  - Reviewed the “Commonwealth of Pennsylvania Model Local Educational Agency Policies and Procedures” (July 2018).
  - Reviewed PA Education’s “A Resource Guide for Charter Schools and Cyber Charter Schools: Managing the Special Education Process” (October 2016).
  - Reviewed PA Education’s cyclical monitoring procedures, virtual charter schools monitoring schedule, and reports of findings and corrective action plans for Pennsylvania Virtual and Commonwealth.
  - Interviewed PA Education officials responsible for the administration and oversight of the special education programs in virtual charter

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<sup>24</sup> These sections refer to the definitions and eligibility requirements under IDEA and several other requirements related to the development of an IEP and delivery of services.

schools, including those involved in the monitoring of IEP development and delivery of services at virtual charter schools.

3. We assessed the virtual charter schools' internal controls for ensuring that IEPs for students with disabilities who attend virtual charter schools are developed in accordance with Federal and State requirements and that students are provided with the services described in their IEPs. To do this, we judgmentally selected two virtual charter schools for review and performed the following procedures at each school:
  - Reviewed virtual charter school policies and procedures, processes, and information on database systems developed or used by the virtual charter school related to the administration of the special education program, the development and implementation of IEPs, and the provision of services.
  - Interviewed virtual charter school officials responsible for the administration and oversight of the special education program, including those involved in the development of IEPs and delivery of services.
4. To assess whether IEPs were developed in accordance with Federal and State requirements, we reviewed 50 students' IEPs and related documentation, such as evaluation/reevaluation reports and notices of recommended educational placement, at each virtual charter school. We verified whether the:
  - evaluation/reevaluation report confirmed special education eligibility, as indicated by the evaluators' conclusions listed in the reports;
  - IEP meeting took place within the required timeframe;
  - required participants were included in the IEP team, as indicated by participants' signatures on the IEP;
  - parent(s) signed the notice of recommended educational placement for the IEP meeting; and
  - IEP included performance levels, postsecondary transition (if applicable), measurable goals, and the type, length, frequency, location, and duration of specially designed instruction and related services (if applicable).
5. To determine whether the IEPs were implemented within 10 school days after the IEP was completed as required by Title 22 of Pennsylvania School Code Chapter 711 § 711.41(c), we calculated the number of school days between the IEP meeting date and the IEP implementation date included on the IEP for the

50 students at each virtual charter school. We used the virtual charter schools' school calendars to determine the start and end dates for school year 2017–2018 and accounted for the non-school days. We also verified the IEP implementation date with the service delivery documentation, including quarterly progress reports, provider monthly service logs and invoices, and daily attendance records, for all students we reviewed.

6. To corroborate whether services were provided for the 50 students at each virtual charter school, we reviewed service delivery related documentation required by each virtual charter school<sup>25</sup> such as quarterly progress reports that included special education teacher and provider notes and provider monthly service logs and invoices. We compared this information to the service information included in the IEP for each student and student daily attendance records. Specifically, we corroborated whether specially designed instruction and modifications listed in the IEPs were provided by reviewing daily attendance records and quarterly progress reports. We corroborated whether related services were provided to students by reviewing quarterly progress reports and provider monthly service logs and invoices detailing information about the type of service that was provided, the date of the service, and the amount of time spent with students. In addition, for Pennsylvania Virtual, we reviewed a communication log between the related service providers and parents, and for Commonwealth, we reviewed a communication log between the special education teachers and parents. The communication logs identified any issues with a related service provider raised by a parent or special education teacher.

Our review of the student files and conclusions regarding service provision and receipt were based on the adequacy of existing documentation rather than any judgments regarding the nature or quality of services. We did not verify the actual receipt of services by students delivered virtually or in-person through a third-party provider.

We performed audit work at PA Education offices in Harrisburg, Pennsylvania, from March 26, 2019, through March 28, 2019. We performed audit work at Pennsylvania Virtual's offices in King of Prussia, Pennsylvania, from July 8, 2019, through July 11, 2019, and at Commonwealth's offices in Harrisburg, Pennsylvania, from September 17, 2019, through September 19, 2019. We also performed audit work at our offices from July 31, 2019, through December 6, 2019, using remote electronic access to

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<sup>25</sup> These documentation standards are set by the virtual charter schools. There are no explicit Federal standards regarding documentation for delivery of services.

the virtual charter schools' database systems. We held an exit conference with PA Education officials on March 4, 2020.

## **Internal Controls**

We assessed PA Education's and the virtual charter schools' internal controls significant to our audit objective; specifically, PA Education's processes for monitoring IEP development and delivery of services at virtual charter schools and the virtual charter schools' processes for IEP development and delivery of services. We reviewed PA Education's policies and procedures for monitoring virtual charter schools' compliance with IDEA, including their model policy requirements that virtual charter schools must annually attest to adopting before receiving IDEA funds, and PA Education's internal controls for providing technical assistance to virtual charter schools. We reviewed the virtual charter schools' policies and procedures for IEP development and service delivery. In addition, we reviewed source documents to corroborate the testimonial evidence that we obtained from PA Education about its monitoring processes concerning IEP development and service delivery and from virtual charter schools officials about the processes used for IEP development and delivery of services to students with disabilities. We also reviewed a sample of student files to evaluate whether appropriate policies and procedures had been implemented and were operating as intended. We used 2 C.F.R. § 200.303 and the Government Accountability Office's "Standards for Internal Control in the Federal Government" as criteria for evaluating PA Education's and the virtual charter schools' processes and controls. Our assessment disclosed a weakness in PA Education's internal controls and deficiencies in Commonwealth's internal controls that are described in Findings 1 and 3 of this report.

## **State and Virtual Charter School Selection**

We selected Pennsylvania because it was one of the three States with the largest enrollment of students with disabilities in full-time virtual charter schools. For school year 2017–2018, Pennsylvania had a total of 15 virtual charter schools that enrolled over 7,500 students with disabilities. Pennsylvania received a total of \$446.9 million in IDEA special education grant funding. Over \$7.2 million of the IDEA total grant funding went to the 15 virtual charter schools during school year 2017–2018.

We judgmentally selected 2 of 15 virtual charter schools operating in Pennsylvania from July 1, 2017, through June 30, 2018, for review. We selected the virtual charter schools based on the number of students with disabilities enrolled, percentage of students with disabilities relative to total students, and total amount of IDEA funding. We also considered schools for review that were suggested by PA Education officials. We used the following statistics for the 15 virtual charter schools that operated in Pennsylvania during the 2017–2018 school year to determine the size and percent of special education populations and amount of IDEA funding. The average special education

enrollment for the 15 virtual charter schools was 502 students, the average percent of students with disabilities was 25 percent, and the average amount of IDEA funding was about \$516,000.

Pennsylvania Virtual had a medium-size enrollment of 381 students with disabilities that amounted to 18 percent of its student population and was relatively high compared to the average for other similarly sized virtual charter schools. This virtual charter school received about \$390,000 in IDEA funding. We selected Commonwealth because it had a large number of enrolled students with disabilities (1,730), accounting for 20 percent of its total student population. The school received about \$1.9 million in IDEA funding.

### **Sampling Methodology**

We reviewed a stratified random sample of student files to evaluate whether appropriate policies and procedures had been implemented and were operating as intended. We identified the total number of unique students and selected a sample of students who had an active IEP, were enrolled, and attended Pennsylvania Virtual or Commonwealth for at least one day during the period July 1, 2017, through June 30, 2018. We stratified the students by the percentage of time they spent outside of the regular education classroom as indicated on the IEP. The percentage of time spent by the students outside of the regular classroom fell into three strata:

1. less than 21 percent,
2. between 21 and 60 percent, and
3. more than 60 percent.

We used random stratified sampling to select our sample for both virtual charter schools to ensure we selected students from each of the three strata we used. Because students who were out of the classroom more than 60 percent of the time could possibly be receiving more services, or the services could be more complex, we selected 25 students from the more than 60 percent stratum. We then selected 15 students from the middle stratum, and 10 students from the less than 21 percent stratum. Our total sample size for each virtual charter school was 50 students. Tables 1 and 2 show the universe and sample sizes of students for Pennsylvania Virtual and Commonwealth, respectively. At Pennsylvania Virtual, IEPs for all 50 students reviewed included specially designed instruction and IEPs for 35 of the 50 students reviewed included related services. At Commonwealth, IEPs for all 50 students we reviewed included specially designed instruction and IEPs for 31 of the 50 students reviewed included related services. Because we used auditor judgment to determine sample size, the results from our sample do not have sufficient precision for projecting an estimate. Consequently, the results from our testing cannot be projected to the universe of students who had an active IEP and were enrolled and attended Pennsylvania Virtual and Commonwealth for



at least 1 day during our audit period. Additionally, percentages reported are not weighted to be projections and represent only the sample results.

**Table 1. Pennsylvania Virtual Universe and Sample Sizes**

Strata	Universe Size	Sample Size
Less than 21% outside the regular classroom	251	10
Between 21% and 60% outside the regular classroom	180	15
More than 60% outside of the regular classroom	37	25
<b>Total</b>	<b>468</b>	<b>50</b>

**Table 2. Commonwealth Universe and Sample Sizes**

Strata	Universe Size	Sample Size
Less than 21% outside the regular classroom	2,162	10
Between 21% and 60% outside the regular classroom	367	15
More than 60% outside of the regular classroom	184	25
<b>Total</b>	<b>2,713</b>	<b>50</b>

### Use of Computer-Processed Data

We determined that computer-processed data were the best available sources of data for our audit objective. We relied, in part, on data that Pennsylvania Virtual and Commonwealth retained in their information systems. The data for both virtual charter schools included a listing of and the records for students with disabilities who had an active IEP and were enrolled and attended the schools for at least 1 day from July 1, 2017, through June 30, 2018. We assessed the accuracy of this data by testing the virtual charter schools' records for the students included in our samples. We also assessed the completeness of the universe of students with disabilities during our audit period by comparing the virtual charter schools' data to the listing of students with disabilities on file with PA Education. We verified that there were no material discrepancies between the number of students with disabilities provided by the virtual charter schools and PA Education. Therefore, we concluded that both virtual charter schools' data were sufficiently reliable for the purposes of our audit.

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

## Appendix B. Acronyms and Abbreviations

C.F.R.	Code of Federal Regulations
Commonwealth	Commonwealth Charter Academy
Department	U.S. Department of Education
FY	fiscal year
IDEA	Part B of the Individuals with Disabilities Education Act
IEP	individualized education program
LEA	local educational agency
model policy requirements	Commonwealth of Pennsylvania Model Local Educational Agency Policies and Procedures
OIG	Office of Inspector General
OSEP	Office of Special Education Programs
PA Education	Pennsylvania Department of Education
Pennsylvania Virtual	Pennsylvania Virtual Charter School
Resource Guide	A Resource Guide for Charter Schools and Cyber Charter Schools: Managing the Special Education Process

## Appendix C. PA Education Comments



October 21, 2020

Ms. Alyce Frazier  
Regional Inspector General for Audit  
Mr. Keith Cummins  
Director, State and Local Advisory and Assistance Team  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-1510

RE: Pennsylvania Department of Education and Selected Pennsylvania Local Educational Agencies Internal Controls over Virtual Charter School Individualized Education Program Development and Implementation Audit Control Number: ED-OIG/A02T0004

Dear Ms. Frazier and Mr. Cummins:

In connection with the U.S. Department of Education Office of Inspector General's (OIG) audit titled "Pennsylvania Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs," the Pennsylvania Department of Education (PDE) is providing you with this response to OIG's draft audit report.

Overall, PDE does not dispute the findings set forth in OIG's draft audit report. PDE is committed to ensuring local educational agencies (LEAs) meet all requirements set forth in the Individuals with Disabilities Education Act (IDEA). PDE is equally committed to ensuring compliance with the fiscal requirements of Part B of the IDEA and related statutes and regulations. To illustrate, OSEP, through its Results Driven Accountability system, has determined annually since 2014 that Pennsylvania meets the requirements and purposes of Part B of IDEA. In addition, during its most recent fiscal monitoring in 2013, OSEP did not identify any noncompliance in its review of PDE's fiscal systems.

Nevertheless, PDE will modify its monitoring process to ensure that LEAs have internal controls, such as written procedures, regarding how they implement PDE's model policies for the development of individualized education programs (IEPs) and the delivery of related services for students with disabilities. Specifically, PDE will take the following steps to implement the two recommendations set forth in OIG's draft audit report. PDE will ensure these steps are carried out no later than one year after the date of this response and any corrective action will be carried out no later than one year after PDE's assigned corrective action.

**Recommendation 1.1. Develop a method to ensure that LEAs have written procedures that describe their processes for ensuring that they follow IDEA requirements for developing IEPs and delivering IEP services.**

In accordance with 22 Pa. Code § 14.104, each school district is required to develop, submit to PDE for approval, and implement a special education plan once every three years that sets forth an action plan to ensure that a quality education will be provided to each of its students with a disability eligible for special education. Similarly, in accordance with 22 Pa. Code § 711.6, each charter school is

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U.S. Department of Education  
Office of Inspector General  
ED-OIG/A02T0004

Ms. Alyce Frazier  
Mr. Keith Cummins  
October 21, 2020  
Page 2 of 3

required to develop and submit to PDE an annual report that sets forth information regarding the provision of special education and related services to students with a disability eligible for special education. PDE, through the Secretary of Education, prescribes the content for both the special education plan and the annual report. As part of the special education plan and annual report, PDE will require school districts and charter schools to address personnel training in the topical area of IEP development.

PDE will verify compliance with this training requirement during its cyclical monitoring of LEAs. Specifically, PDE will revise its Facilitated Self-Assessment template related to Personnel Training in Section 19 to list IEP development as a training topic. In addition, PDE will review relevant documentation (*e.g.*, training schedules and sign-in logs), determine compliance, and determine the need for any corrective action, which will include, if appropriate, the provision of personnel training on this topic.

In addition, PDE will further modify its monitoring protocol to ensure that LEAs have internal controls regarding the development of IEPs and the delivery of related services. During its monitoring, if PDE identifies any noncompliance related to the development of IEPs and/or the delivery of related services, PDE will make a finding and require corrective action, which will include, if appropriate, the development of internal controls, such as written procedures, to address the noncompliance.

**Recommendation 3.1. Ensure that Commonwealth Charter Academy develops written procedures that detail how it develops IEPs and documents delivery of services described in the IEP for students with disabilities.**

PDE will ensure that Commonwealth Charter Academy (CCA) develops internal controls, such as written procedures, regarding its development of IEPs and its delivery of related services for students with disabilities. PDE will ensure that CCA's internal controls provide reasonable assurance of the following: (1) IEP meetings are held in a timely manner; (2) progress reports and data for both specially designed instruction and related services are completed and retained; and (3) supporting documentation, such as progress reports and data, showing that students receive the related services as set forth in their IEPs is completed and retained.

Lastly, OIG identified material noncompliance with 17 CCA student files during its random sample of 50 CCA student files. According to OIG, CCA did not develop IEPs in a timely manner for 6 of the 50 student files reviewed and did not maintain documentation to support that specially designed instruction and related services were provided to students with disabilities for 11 of the 50 student files reviewed. Even though OIG did not specifically address this noncompliance in its recommendations, PDE will review these student files, determine compliance, and determine the need for any corrective action, which will include, if appropriate, compensatory education. To the extent PDE identifies any noncompliance and directs corrective action, PDE will verify that all corrective action is completed, and the noncompliance is addressed, within one year of the date of any findings. To the extent PDE directs compensatory education as corrective action, the verification process will include the review of relevant documentation, such as related service provider invoices and service logs.

Ms. Alyce Frazier  
Mr. Keith Cummins  
October 21, 2020  
Page 3 of 3

PDE appreciates the opportunity to respond to OIG's draft audit report. If you need any further assistance or information, please do not hesitate to contact me.

Sincerely,

A solid black rectangular box used to redact the signature of Sherri L. Smith.

Sherri L. Smith, Ed.D.  
Advisor to the Deputy Secretary  
Office of Elementary and Secondary Education

cc: Elizabeth A. Maguschak, Chief Counsel  
Carole L. Clancy, Director, Bureau of Special Education