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January 21, 2003

Richard P. Miller, Jr.
Vice Chancellor and
Chief Operating Officer

Hon. Alan G. Hevesi
Comptroller
110 State Street
Albany, New York 12236

State University Plaza
Albany, New York
12246

Dear Mr. Hevesi:

518 443 5804
fax - 518 443 5603

In accordance with Section 170 of the Executive Law, we are pleased to submit the Status Report of corrective action regarding the State Comptroller's Audit Report on the Policies and Practices for Reviewing Applications and Monitoring Operations for Charter Schools, State Education Department, State University of New York (2001-S-22). The State Comptroller issued the final audit report on October 24, 2002.

Sincerely,

Enclosure

Copy: Chancellor King

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Lynn Canton
Deputy Comptroller

STATE UNIVERSITY OF NEW YORK

State University Plaza
Albany, New York 12246

Ninety-Day Status Report Filed Pursuant to Section 170 Executive Law
OSC Audit Report No. 2001-S-22

Report Section Title Recommendation No.	Implemented	Not Implemented	Comments
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- Recommendation No. 1	In part		See Comment A
- Recommendation No. 2	X		

Monitoring Charter Schools

- Recommendation No. 3	In part		See Comment B
- Recommendation No. 4		X	See Comment C
- Recommendation No. 7	In part		See Comment D
- Recommendation No. 8	X		
- Recommendation No. 9	X		



James D. Merriman IV
Executive Director, Charter Schools Institute

JANUARY 13, 2003
Date

Comment A

As set forth more fully in its response to the Audit Report, the Institute had in place, before the time the audit was commenced, guidance and criteria for applicants to provide (and reviewers to assess) evidence of community support for and interest in the proposed charter sufficient to allow the school to reach its anticipated enrollment. The Institute's published guidance to applicants is in many respects consistent with the recommendation of the Audit Report. More importantly, it has proven to be demonstrably effective: *Applications to virtually every public charter school approved by the State University have far outnumbered available seats, and almost every State University authorized school maintains a waiting list.*

The Audit Report recommended additions to the Institute's practices and policies. After careful review of that portion of the recommendation, the Institute concluded that adopting those additions would not provide greater assurance that schools would be able to meet projected enrollment. Moreover, in at least one instance, the Audit Report's recommendation, if adopted, would have imposed a regulatory burden not contemplated by the Charter Schools Act. As such, and because the policies in place had proven to be valid and effective, the Institute, at the time the Audit Report was issued, respectfully declined to adopt in full the recommendation in regards to assessing community support. The Institute continues to so respectfully decline.

As pertains to the Audit Report recommendation regarding the assessment of financial impact, the Institute noted in its response that it had in place, from the time the audit was commenced, standardized and effective criteria for applicants to provide, and reviewers to assess, a proposed charter school's projected programmatic and fiscal impact on surrounding public and non-public schools. The Audit Report implicitly recommended that those criteria continue to be implemented and augmented in certain respects, and the Institute accepted the recommendation in that regard. In particular the Institute now requires applicants to provide an analysis of fiscal impact in the fifth year of the charter. To this extent, the Institute has implemented the recommendation.

The Audit Report also recommended requiring applicants to forecast the programmatic reaction of school districts to the creation of public charter schools. Such forecasts would require applicants to guess at the potential responses of school districts (which could be numerous and complex) and would, therefore, be unreliable. Accordingly, the Institute respectfully declined and continues to decline to implement the recommendation in this regard.

Comment B

The Institute accepted the recommendation to meet its internal policy of completing informal site visit reports within thirty days of such visits. The Institute had previously taken internal control measures to ensure that the thirty-day period was met and has added to such measures. As of this update, all reports of school visits are on file. In a few instances, due in part to a staff member who was

severely injured in a car accident (after school visits had been conducted but before reports were prepared), the thirty-day deadline was not met. Our control procedures uncovered the discrepancy, and all reports were filed. The Institute expects to meet its deadline in all cases in the future.

Comment C

The Audit Report recommended that the Institute provide copies to the State Education Department of observations made during the Institute’s informal site visits to charter schools. While the Institute, in recognition of the State Education Department’s joint monitoring authority and in the spirit of collegiality and a sense of shared mission, does provide the Department with copies of its formal end-of-year inspection reports, pre-opening inspection reports (and much other material and information), it believes that sharing its informal site visit observations is inappropriate. These visits are informal in nature, and the memoranda to the file documenting them are in the nature of work-papers. Accordingly, the Institute respectfully declined and continues to decline to implement the recommendation.

Comment D

The Institute agrees that schools should be notified of material violations of the charter or applicable law and required to take and report on corrective action in a timely manner. The Institute has such procedures in place and, as part of its goal of continuous improvement, will review those procedures periodically to ensure they remain efficient, effective and sufficient. To that extent the Institute accepts the recommendation and continues to implement it.

The Institute respectfully but fundamentally disagrees with that part of the Audit Report’s recommendation that would require charter schools to correct alleged and undefined “deficiencies” that are not violations of applicable law or a school’s charter—or to report to the Institute on corrective actions taken to correct such “deficiencies.” The Audit Report’s recommendation would, if followed, improperly transform charter entities into quasi-superintendents, a role that is contrary to the letter and spirit of the Charter Schools Act. Accordingly, in this regard, the Institute respectfully declined and continues to decline to implement the recommendation.