

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL
APPROVAL PROCESS**

PERFORMANCE AUDIT

JULY 2014

THIS PAGE INTENTIONALLY LEFT BLANK



JEFFRY A. PATTISON
Legislative Budget Assistant
(603) 271-3161

MICHAEL W. KANE, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire
OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

RICHARD J. MAHONEY, CPA
Director, Audit Division
(603) 271-2785

To The Fiscal Committee Of The General Court:

We conducted a performance audit of the chartered public school approval process to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. The evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The purpose of the audit was to determine whether the chartered public school approval process was efficient and effective. The audit period was the 18 months ended December 31, 2013.

Office of Legislative Budget Assistant
Office of Legislative Budget Assistant

July 2014

THIS PAGE INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

TRANSMITTAL LETTER i

EXECUTIVE SUMMARY1

RECOMMENDATION SUMMARY.....3

BACKGROUND.....5

OBSERVATIONS.....13

Observation No. 1: Update And Implement Administrative Rules For The Chartered Public School Approval Process.....11

Observation No. 2: Administrative Rules Should Describe Review Process.....12

Observation No. 3: Application Form Should Be Consistent With Administrative Rules.....13

Observation No. 4: Application Timelines Should Be Considered14

Observation No. 5: Appeal Requests Should Be Answered15

LIST OF FIGURES

Figure 1: State Board Of Education Chartered Public School Approval Process7

Figure 2: Division Of Instruction Organization Chart8

LIST OF TABLES

Table 1: Chartered Public School Program Administrative Revenues And Expenditures9

Table 2: Chartered Public School Grant Appropriations9

APPENDICES

Appendix A: Objective, Scope, And Methodology A-1

Appendix B: Existing Chartered Public SchoolsB-1

Appendix C: Chartered Public School Applicants Survey Results C-1

ABBREVIATIONS

DOE	New Hampshire Department Of Education
SBOE	State Board Of Education
SFY	State Fiscal Year

THIS PAGE INTENTIONALLY LEFT BLANK

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

EXECUTIVE SUMMARY

Chartered schools are free, secular public schools operating autonomously from many regulations applying to traditional public schools. We found State Board of Education (SBOE) approvals of applications for chartered public schools during the audit period were based on statutorily-established criteria. Our review indicated each of the chartered public school applications approved substantially complied with the required elements stated in RSA 194-B:3-a, and each application appeared complete when approved.

Although New Hampshire's chartered public school approval process is robust, it can affect timeliness. We found, on average, it took 462 days to approve chartered public school applications during the audit period. However, this approval time included time the Department of Education (DOE) waited for proposed chartered public schools to revise their applications and the "moratorium" period between September 19, 2012 and July 18, 2013 (302 days). During this period, the SBOE denied all pending applications based on reported legal advice it lacked "the legal authority to grant applications and bind the State to expend funds" that had not yet been appropriated. Excluding the 302-day delay due to the moratorium, it took 206 days, on average, from the date of initial application to final approval by the SBOE. Notwithstanding the moratorium, three other factors affected approval process timeliness: the quality of the applications received from proposed chartered public schools, three layers of review before the application was seen by the SBOE, and no explicit approval timelines being contained in RSA 194-B:3-a.

The Administrative Procedure Act requires rules, including forms, be adopted to prescribe or interpret an agency policy, procedure or practice requirement binding on persons outside the agency. During the audit period, no administrative rules relating to the SBOE chartered public school approval process were in place. Administrative Rule Ed 318, which the DOE relied on to approve chartered public school applications, refers to a "pilot program;" however, the pilot program ended in 2011. Consequently, during the audit period there were no administrative rules describing the process in effect, forms used, or other requirements such as how application content was scored. In the absence of operative administrative rules, the DOE used a "peer review" process and scoring system to rate applications, as well as a Commissioner's review.

One of the goals of New Hampshire's chartered public school law is to promote and encourage the establishment of chartered public schools. To achieve this goal, the SBOE and the DOE, which the SBOE relies on to review applications, should consider streamlining the review process with a focus on efficiency and improving timely actions on application approvals.

THIS PAGE INTENTIONALLY LEFT BLANK

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action Required?	Recommendation	Agency Response
1	11	No	Update and adopt administrative rules for the chartered public school approval process.	Concur
2	12	No	Describe the complete review process, including forms in administrative rules.	Concur
3	13	No	Redraft application forms to conform to updated administrative rule requirements.	Concur
4	14	Yes	The Legislature may wish to consider establishing explicit timelines in statute for the SBOE to approve or deny a chartered public school application. Examine review process efficiency to determine whether each layer of review is necessary.	Concur
5	15	No	Adopt procedures to ensure appeals are managed in compliance with applicable Administrative Rules.	Concur

THIS PAGE INTENTIONALLY LEFT BLANK

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

BACKGROUND

Chartered schools are free public schools operating autonomously from many regulations applying to traditional public schools. According to the National School Boards Association, the number of chartered public schools in the U.S. has grown steadily since the first chartered public school law was passed in 1991. In 2012, over 5,600 chartered public schools operated in 40 states and the District of Columbia. As of March 2014, 26 chartered public schools have been approved in New Hampshire and 18 were in operation (see Appendix B). Four approved chartered public schools have closed. The remaining four chartered public schools are anticipated to begin serving students in August and September 2014.

Chartered Public School Overview

First enacted in 1995, RSA 194-B authorizes chartered public schools in New Hampshire. It defines a chartered public school as a nonprofit, secular open enrollment public school operated independent of any local school board. Chartered public schools are managed by a board of trustees under a charter granted by the State Board of Education (SBOE).

Chartered public schools are accountable to the provisions in their charter, which is reviewed every five years. A chartered public school is held accountable by its sponsoring local school board or the SBOE for meeting academic goals and adhering to the charter. The charter can be revoked if schools do not meet their stated goals. Schools must participate in State mandated testing programs and comply with certain State and federal accountability requirements. In exchange for this accountability, chartered public schools have greater flexibility to choose the methods and processes that respond to community needs and to deliver results. Innovative teaching practices and strategies, class structure, and other academic tools can be used and modified as necessary to meet the needs of the student population.

The chartered public school's board of trustees has general supervisory control and authority over the operations of the school. The board of trustees has the authority to determine the chartered public school's organization, methods, and goals; may acquire real property; and in consultation with teachers and the principal, shall determine the school's curriculum and develop the school's annual budget. Methods of selecting trustees and the number required are defined by the charter within certain parameters. State law requires the composition of the board to include:

- 1) No greater than 25 percent of the membership of a school board, or one member, whichever number is greater, may simultaneously serve as members of the board of trustees of a chartered public school.
- 2) No greater than 25 percent of the membership of the board of trustees of a chartered public school, or one member, whichever is greater, may simultaneously serve as members of any school board.
- 3) A chartered public school board of trustees shall include no fewer than 25 percent or two parents of pupils attending the chartered public school, whichever is greater. Teachers of a chartered public school may serve on its board of trustees.

State law allows chartered public schools to select students on the basis of admission standards and students generally apply for admission. Acceptance is based on a random lottery if more students apply than can be accommodated. Chartered public schools must accept students from any school district; however, a student meeting the admission requirements of the school, and resident of the district where the school is located shall be given absolute admission preference over a non-resident applicant. The charter may also contain provisions for preferential selection for children of the founders. According to federal law, applicants for admission that are children of a chartered public school's founders and children of employees in a work-site chartered public school may be exempted from the lottery (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment). Discrimination against any child with a disability as defined in the State's special education statute is prohibited.

Application And Approval Process

There are two processes for approving chartered public schools in New Hampshire: the local process and the State process. In the local process, schools are first approved by the local school districts and chartered by the SBOE, pursuant to RSA 194-B:3. In the State process, schools are chartered by the SBOE without local approval, pursuant to RSA 194-B:3-a. As of May 2014, one school was chartered via the local process and the remaining chartered public schools were approved through the State process.

For the local approval process, an application is submitted to the local school board. The local school board may approve or disapprove the proposed chartered public school application based upon whether or not the proposed application contains in specific detail the criteria found in RSA 194-B:3. If approved by the local school board, the charter must then be approved by the SBOE using the same criteria as the local school board. Once approved by the SBOE, a charter is granted for a five-year period.

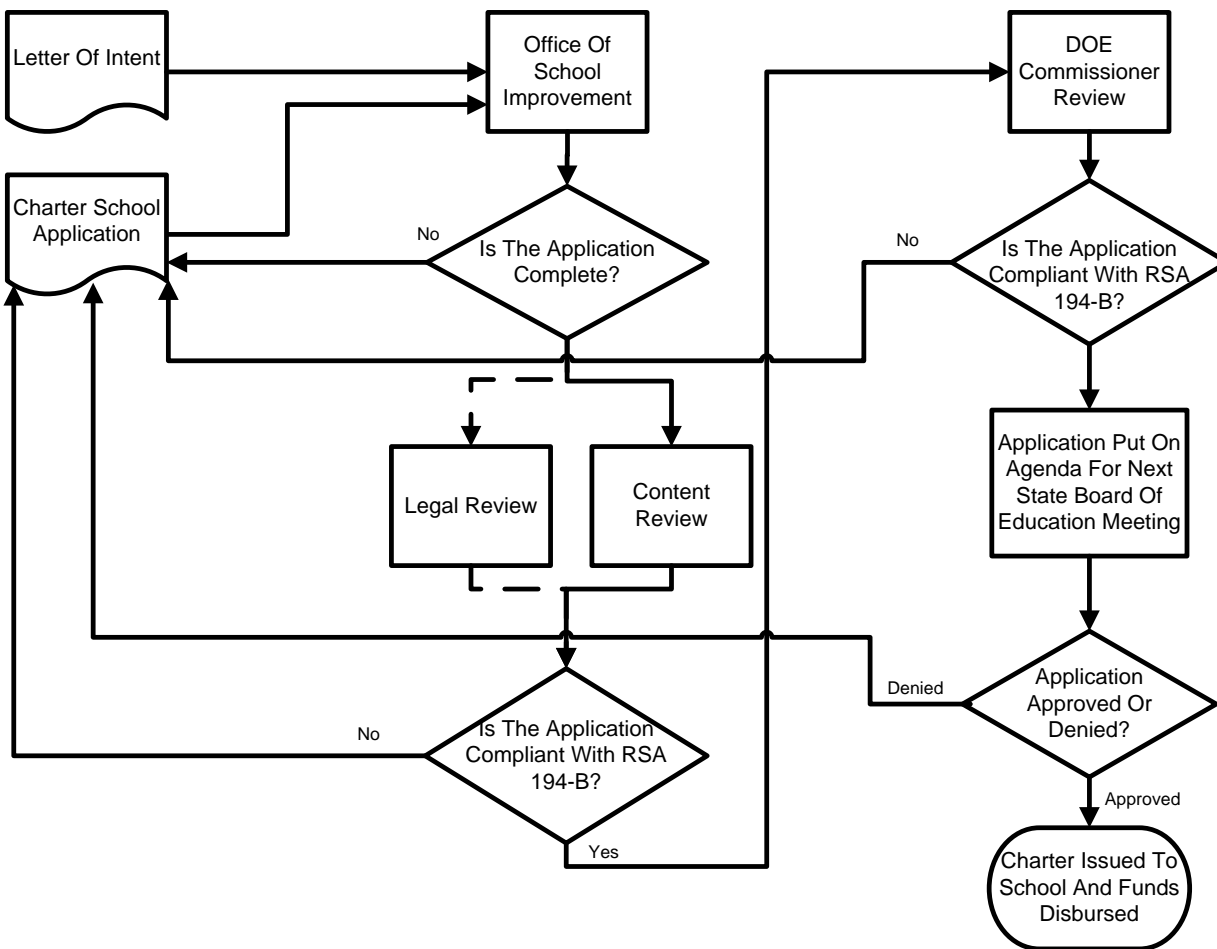
Figure 1 shows the chartered public school State approval process through the SBOE. When a chartered public school application is submitted to the SBOE; the application shall either be approved or denied "using reasonable discretion in the assessment of the elements set forth in RSA 194-B:3, II, (a)-(bb) and (dd)." An applicant submits a letter of intent to the Office of School Improvement within the DOE and is instructed on completion of the chartered public school application. When the application is submitted to the Office of School Improvement, it is reviewed in-house, sent to the DOE's legal consultant for legal review, and to three DOE reviewers for content review, or sent back to the applicant for revision and resubmission. The legal review and the review by the DOE reviewers generally occurs concurrently.

If the application is accepted by the reviewers, it is sent to the DOE Commissioner. When the Commissioner's review is complete, it is placed on the SBOE's meeting agenda. If the application is not accepted by the Commissioner, it is sent back to the applicant for revision and resubmission. The SBOE holds a public hearing and the applicant makes a presentation of its proposed chartered public school. The SBOE then votes at the meeting whether to approve or disapprove the chartered public school.

Application approval constitutes granting charter status and the right to operate as a chartered public school for five years. Chartered public school applications not approved by the SBOE are sent back to applicants for revision and resubmission in a subsequent year. Applicants may not resubmit their applications in the same year.

Figure 1

State Board Of Education Chartered Public School Approval Process



Source: LBA analysis of RSA 194-B.

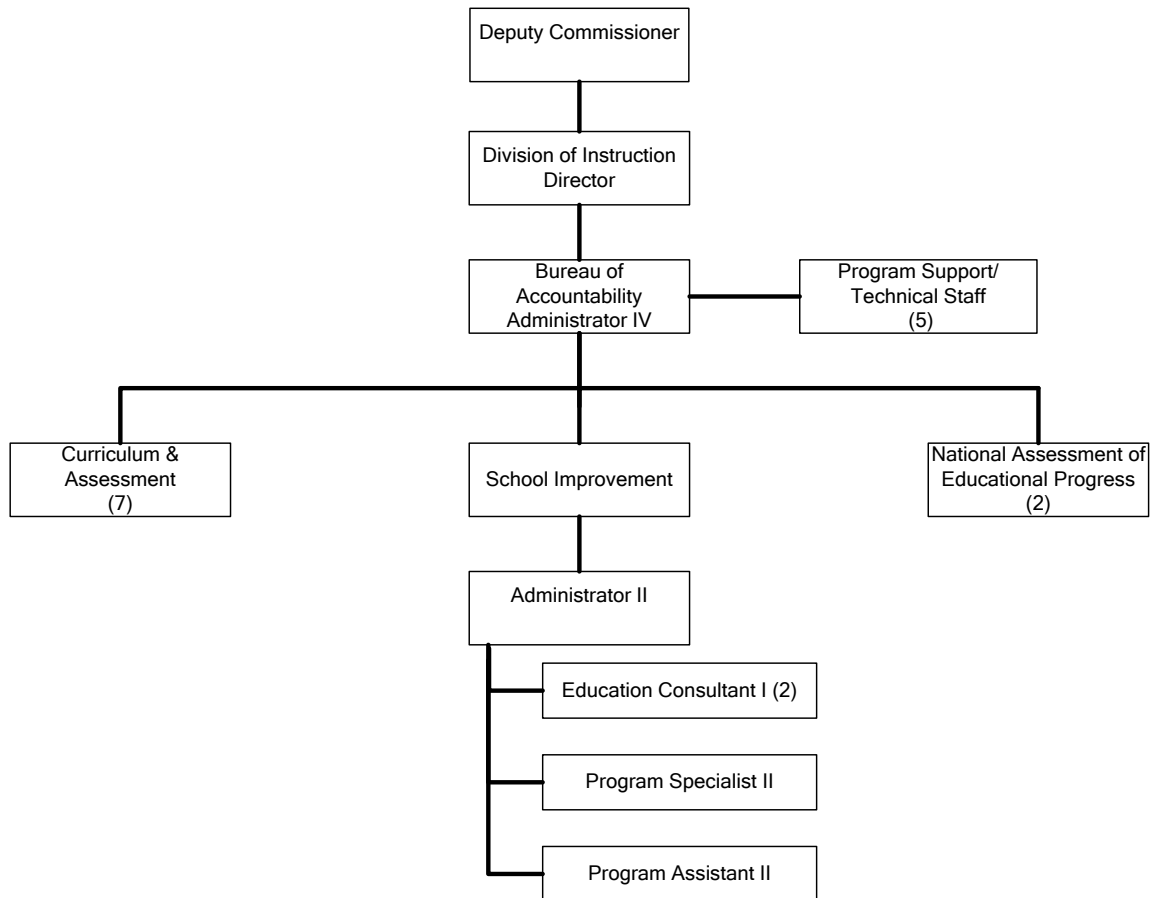
Organization

The chartered public schools program is administered by the Office of School Improvement within the DOE, Division of Instruction, Bureau of Accountability. Figure 2 shows the office employs five individuals: an Administrator, two Education Consultants I, a Program Specialist II, and a Program Assistant. However, only the Administrator and the Program Specialist II work on the chartered public school program. Time spent on the chartered public school program was

federally funded. However, as of September 30, 2014 there will no longer be federal funds available to administer the program.

Figure 2

Division Of Instruction Organization Chart



Source: New Hampshire Department of Education.

Revenues And Expenditures

Table 1 shows revenues and expenditures for the administrative portion of the chartered public school program have approximately doubled between State fiscal years (SFY) 2012 and 2013, due primarily to an increase in federal grants. Federal grants increased from \$807,224 in SFY 2012 to \$1,840,928 in SFY 2013. The SFY 2014 operating budget shows anticipated federal revenues of \$2.8 million. Personnel costs accounted for approximately 12 percent of total expenditures in SFY 2012 and dropped to approximately five percent of total expenditures during SFY 2013 and four percent during the first six months of SFY 2014.

Table 1**Chartered Public School Program Administrative Revenues And Expenditures**

	SFY 2012	SFY 2013	Six Months Ended 12/31/2013
Revenues			
Federal Funds	\$954,959	\$ 1,892,353	\$ 949,450
Expenditures			
Personal Services & Benefits	117,747	101,607	39,349
Grants – Federal	807,224	1,840,928	951,039
Legal Consultant	16,049	20,875	1,350
Other Expenditures & Transfers	26,586	30,891	6,324
Total	\$ 967,606	\$ 1,994,301	\$ 998,062

Source: Statements of Appropriation for accounting unit 6424.

Chartered public schools receive funding from the State depending on how they were approved. If a chartered public school is approved through the local school board it receives 80 percent of the per child cost in that school district. If the chartered public school is approved only through the SBOE, the State pays each chartered public school \$3,450 annually (\$3,498.30 for SFYs 2014 and 2015) for each full-time student, plus an additional grant of \$2,000 per student for a total of \$5,450 per student. Table 2 shows the appropriations and expenditures for all chartered public schools during SFY 2012, 2013, and the first six months of SFY 2014. Approximately \$10.3 million was appropriated for chartered public schools in SFY 2012 and approximately \$9.7 million was spent. In SFY 2013, the Legislature appropriated approximately \$14.7 million for chartered public schools, and the DOE spent approximately \$13.3 million.

Table 2**Chartered Public School Grant Appropriations**

	SFY 2012	SFY 2013	Six Months Ended 12/31/2013
Appropriation	\$10,251,001	\$ 14,677,264	\$ 20,318,935
Expenditures	\$ 9,699,112	\$13,284,476	\$11,960,216

Source: Statements of Appropriation for accounting unit 7550.

THIS PAGE INTENTIONALLY LEFT BLANK

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

OBSERVATIONS

How closely did the State Board of Education (SBOE) follow statutorily-established criteria in approving chartered public schools? To what extent did the SBOE base its approval on the required criteria? Did the Department of Education (DOE)/SBOE approve applications timely?

We found SBOE approvals were based on statutorily-established criteria in approving chartered public schools. Our review indicated each of the chartered public school applications approved during the audit period substantially complied with the required elements stated in RSA 194-B:3-a, and each application appeared complete when approved. However, we found the chartered public school approval program has not fully adhered to the Administrative Procedure Act. The Administrative Procedure Act requires rules, including forms, be adopted to prescribe or interpret an agency policy, procedure or practice requirement binding on persons outside the agency. Each agency must adopt “rules of practices and procedure,” consisting of “rules of practice setting forth the nature and requirement of all formal and informal procedures available.” We also found the SBOE needs to adopt administrative rules governing the State approval process, rules describing the method of review, and forms used.

There may be opportunities to increase efficiency in the application approval process. Although New Hampshire’s chartered public school approval process is robust, it comes at the cost of timeliness. We found it took an average of 462 days from the date of initial application to final approval by the SBOE for the four applications considered during the audit period. However, this approval time included time the DOE must wait for a proposed chartered public school to revise its application and the 302-day “moratorium” period between September 19, 2012 and July 18, 2013, during which the SBOE concluded, based on reported legal advice, it lacked “the legal authority to grant applications and bind the State to expend funds” that had not yet been appropriated. Notwithstanding the moratorium, our audit identified three other factors affecting approval process timeliness. First, the quality of the applications received from the chartered public school was sometimes insufficient. Second, each application goes through multiple layers of review before the application is seen by the SBOE. Third, there are no explicit approval timelines contained in RSA 194-B:3-a. We also found several appeals to the SBOE went unanswered in response to the Board’s summary denial of applications in 2012.

Observation No. 1

Update And Implement Administrative Rules For The Chartered Public School Approval Process

During the audit period, there were no current Administrative Rules relating to the SBOE chartered public school approval process. Administrative Rule Ed 318.08, which the DOE incorrectly relied on to approve chartered public school applications, refers to a “pilot program;” however, the pilot program ended in 2011 and was replaced by the SBOE approval process

found in RSA 194-B:3-a. No rules have been adopted for the SBOE approval process. As a result, there were no Administrative Rules during the audit period describing the current process, forms used, or other requirements such as how application content was scored.

While the statute governing the SBOE chartered public school approval process does not specifically require the DOE or SBOE to adopt Administrative Rules, the Administrative Procedure Act (RSA 541-A) requires agencies to establish rules for regulations, standards, or forms adopted by an agency to prescribe a policy, procedure, or practice binding on persons outside of the agency. In the absence of Administrative Rules, the DOE created a DOE personnel and “peer review” process and scoring system to rate applications, as well as a Commissioner’s review that were not established in Administrative Rules.

Moreover, Administrative Rule requirements were not always consistent with statute. We found Administrative Rule Ed 318.10(a) had an incorrect RSA citation and renewal period, indicating chartered public schools have a seven year renewal period, “in accordance with RSA 193-B:3.” However, RSA 193-B:3 pertains to Drug-Free School Zones. It appears the correct citation should be RSA 194-B:3, X, which sets the renewal period at five years.

According to the chartered public school administrator, the Office of School Improvement manages several programs in addition to chartered public schools and staffing is limited.

Recommendation:

We recommend DOE management adhere to the Administrative Procedure Act by updating and adopting Administrative Rules for the chartered public school approval process.

Auditee Response:

We concur. The Department of Education (DOE) acknowledges that the Administrative Rules around Chartered Public Schools should be updated. The internal DOE process for drafting updated rules was completed during Fiscal Year 2014, but was put on hold due to several legislative bills proposed during this session, which would have potentially needed additional changes to rules around Chartered Public Schools. Now that the Legislative Session has closed for the year, the DOE anticipates asking the State Board of Education to enter rule making no later than August 2014. During this time, the Board will update and adopt Administrative Rules for the Chartered Public School Approval Process, including a description of the review process. In addition, during this time the DOE will redraft application forms to conform with updated Administrative Rules.

Observation No. 2

Administrative Rules Should Describe Review Process

Informational material published on the DOE’s website describe a robust internal review process that includes reviews by legal counsel; peers; and an additional review by, and meeting with, the

Commissioner, before the application is sent to the SBOE for its review. However, the DOE's Administrative Rule Ed 318.08 refers to a vague "review process" without further description.

In addition, the *Evaluation Scoring Guide* form used by peer reviewers in their assessment of the application strays from criteria cited in RSA 194-B:3,II by adding additional requirements than those appearing in the statute. These additional requirements have not been adopted in Administrative Rules.

Without review practices established either in statute or Administrative Rules, the approval process may not be seen as transparent. Establishing rules provides for a consistent, legislatively approved approach to implementing the law, informs applicants of how applications will be evaluated, and can provide consistency to the process.

Recommendation:

We recommend DOE management describe in Administrative Rules its complete review process, including forms used.

Auditee Response:

We concur. Please see Observation No. 1 for a detailed response.

Observation No. 3

Application Form Should Be Consistent With Administrative Rules

The application form used by the DOE did not conform to all requirements found in Administrative Rules for the pilot program, which, as noted in Observation No. 1, the DOE incorrectly relied on for the application approval process. Nonetheless, we compared the DOE's application cover sheet form with Administrative Rule 318 requirements used during the audit period and found the following discrepancies:

- Administrative Rule Ed 318.08(e)(6) required applications to contain projected student enrollment data for each of the first five years of operation, but the application cover sheet form only requests three years.
- Administrative Rule Ed 318.08(e)(7) required applications to contain the total number of teachers and the average teacher/student ratio for the first five years. However, the application cover sheet does not request this information nor does it collect enough information for it to be calculated. Moreover, the application cover sheet only requests three years of projected data rather than the required five years.
- Administrative Rule Ed 318.08(e)(9) required a summary of the school's focus including a description of the characteristics, methods, and goals of the school. This information is not requested on the application cover sheet form.

According to the chartered public school administrator, the Office of School Improvement manages several programs in addition to chartered public schools and staffing is limited.

Therefore, there were inconsistencies between the Rules used and the application. Without complete information being requested, the DOE and SBOE may make decisions without all the information needed as contemplated by the application process.

Recommendation:

We recommend DOE management redraft its application forms to conform with its updated Administrative Rules.

Auditee Response:

We concur. Please see Observation No. 1 for a detailed response.

Observation No. 4

Application Timelines Should Be Considered

Four chartered public school applications were approved during the audit period. On average, we found it took 462 days from the date of initial application to final approval by the SBOE. However, approximately two-thirds of this time was the result of a moratorium on application approvals. Excluding the 302-day delay due to the moratorium, it took three applications 206 days, on average, from the date of initial application to final approval by the SBOE. The fourth application was ready for approval after 86 days. Work on this application continued during the moratorium but it was not approved until the moratorium was lifted.

There is no explicit timeline for taking action on applications stated in RSA 194-B:3-a. A significant reason for the length of time to take action on applications was based on reported legal advice from the Department of Justice which led the SBOE to conclude it must deny pending applications because it lacked “the legal authority to grant applications and bind the State to expend funds” that had not yet been appropriated. This delayed approvals by approximately 302 days.

Quality of the application as submitted by the proposed chartered public school can also be a contributing factor to the length of time it took to approve a chartered public school, as well as the layers of review an application goes through before it is seen by the SBOE. There are concurrent reviews by a State-contracted attorney, by peers (individuals from other chartered public schools or a chartered public school interest group), and by internal DOE personnel, as well as the Commissioner. The comments from the legal reviewer, peer reviewers, and internal DOE personnel are generally compiled and communicated to the applicant by the DOE at the same time with suggestions for improvements. Once the applicant incorporates those suggestions into the revised application, it is sent to the Office of School Improvement at the DOE for approval before being forwarded to the Commissioner for review. The DOE reports it works with applicants until it is assured the proposal meets all the criteria in RSA 194-B. The Commissioner may also suggest changes to the application, generating another revision before presentation to the SBOE.

Without timely action by the SBOE, plans for opening proposed chartered public schools may be disrupted.

Recommendations:

The Legislature may wish to consider establishing explicit timelines in statute for the SBOE to approve or deny a chartered public school application.

We recommend the DOE examine the efficiency of its review processes to improve the timeliness of the process, particularly the reviews conducted by peers and the Commissioner, to determine whether each layer of review is necessary. We also recommend the DOE work with proposed charter schools to ensure a quality application is initially filed, perhaps by posting a model charter school application with detailed explanations on its website.

Auditee Response:

We concur. Specific timelines should be included in statute or Administrative Rule. The lack of any specific timeline for the charter school applicants is unusually flexible. Most states have ambitious timelines that must be adhered to and does not offer technical assistance to applicants in preparation of the application or during the time of review. However, the New Hampshire review process works in favor of the applicant and does not constitute any delay attributable to the Department.

Figure 1 in the report is helpful in visualizing the application process from the letter of intent to final submission and approval or denial. Generally speaking, approximately 206 days for final approval or rejection appears to be reasonable given the nature of the criteria for approval. The Department will develop a timeline using Figure 1 in the report to develop a framework guiding applicants in the application process.

Observation No. 5

Appeal Requests Should Be Answered

On September 19, 2012, the SBOE denied all chartered public school applications pending at that time without complete review. Due to reported legal advice from the Department of Justice, the SBOE denied all pending applications because it concluded it lacked legal authority to grant applications and bind the State to expend funds that had not yet been appropriated. Following the SBOE's action, four applicants wrote letters of appeal to the SBOE requesting an appeal of the decision. However, it appears neither the SBOE nor the DOE took any action on the requests for appeal. We found copies of the appeal letters in individual chartered public school applicant files but did not find any subsequent correspondence either acknowledging, granting, or denying the requests and no evidence in SBOE meeting minutes the requests were taken up or tabled. The DOE reports it did not respond to the requests for appeals because there was nothing more it could do given the legal advice it received.

Administrative Rule Ed 318.08(i), upon which the DOE incorrectly relied in approving chartered public school applications during the audit period because the rules were for the pilot program states, “The [chartered public school] board of trustees may appeal a denial or conditional approval by the state board in accordance with Ed 213.” Ed 213.01 states “All appeals of final action by the state board shall be taken in accordance with RSA 541.” Ed 213.02(a) states, “[W]ithin 30 days of a decision of the board, any party pursuant to RSA 541:3 may make a motion for rehearing.” Ed 213.02(c) requires the Board to deny the motion for rehearing; grant the motion for rehearing and remand the matter to the hearing officer; or treat the motion for rehearing as a motion for reconsideration and: grant the motion as a motion for reconsideration, deny the motion as a motion for reconsideration, or table the matter for further discussion and decision at the next board meeting.

By not addressing the requests for appeal, the SBOE did not follow its own approval process or RSA 541.

Recommendation:

We recommend the SBOE and DOE management adopt procedures to ensure appeals are managed in compliance with its approval process and statute.

Auditee Response:

We concur. The circumstances described above were unique to the situation. The State Board of Education was acting upon advice of its legal counsel when denying all pending charter applications. Although formal action on requests for appeals of this denial was not taken, upon receipt of each appeal Department of Education staff followed up with each applicant and reiterated that no further action would be taken at this time to approve or deny additional charter school applications. All applications received subsequent to this time period have been properly reviewed and if an application were to be denied and then appealed, the State Board of Education would review and respond to the appeal within the required 30 days.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

**APPENDIX A
OBJECTIVE, SCOPE, AND METHODOLOGY**

Objective And Scope

In January 2014 the Fiscal Committee of the General Court approved a joint Legislative Performance Audit and Oversight Committee recommendation for a performance audit of the Department of Education (DOE) Charter School approval process. We held an entrance conference with the DOE in February 2014, and the Oversight Committee approved our audit scope in March 2014. Our audit covered the 18 months ended December 31, 2013 and answers the following question:

Was the chartered public school approval process efficient and effective during the 18 months ended December 31, 2013?

To answer this question we sought to determine the following:

1. How closely did the State Board of Education (SBOE) follow statutorily-established criteria in approving chartered public schools?
2. To what extent did the SBOE base its approval on the required criteria?
3. Did the DOE/SBOE approve applications timely?

While there is a local board approval process, we confined our efforts to the DOE and the SBOE's responsibilities since the SBOE must approve all applications.

Methodology

To gain a general understanding of the chartered public school approval process we:

- reviewed State and federal laws, Administrative Rules, policies, and procedures, newspaper articles, organizational charts, and financial information related to the chartered public school approval process and program;
- reviewed supplemental job descriptions for program staff;
- interviewed DOE personnel, and other stakeholders such as the New Hampshire Public Charter School Association, the New Hampshire School Administrators Association, and the New Hampshire Center for Innovative Schools regarding how the approval process functions and their opinions on the program's efficiency;
- had telephone conversations with the State Board of Education Chairman and a legal consultant under contract with the DOE regarding their roles in the approval process;
- reviewed charter school laws in other New England states;
- reviewed and analyzed the State's chartered public school approval process; and
- assessed and reviewed potential risks of fraud in DOE operations.

To determine how closely the SBOE followed statutorily-established criteria, the extent to which the SBOE based its approval on the required criteria, and to assess the timeliness of the approvals we conducted a survey of chartered public schools and a file review of chartered public school applications.

- We surveyed all 15 chartered public schools that had submitted an application or intent to submit an application, or was approved during the audit period. Five applicants responded to the survey for a response rate of 33 percent (five of 15). Reminder emails and follow-up phone calls were made in an effort to increase the response rate; however, the remaining 10 applicants chose not to participate in the survey. Due to the low response rate, the results cannot be extrapolated to the general population.
- We conducted a file review of the ten applications for chartered public school applications submitted to or approved by the DOE during the audit period to test compliance with applicable statutes and to determine timeliness of the approvals. Four of the ten applications were approved during the audit period.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

**APPENDIX B
EXISTING CHARTERED PUBLIC SCHOOLS**

	School	Location
1	Academy for Science and Design Charter School	Nashua
2	The Birches Academy for Academics & Art	Salem
3	Cocheco Arts and Technology Academy	Dover
4	CSI Charter School	Penacook
5	The Founders Academy Chartered Public School (Opens 9/2014)	Londonderry
6	Gate City Charter School for the Arts (Opens 9/2014)	Nashua
7	Granite State Arts Academy (Opens 8/2014)	Derry
8	Great Bay eLearning Charter School	Exeter
9	Ledyard Charter School	Lebanon
10	Making Community Connections Charter School	Manchester
11	Mill Falls Charter School	Manchester
12	Mountain Village Charter School (Opens 9/2014)	Plymouth
13	NEXT Charter School	Derry
14	North Country Charter Academy	Littleton & Lancaster
15	PACE Career Academy Charter School (LEA Approved)	Allenstown
16	Polaris Charter School	Manchester
17	Robert Frost Charter School	Conway
18	Seacoast Charter School	Kingston
19	Strong Foundations Charter School	Pembroke
20	Surry Village Charter School	Surry
21	TEAMS Charter School	Penacook
22	Virtual Learning Academy Charter School	Exeter

THIS PAGE INTENTIONALLY LEFT BLANK

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
CHARTERED PUBLIC SCHOOL APPROVAL PROCESS**

**APPENDIX C
CHARTERED PUBLIC SCHOOL APPLICANTS SURVEY RESULTS**

We attempted to survey all 15 chartered public school applicants that had submitted an application or letter of intent to the Office of School Improvement during our audit period. Five applicants responded to the survey for a response rate of 33 percent (five of 15). Reminder emails and follow-up phone calls were made to increase the response rate; however, the remaining 10 applicants chose not to participate in the survey. Due to the low number of responses, the results cannot be extrapolated to the general population.

Q1. Has your charter school been approved by the State Board of Education?		
Answer Options	Percent	Count
Yes	60	3
No	40	2
<i>Number of respondents</i>		5

Q2. In your opinion, is the charter school approval process efficient overall?		
Answer Options	Percent	Count
Yes	40	2
No	60	3
<i>Number of respondents</i>		5

Q3. Can the approval process be streamlined for greater efficiency?		
Answer Options	Percent	Count
Yes	80	4
No	0	0
Don't know/No opinion	20	1
<i>Number of respondents</i>		5

Q4. Please rate your overall experience with New Hampshire's public charter school approval process.		
Answer Options	Percent	Count
Dissatisfied	0	0
Somewhat dissatisfied	20	1
Neither satisfied not dissatisfied	0	0
Somewhat satisfied	60	3
Satisfied	20	1
<i>Number of respondents</i>		5

Q4. If dissatisfied or somewhat dissatisfied, please briefly explain.	<i>Number of respondents</i>
Politicized process, withdrew application because of that, process not properly done.	1

Q5. In your opinion, is the charter school approval process fair?		
Answer Options	Percent	Count
Yes	40	2
No	20	1
Don't know/No opinion	40	2
<i>Number of respondents</i>		5

Q6. Is the charter school approval process transparent?		
Answer Options	Percent	Count
Yes	20	1
No	20	1
Don't know/No opinion	60	3
<i>Number of respondents</i>		5

Q6. If no, please explain.	<i>Number of respondents</i>
From when we first submitted an application to where we are now, the lines of communication and transparency have greatly improved.	1
Backroom dealings, political dealings with education happen a lot behind the scenes, groups don't know what is happening until it hits them in the face, setting themselves up for criticism.	1

Q7. What are the strengths of the Department of Education's application process for charter schools? (Check all that apply.)		
Answer Options	Percent	Count
Knowledgeable Department of Education staff	100	5
Thoroughness in processing the application	40	2
Thoroughness in answering questions	80	4
Timely processing by the Department of Education	60	3
Commitment to quality charter schools	40	2
Consistency in reviewing applications	0	0
Timely response to phone calls or emails	60	3
Department of Education Commissioner's review	20	1
Legal Review	80	4
Amount of documentation or justification required	60	3
None	0	0
Other (please specify)	0	0
<i>Number of respondents</i>		5

Q8. What are the weaknesses of the Department of Education’s application process for charter schools? (Check all that apply.)		
Answer Options	Percent	Count
Knowledgeable Department of Education staff	0	0
Thoroughness in processing the application	20	1
Thoroughness in answering questions	20	1
Timely processing by the Department of Education	40	2
Commitment to quality charter schools	40	2
Consistency in reviewing applications	40	2
Timely response to phone calls or emails	20	1
Department of Education Commissioner’s review	20	1
Legal Review	0	0
Amount of documentation or justification required	0	0
None	20	1
Other (please specify)	20	1
<i>Number of respondents</i>		5

Q8. Other:	<i>Number of respondents</i>
Staff avoided responding to our phone calls because of a political situation during the charter school freeze on accepting new applications. They should still respond, it is odd to make a bunch of calls and have no response when you need to inform your board of status. Other weakness - some charter schools have been approved that have very shaky financial plans, the review of financial plans should be more robust to ensure sustainability.	1

Q9. In your opinion, please rate the level of cooperation you received from Department of Education personnel.		
Answer Options	Percent	Count
Excellent	40	2
Very Good	20	1
Good	20	1
Fair	0	0
Poor	20	1
<i>Number of respondents</i>		5

Q10. In your opinion, please rate the level of cooperation you received from the State Board of Education.		
Answer Options	Percent	Count
Excellent	0	0
Very Good	40	2
Good	0	0
Fair	60	3
Poor	0	0
<i>Number of respondents</i>		5

Q11. In your opinion, does the State Board of Education base its approval of charter school applications solely on criteria contained in law?		
Answer Options	Percent	Count
Yes	40	2
No	20	1
Don't know/No opinion	40	2
<i>Number of respondents</i>		5

Q12. Have you appealed a charter school decision made by the State Board of Education?		
Answer Options	Percent	Count
Yes	20	1
No	80	4
<i>Number of respondents</i>		5

Q13. To whom did you appeal?		
Answer Options	Percent	Count
State Board of Education	0	0
Department of Education	0	0
Supreme Court	0	0
Superior Court	0	0
Other (please specify): Office of Legislation and Hearings	100	1
<i>Number of respondents</i>		1

Q14. What was the result of the appeal?	<i>Number of respondents</i>
No answer / no response.	1

Q15. Do you have any other comments about the charter school approval process?	<i>Number of respondents</i>
Nope.	1
Charter application should be reviewed on the merits of its application and not on ideology or political ambitions. They should not be denied because of future legislature budget in a subsequent budget period. If other departments would function that way we would not be able to build roads and buildings, and other regular schools. There is potentially a conflict of interest in the approval process with some board members. Several board members are also members of either SAU school boards or town boards in functions like Alderman, etc. Typically SAU's are strongly opposed to charter schools as it creates a competition and other choice for the citizens inside that town or school district. These board members are typically heavy influenced by the SAU and often by the teachers union (NEANH) and lobbyist for the teachers union. We have often found that these board members are stepping outside the normal realm of the merits of an application. It is also very questionable from an ethics point that the board	1

of education has board members that represent SAU districts but none of them represent charter schools. Aren't charter schools also public schools?	
Make sure the school has a strong board, good financial and marketing plans before approving.	1

THIS PAGE INTENTIONALLY LEFT BLANK