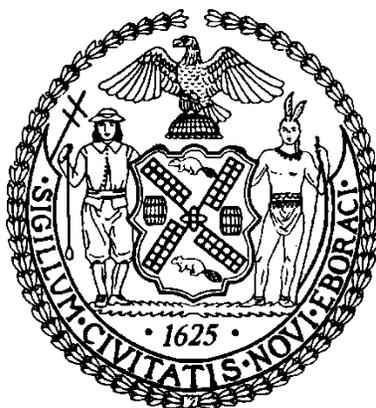


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

MANAGEMENT AUDIT

**Tina Kim
Deputy Comptroller for Audit**



**Audit Report on Champion Learning Center
LLC's Compliance with the Supplemental
Education Services Vendor Agreement with the
Department of Education**

MD11-106A

May 16, 2012

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

May 16, 2012

To the Residents of the City of New York:

My office has audited Champion Learning Center, LLC's (Champion) compliance with its No Child Left Behind (NCLB) contract with the New York City Department of Education (DOE). We audit City contracts such as this as a means of ensuring vendor compliance with regulations and accountability for resources.

The audit found that Champion had inadequate controls in place to ensure that Supplemental Education Services (SES) were provided and student attendance was processed in accordance with program requirements. These weaknesses were compounded by DOE's own control weaknesses, which led to inadequate monitoring of Champion's compliance with the SES program. Champion billed and was paid by DOE for services for which there was inadequate or questionable support. The audit identified a total of \$858,779 in questionable payments.

The audit makes 13 recommendations, including that Champion should ensure that SES is provided only during hours allowed by the contract, it consistently complies with the NCLB requirements, and Student Education Plans and progress reports are shared with parents in a timely manner. The audit also recommended that DOE should investigate and, where warranted, recoup the questioned amounts identified in the report.

The results of the audit have been discussed with DOE and Champion officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink that reads 'John C. Liu'.

John C. Liu

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*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on Champion Learning
Center LLC's Compliance with the Supplemental
Education Services Vendor Agreement with the Department
of Education**

MD11-106A

AUDIT REPORT IN BRIEF

We conducted this audit to determine whether Champion Learning Center, LLC (Champion) (1) complied with the key provisions of its No Child Left Behind (NCLB) contract with the New York City Department of Education (DOE) and (2) had adequate controls in place for providing Supplemental Education Services (SES) and processing student attendance. The audit also reviewed DOE's monitoring of Champion's compliance with SES requirements.

Under the Federal NCLB Act, DOE is required to offer contracts to the SES providers approved by the New York State Education Department (NYSED) that submit contract proposals. There were a total of 52 NYSED-approved providers during School Year 2009-2010, one of which was Champion. Champion contracted with DOE to offer tutoring services from September 1, 2009, through August 31, 2012, for an estimated contract amount of \$40,003,578. Champion mainly offers individual home-tutoring services but is also contracted to provide group services.

Audit Findings and Conclusions

Our audit disclosed that Champion has control weaknesses, which prevented the company from adequately complying with key provisions of its contract with DOE to provide SES to eligible students. Champion had inadequate controls in place to ensure that SES was provided and student attendance was processed in accordance with program requirements. These weaknesses were compounded by DOE's own control weaknesses, which led to inadequate monitoring of Champion's compliance with the SES program. Champion billed and was paid by DOE for services for which there was inadequate or questionable support. Our analysis of payments made to Champion for School Years 2009-2010 and 2010-2011 identified a total of about \$858,779 in questionable payments that should be investigated and, where warranted, recouped. These amounts were identified as a result of certain focused tests we conducted to identify control weaknesses. We, therefore, cannot be assured that the remaining amount that DOE paid to Champion for SES is fully supported and accurate. We also do not have reasonable assurance that the possibility of fraud is adequately controlled based on the identified weaknesses.

Champion did not comply with the provision of the NCLB contract requiring all SES providers to offer tutoring services only during non-school hours. In addition, we identified a number of isolated instances where Champion reported that it provided services to students at odd times (between midnight and 5:00 a.m.). In addition, Champion did not consistently obtain the required signatures before processing student attendance for reimbursement and did not ensure that the attendance information it certified was adequately supported by attendance sheets. Further, Champion did not always create and share Student Education Plans (SEPs) with parents in a timely manner and had no evidence that progress reports were shared with parents in a timely manner.

Audit Recommendations

Based on our findings, we make 13 recommendations, including that Champion should ensure that:

- SES is provided only during hours allowed by the contract.
- It consistently complies with the NCLB requirements and that the invoices it certifies are adequately supported by attendance sheets.
- SEPs and progress reports are shared with parents in a timely manner.

We also recommend that DOE should:

- Recoup the amount identified in this report for services reportedly provided between 8:00 a.m. and 2:30 p.m. on school days.
- Investigate the appropriateness of the remaining payments identified in this report for services reportedly provided either during sessions that started during school hours or at odd hours and recoup any payments deemed to be unjustified.
- Update its Vendor Portal validation rules to ensure accurate billing and compliance with the contract provisions and NCLB requirements.

Agency Response

DOE and Champion officials generally agreed with the audit recommendations addressed to their respective entities.

INTRODUCTION

Background

DOE provides primary and secondary education to over one million students in more than 1,600 schools. To help raise academic standards of public school students, close achievement gaps, encourage more school accountability, and provide parents with access to information and choice, the Federal Government enacted the NCLB Act, Title I, in 2001. “Title I – Improving the Academic Achievement of the Disadvantaged” amended the initial Elementary and Secondary Act. To meet the goals of the Federal NCLB Act, each year the NYSED identifies a group of public schools in New York as Title I schools, schools in need of improvement (SINI). Under the Federal NCLB Act, eligible students enrolled in SINI are provided SES to allow them to have the opportunity to obtain a high quality education and reach proficiency on state academic standards and assessments.

The SES program is committed to help schools improve student academic achievement in English language arts, reading, and mathematics. These services are provided free of charge to students who receive free or reduced lunch¹ and attend SINI. The tutoring services are offered at home, in schools, in community centers, online, or at provider centers outside of the regular school day, before or after school, or on weekends. Services can be provided to students individually or in group settings.

DOE, through the schools, notifies parents of the eligibility of their children to receive SES. Every school year, eligible students’ parents receive an SES Parent Guide, including a notification letter, program information, an enrollment form, and a list of approved NYSED- and DOE-contracted providers. Parents can attend school fairs and Parent Teacher Association events where SES providers give information on their services. Parents choose the provider they want for their children. Parents complete the enrollment form, which they send to the provider for signature and the provider sends to DOE for processing. All of these steps are outlined in DOE’s *No Child Left Behind Supplemental Education Services 2010-2011—Policy and Implementation Manual For Providers and School Administrators* (DOE’s NCLB policy). DOE created this policy manual to help providers, principals, parent coordinators, and other school staff implement the SES program.

Under the Federal NCLB Act, DOE is required to offer contracts to the SES providers approved by the NYSED that submit contract proposals. There were a total of 52 NYSED-approved providers during School Year 2009-2010, one of which was Champion. Champion contracted with DOE to offer tutoring services from September 1, 2009, through August 31, 2012, for an estimated contract amount of \$40,003,578. Champion mainly offers individual home-tutoring services but is also contracted to provide group services.

In the course of handling its responsibilities related to SES tutoring services, Champion uses several computer systems. Sales Force is Champion’s database that tracks and records services provided to students, tutors’ information including service hours, and Champion’s financial information. DOE’s Vendor Portal is an online application that is used by DOE to enter

¹ According to DOE officials, in the 2009-2010 School Year, students who received reduced lunch were not eligible to receive SES.

student enrollment information and is used by Champion to process invoices for payments and track students' attendance. Every month, Champion uploads attendance data in the Vendor Portal and certifies it for payment. By July 15, or a date determined by DOE, Champion has to submit a final and accurate certification of attendance. DOE's Personnel Eligibility Tracking System (PETS) allows DOE and Champion to manage the eligibility status of employees. The DOE Office of Personnel Investigation administers the PETS application and determines new tutor eligibility by conducting security clearance, background checks, and fingerprinting. If DOE approves of the prospective tutors, they are eligible to provide services.

As part of the SES program implementation process, DOE's SES Program Office has fiduciary responsibility for the SES program, including: enrolling of students, ensuring that tutors have been fingerprinted, monitoring the implementation of provider programs, ensuring that services are properly invoiced, and generating payments to SES providers. Every school year, DOE field monitors conduct school visits and phone interviews with parents to ensure that services are provided in accordance with all rules and regulations. DOE's Division of Financial Operations is in charge of making the SES provider payments through DOE's Financial Accounting and Management Information System (FAMIS). FAMIS interfaces with the City's Financial Management System (FMS), which processes the providers' payments. (Please see appendix for a flowchart of the SES process.)

In the 2009-2010 School Year, DOE contracted with 52 providers to serve 75,427 students in about 282 schools. In the 2011-2012 School Year, there were more than 70 approved providers. According to DOE's *No Child Left Behind Supplemental Education Services 2010-2011—Policy and Implementation Manual For Providers and School Administrators*, DOE has successfully enrolled over 450,000 students in SES programs since the inception of the program in 2002. According to the summary of attendance reports, in School Years 2009-2010 and 2010-2011, Champion reportedly served 9,813 and 12,592 students and was paid about \$19,730,000 and \$25,730,000, respectively.

Objectives

To determine whether Champion complies with the key provisions of its NCLB contract with DOE and has adequate controls in place for providing SES services and processing student attendance. The audit also reviewed DOE's monitoring of Champion's compliance with SES requirements.

Scope and Methodology Statement

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance

with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary scope of the audit was School Years 2009-2010 and 2010-2011. Please refer to the Detailed Scope and Methodology section at the end of this report for a discussion of the specific procedures followed and the tests conducted on this audit.

Discussion of Audit Results

The matters covered in this report were discussed with DOE and Champion officials during and at the conclusion of this audit. A preliminary draft report was sent to DOE and Champion officials and discussed at an exit conference held on March 5, 2012. On March 30, 2012, we submitted a draft report to DOE and Champion officials with a request for comments. We received written responses from DOE and Champion officials on April 13, 2012. In their responses, DOE and Champion officials generally agreed with the audit recommendations addressed to their respective entities.

In its response, Champion also responded to some recommendations that were addressed to DOE. Because these recommendations were not directed to Champion, we did not address Champion's responses to these recommendations in the report.

The full text of the DOE response is included as an addendum to this report. The full text of the Champion response, with the exception of related exhibits A through F, is also included as an addendum to this report. (Champion included copies of e-mails and attendance records as exhibits in its response that contained confidential personal information and were collectively too voluminous to include in the addendum. Redacted copies of these exhibits will be made available upon request.)

FINDINGS AND RECOMMENDATIONS

Our audit disclosed that Champion has control weaknesses, which prevented the company from adequately complying with key provisions of its contract with DOE to provide SES to eligible students. Champion had inadequate controls in place to ensure that SES was provided and student attendance was processed in accordance with program requirements. These weaknesses were compounded by DOE’s own control weaknesses, which led to inadequate monitoring of Champion’s compliance with the SES program. Champion billed and was paid by DOE for services for which there was inadequate or questionable support. Our analysis of payments made to Champion for School Years 2009-2010 and 2010-2011 identified a total of about \$858,779 in questionable payments that should be investigated and, where warranted, recouped. These amounts were identified as a result of certain focused tests we conducted to identify control weaknesses. We, therefore, cannot be assured that the remaining amount that DOE paid to Champion for SES is fully supported and accurate. We also do not have reasonable assurance that the possibility of fraud is adequately controlled based on the identified weaknesses. Table I summarizes the questioned amounts.

Table I
Questioned Payments to Champion

Category	Amount
SES sessions reportedly provided by Champion in part or entirely during school hours and at odd times (School Year 2009-2010)	\$354,123
SES sessions reportedly provided by Champion in part or entirely during school hours and at odd times (School Year 2010-2011)	\$482,131
Discrepancies between Attendance Sheets and Champion’s summary of attendance reports for sampled students	\$22,525
Total	\$858,779

Questionable Payments Made to Champion

Our review of Champion’s summary of attendance reports for School Years 2009-2010 and 2010-2011 disclosed significant control weaknesses that resulted in questionable payments totaling \$836,254 made to Champion. As a result, DOE may have paid Champion for services that it either did not provide or that did not comply with the SES requirements. DOE provided us with reports of the invoices related to the services provided by Champion for School Years 2009-2010 and 2010-2011, which included a summary of all the student attendance that was invoiced for each year.

On a monthly basis, Champion invoices DOE through a certification process using the Vendor Portal. There were instances when Champion certified services that were provided during school hours or at odd times. In addition, Champion certified some services without adequate supporting documentation.

Tutoring Provided During School Hours and at Odd Times

Champion did not comply with the provision of the NCLB contract requiring all SES providers to offer tutoring services only during non-school hours. In addition, we identified a number of isolated instances where Champion reported that it provided services to students at odd times (between midnight and 5:00 a.m.). Therefore, we cannot confirm with reasonable assurance that all tutoring sessions billed by Champion and paid for by DOE were actually provided because the students may not have been available during those hours. In addition, this could potentially be an indicator of fraudulent billing.

We found that Champion reported that it provided tutoring services in School Years 2009-2010 and 2010-2011 during school hours, which is prohibited by the NCLB contract. DOE paid Champion a total of \$352,911 and \$481,139, respectively, in School Years 2009-2010 and 2010-2011, for a total of \$834,050 for services provided in part or entirely during school hours.²

These payments were made in large part because DOE had not instituted controls in its Vendor Portal to disallow services reportedly provided during school hours or at odd hours. (This issue is discussed in more detail later in this report.) According to DOE officials, the Vendor Portal no longer allows vendors to submit bills for services provided during the time spans of 8:00 am - 2:30 pm (during school days) and 12:00 am – 5:00 am. Of the \$834,050 cited above, \$361,681 related to services reportedly provided between 8:00 am and 2:30 pm. We believe that DOE should recoup these funds. Additionally, we question the remaining \$472,369³, which pertain to that part of the sessions which extended beyond 2:30 pm. Although DOE has established 2:30 pm as the cutoff time, many students have their school day end later at 3:00 pm. Furthermore, because these services were reportedly provided at the students' homes, travel time must also be accounted for before students would be available for home tutoring. Accordingly, DOE should investigate the appropriateness of the remaining \$472,369 and ascertain whether any other amounts should also be recouped.

At the exit conference, Champion officials stated that the contract does not specify which hours are considered to be school hours. They added that many of the students serviced by Champion are high school students, who may be out of school earlier than 2:30 pm. However, the contract specifically states that services should not be provided during the regular school day, which according to DOE comprises the hours of 8:00 am to 2:30 pm.

Champion Response: “Furthermore, that tutoring sessions were scheduled during times between 8:00 a.m. to 2:30 p.m. reflected Champion’s interpretation of the contract

² Holidays and days when students do not report to school (as per the DOE school calendar for School Years 2009-2010 and 2010-2011) are excluded.

³ We allocated the hours and corresponding payments made for the portion of tutoring sessions provided after 2:30 p.m.

requirements, in the absence of specific guidance from DOE, that the ‘regular school day’ was for each individual client.”

Auditor Comment: Champion should have asked for clarification from DOE if it was not clear on any of the terms of the contract, including what is defined as the regular school day.

In addition to the payments cited above, we also identified isolated instances in which Champion reported that it provided services between the hours of 12:00 am and 5:00 am. Payments for these sessions over the two school years totaled \$2,204. By failing to implement adequate controls over the provision and processing of the services, Champion submitted bills for payment to DOE for tutoring services reportedly provided during prohibited hours and at times that do not seem reasonably possible. To compound matters, DOE apparently paid these bills because it did not have adequate validation rules in the Vendor Portal. As a result, an environment is created in which funds allocated to the NCLB program can be easily mismanaged.

Recommendations

Champion should:

1. Ensure that SES is provided only during hours allowed by the contract.

Champion Response: “In October, 2011, the SES program director advised that the ‘restricted day’ was 8:30 a.m. to 2:30 p.m. . . . Since Champion was made aware of this definition of the ‘regular school day’ and its applicability to all students regardless of their particular schedule, Champion has not scheduled any tutoring sessions during the hours of 8:00 a.m. to 2:30 p.m. Accordingly, this recommendation has already been implemented by DOE and followed by Champion.”

2. Ensure that billing information it certifies during the invoicing process is accurate and reliable.

Champion Response: “The changes made to the DOE vendor portal eliminate the possibility that tutoring sessions be entered for any hours outside of the permitted time frame. . . . Accordingly, Champion believes that the changes put in place in November, 2011 with the vendor portal, have already implemented this recommendation.”

DOE should:

3. Recoup the \$361,681 identified in this report for services reportedly provided between 8:00 a.m. and 2:30 p.m. on school days.
4. Investigate the appropriateness of the payments totaling \$472,369 for services reportedly provided during sessions that started during school hours and the payments totaling \$2,204 for services reportedly provided at odd hours. Recoup any payments deemed to be unjustified.

DOE Response: With regard to recommendations 3 and 4 DOE stated, “DOE will request that Champion repay the full \$858,779.

“We note that the NCLB/SES Vendor Portal (Portal) had been modified prior to School Year (‘SY’) 2011/2012 to include two validations to prevent services during regular school hours and ‘odd’ hours from being processed. One limits billing for services between 8:00 a.m. and 2:30 p.m. on DOE school days, while another prevents billing for services between midnight and 5:00 a.m. Services may be provided between 8:00 a.m. and 2:30 p.m. on weekends, holidays and on days when DOE schools are officially closed.”

Inadequate Supporting Documentation for Services Billed by Champion

Our review of the student attendance sheets disclosed that Champion did not have adequate controls to ensure that services billed are adequately supported. Consequently, we could not determine with reasonable assurance that Champion’s attendance billing was accurate and reliable.

Attendance Sheets Not Signed by Tutors and Supervisors as Required

A review of student attendance sheets disclosed that Champion did not consistently obtain the required signatures before processing student attendance for reimbursement. According to the NCLB contract, the DOE attendance sheets must be signed by tutors and their supervisors. The tutor’s signature represents his or her attestation that services were provided. According to Champion officials, a supervisor’s signature represents his or her attestation that the attendance sheets were completed in accordance with contractual requirements and that data entered into Champion’s computer system for billing purposes reconciles with the information recorded on the attendance sheets.

We found that 16 (10 percent) of 164 sampled attendance sheets did not have the tutor’s name nor a signature certifying that the services were provided. As a result, we were unable to determine which tutor provided the services and whether the tutor was eligible⁴ to do so.

In addition, we found that 77 (47 percent) of 164 sampled attendance sheets were not signed by the supervisors as required. Of the 87 that were signed, 10 did not identify the tutors who provided the services. Therefore, we question whether supervisors properly reviewed the attendance sheets. Based on the deficiencies found, there is limited evidence that the program managers were properly reviewing the attendance information entered by tutors, raising questions about the accuracy of the billing information forwarded to DOE. We attempted to meet with and interview a Champion program manager to understand the review process. However, Champion’s President tried to explain the program manager duties to us rather than make a program manager available to us even though we made the request more than once, including in an e-mail sent on July 25, 2011, to Champion’s president.

⁴ Staff members who directly interact with students must go through background checks and be cleared.

Champion Response: “Champion notes, however, that the underlying figures cited in the draft audit regarding the number of attendance sheets lacking signatures or identifying tutors, or even ‘missing’ entirely, are in dispute. After the release of the preliminary draft audit, Champion conducted additional searches of its own records and located at least some documents from the hard files and digital back-up that are relevant to the auditor’s conclusion: these records indicate that at least 3 of the 9 students listed as having attendance sheets without identified tutors, did in fact have sheets with both the name and the signature of their tutor; that at least 2 of the 11 sheets listed as missing a tutor’s signature, did in fact have the required signatures; and 8 of the 78 attendance sheets missing supervisor signatures did in fact have the same.”

Auditor Comment: The attendance sheets provided by Champion after receipt of the preliminary draft were not the ones that were cited in the report as deficient. The attendance sheets subsequently provided by Champion were either for different attendance dates or for another school year. Therefore, Champion has not provided adequate, appropriate documentation to refute the figures cited in the report. Accordingly, this finding remains.

Attendance Billing was Not Adequately Supported by Attendance Sheets

Champion did not ensure that the attendance information it certified during the invoicing process was adequately supported by attendance sheets. As a result, DOE paid Champion for services for which there is little, if any, evidence of being provided.

We found instances where session dates listed on the summary of attendance reports were not supported by attendance sheets. For 26 out of 72 sampled students (there were no attendance sheets for four of the sampled students), there was at least one session on the summary of attendance reports that was not adequately supported by attendance sheets. For one of the students, none of the session dates listed on the summary of attendance reports corresponded to the dates on the attendance sheets. Overall, we identified approximately 322 hours for 30 students (including the four students without any attendance sheets), totaling \$22,525, that were billed by Champion without adequate supporting attendance sheets. (This \$22,525 represents 15 percent of the total billing of \$151,435 for the 76 sampled students.) Therefore, we have little assurance that those services were actually provided.

Subsequent to the exit conference, Champion officials sent us copies of some attendance sheets as support for some of the instances cited. Champion officials stated that the attendance sheets were found in either the student folders or in Champion’s digital archives. We had already obtained two of these sheets during our review of student folders and they are accounted for in our analysis. Regarding the remaining attendance sheets, however, we do not view them as acceptable evidence to refute our finding. These attendance sheets were not in the students’ files at the time we reviewed them. All attendance sheets contained in the sampled students’ folders at the time of our review were considered in our analysis. During audit fieldwork, we conducted an extensive examination of records at Champion’s office, including three reviews of sampled students’ records for School Years 2009-2010 and 2010-2011. In addition, we asked Champion officials during the course of the audit whether they had any other files where student documents, including attendance

sheets, were maintained. Champion officials did not identify any sources other than the student files that we reviewed. Regarding digital records, the contract states that Champion is to retain original records, such as attendance sheets, for a minimum of six years. Therefore, we do not consider digital copies of attendance sheets to be acceptable evidence.

Champion Response: “Champion was able to locate over one third of the attendance sheets purported to be ‘missing’ entirely by the auditors: 11 of the alleged 30 students claimed to be missing attendance sheets, and 7 out of 18 students reported as lacking documentation for at least some tutoring sessions, were found and provided to the auditors prior to the issuance of the draft audit. (Submitted herewith as Exhibits D and E respectively). Accordingly, the draft audit’s assertion that 30 students were identified for which 322 hours were ‘billed by Champion without adequate supporting attendance sheets’ is not accurate.

“Champion believes that the discrepancy in these figures is a result of the manner in which the auditors reviewed the files. Over the course of the audit process, the auditor’s visited Champion’s offices on several occasions and each time except the last, requested the assistance of Champion’s staff in locating files. On each of these occasions, if a document was not found during the visit, the staff was able to locate and provide the missing document promptly after the visit. During the last visit, however, the auditors did not request the assistance of the staff, nor did they identify any documents that they were unable to locate on their own.”

Auditor Comment: As stated previously, the attendance sheets provided by Champion were not acceptable because they were not in the files when we reviewed them and some were digital records, which is not a regular practice of Champion and which is contrary to the contract requirements. In addition, Champion’s assertion that its staff was able to locate and provide missing documents promptly after our visits is simply not correct. There were several occasions where sampled files were missing required documentation and Champion staff was unable to provide the documents even after we requested them several times. We conducted an extensive review of Champion’s records for the sampled students; the attendance sheets we cited as missing were simply not in the files when we reviewed them, and the assistance of Champion staff would not have changed this fact.

We also found at least one instance each for five sampled students where there was no session end time recorded on the attendance sheets. Champion billed and was paid \$558 in these instances. Without an end time, we question how long the tutor actually provided services to the student and how Champion determined the time to be billed.

Because of Champion’s failure to implement proper controls, such as adequate supervisory review and monitoring of tutors, we cannot confirm that all payments made to Champion by DOE are for services actually provided.

Recommendations

Champion should:

5. Strengthen its internal controls to ensure that attendance sheets are properly reviewed and include the required signatures.
6. Ensure that it consistently complies with the NCLB requirements and that the invoices it certifies are adequately supported by attendance sheets.

Champion Response: With regards to recommendations 5 and 6, Champion stated, “Champion agrees that it would benefit from the strengthening of its own internal controls monitoring this kind of paperwork, and prior to receipt of the preliminary draft audit, had already made changes to improve its own internal control of the attendance sheets prior to their filing in the student’s file. At the beginning of the 2011-2012 school year, Champion hired additional personnel whose responsibility is to verify that each attendance sheet is signed by both the tutor and the supervisor. If a signature is missing, the employee returns the form to the program manager for completion.

“Further, Champion is adding checklists to its quality control call system. . . . this program will now include a checklist so the supervisor will log in that the attendance sheets have been reviewed and signed, as well as certain other information. Champion believes that these improvements to its internal controls will improve its compliance with the contract requirements regarding attendance sheets, and by extension, as the billing by DOE flows directly from the data input into the portal from the attendance sheets, further ensure proper back-up for the bills submitted to DOE.”

DOE should:

7. Investigate and, if warranted, recoup the total of \$22,525 for payments that were not supported by attendance sheets.

DOE Response: “The DOE agrees that digital records and photocopies are unacceptable in that the SES contract calls for original documents to be held for at least six years. As originals were not found during the audit by the Comptroller, and only copies and digital records were sent to the Comptroller by Champion following the exit conference, the DOE will recoup the recommended amount of \$22,525.”

Non-compliance with Other Contract Provisions

Our review of the records for the 76 sampled students disclosed that Champion did not have adequate controls to ensure that it complied with certain other provisions of the NCLB contract. There were instances when SES documents were not created in a timely manner or shared with parents as required. In addition, the attendance information reported on the progress reports was not always accurate. These issues are discussed further in the following sections.

Student Education Plans are Not Created and Shared with Parents in a Timely Manner

Student Education Plans (SEPs) are not always created and shared with parents in a timely manner. According to the DOE NCLB policy and the Vendor Portal User Guide, SEPs must be completed prior to or shortly after the start of tutoring services (within the first to third session) with parental consultation.

DOE Response: “Additionally, while the audit report references the Vendor Portal User Guide and says SEPs ‘must be completed prior to or shortly after the start of tutoring services . . . with parental consultation,’ the NCLB/SES Policy and Implementation Manual states only that, *to the extent possible, SEPs should be done with parental consultation.* The DOE’s search of the Vendor Portal User Guide did not turn up the standard cited by the auditors.”

Auditor Comment: We are puzzled by DOE’s comment; nowhere in the NCLB/SES Policy and Implementation Manual (i.e., DOE NCLB policy) does it state that SEPs should be completed with parental consultation “to the extent possible.” The standard we cited comes from two sources. Page 27 of the DOE NCLB policy states, “Student Education Plans must be completed prior to or shortly after the start of tutoring services with parental consultation.” Additionally, page 10 of the Vendor Portal User Guide states, “the provider must enter an SEP . . . within the first several sessions (1-3).” Accordingly, this finding remains.

We found that the SEPs for seven (9 percent) of 75 (one student did not have an SEP in the Vendor Portal⁵) sampled students were created after the student’s fourth tutoring session. Our review also disclosed that the SEPs for 24 of 54⁶ sampled students were not signed by a parent in a timely manner after they were created (as recorded in the Vendor Portal). There were 11 instances when the SEP was signed by parents approximately two months after they were created and 13 instances where they were signed after all the tutoring sessions for those students were provided. Therefore, it appears that the SEPs were not created with parental consultation as required by the guidelines, which may have diminished the effectiveness of the program because the parent may have knowledge of the child’s educational needs of which the provider is unaware. By not evaluating the students in a timely manner and without seeking parental participation, Champion is not ensuring that the NCLB requirements are effectively implemented. At the exit conference, a DOE official stated that the SEP has to be completed within the first to third *hour* of tutoring services, not the first to third session. However, this is a more strict interpretation than we found in the DOE NCLB policy or the Vendor Portal User Guide.

DOE Response: “As to the timely entry of Student Education Plans (SEP), the DOE questions the audit’s findings as the Portal has always had a validation that required the

⁵ This student was enrolled with Champion for only one session and the tutor, according to Champion, did not have time to submit an SEP.

⁶ We were only able to compare the parents’ signatures on the SEPs for 54 students because we were unable to locate the hard copy SEPs for 10 students. Additionally, the SEPs for 12 students did not include the date they were signed by the parent.

up-load of an SEP within the first few hours/sessions of service, depending on each provider's session length, blocking payment for services provided after the provider has invoiced for a total of three hours."

Auditor Comment: DOE's validation requiring the upload of SEPs within the first few hours/sessions does not work as intended if a vendor submits late billings. As stated previously, we identified seven instances where the SEPs were not created until after the student's fourth tutoring session took place. In most of these cases, although several sessions were provided, the billing for these sessions was not submitted until after the SEP was created. Therefore, Champion was able to provide more than three hours of services before creating the SEP. For example, Champion provided five tutoring sessions totaling eight hours and 20 minutes to one student between January 25, 2010, and February 4, 2010; however, the SEP for this student was not created until February 6, 2010. Champion was not prevented from providing these services because the billing for these five sessions was done on April 2, 2010, which was after the SEP creation date. DOE should ensure that vendors submit billing in a timely manner so that SEP validation operates as intended. Accordingly, this finding remains.

Limited Evidence that Quarterly Progress Reports Were Shared with Parents

Although Champion created quarterly progress reports in the Vendor Portal, in many instances there was no evidence that they were shared with the parents in a timely manner, if at all. The NCLB contract requires that Champion provide the student's school and parent with a progress report quarterly based on the provider's program hours and the student's attendance⁷. It also requires that copies of progress reports, signed by parents, be maintained and be available for review.

Progress reports are important because they allow parents to track the students' progress and they include information regarding student attendance and the level of proficiency reached by students in each performance type.

Based on our review of the progress reports in the Vendor Portal, there were 281 progress reports created for the 76 sampled students; however, we found only 240 hard copy progress reports in Champion's files. The 41 missing hard copy reports pertained to 25 students; for seven students, there were no hard copy quarterly progress reports at all in their respective files. Therefore, there is no evidence that these 41 progress reports were shared with the parents.

For the 240 hard copy progress reports available for review, it appears that Champion did not share a number of them with the parents in a timely manner. We found that for 19 sampled students, the parents signed all 67 quarterly progress reports prepared for their children on the same day. Of the remaining 173 reports, 33 were signed but not dated, and seven were not signed by the parent. Therefore, we could not determine whether the parents were shown the progress reports in a timely manner or, in the case of the seven, at all.

⁷ For example, a student who receives all hours of service will have four progress reports at approximately 25 percent, 50 percent, 75 percent, and 100 percent of service hours.

Attendance Information Reported on Progress Reports is Inaccurate

The NCLB contract requires that progress reports include information on student attendance. However, the attendance information listed on the progress reports was not always accurate. We were unable to reconcile some of the session dates listed on progress reports with the dates of the tutoring sessions listed on attendance sheets.

The NCLB contract requires that Champion submit Quarterly Progress/Attendance Reports to parents with information about student attendance and academic improvement. However, we found many instances when the dates of sessions reported on the progress reports were not listed on the attendance sheets and vice versa. Our analysis identified 107 instances for 18 of the 76 sampled students in which dates reported in the progress reports were unsupported by the attendance sheets. For four of these students, there were no attendance sheets. Champion billed for these sessions and received \$14,793⁸ in payments from DOE. After the exit conference, Champion officials provided copies of some of the missing attendance sheets. Much of this same documentation was also supplied by Champion in response to our finding of inadequate supporting documentation for services billed (see p. 9). We did not view these attendance sheets as acceptable evidence to refute our finding because these attendance sheets were not in the students' files at the time we reviewed them. This is the same reason noted earlier in the report (see p. 9) in response to inadequate supporting documentation for services billed. Conversely, we found 216 instances for 65 (90 percent) of 72 sampled students (as stated earlier, four students did not have attendance sheets) when session dates were listed on attendance sheets but not recorded on progress reports.

If incorrect information is included on the progress reports or if the information is incomplete, parents may not be fully or adequately informed about their child's progress and the number of tutoring sessions received. The inconsistencies identified above raise questions about the reliability of the SES documents maintained by Champion as well as the information reported in the progress reports that are shared with DOE, parents, and the schools.

Recommendations

Champion should:

8. Ensure SEPs are created and shared with parents in a timely manner.
9. Ensure parents are informed in a timely manner of the progress of their children.
10. Improve its review process over the SES program to minimize discrepancies between the attendance sheets and the progress reports.

Champion Response: With regard to recommendations 8, 9 and 10 Champion stated, "Champion agrees that the recommendation to improve its internal monitoring of the SEP documents is advisable and Champion has already taken steps to improve the consistency

⁸ This dollar amount, with the exception of \$261, is included in the previously mentioned \$22,525 that was paid to Champion without supporting attendance sheets.

and timeliness of these requirements. As noted above, Champion has hired additional administrative personnel to ensure that all the documentation for each student, including the SEP and the progress reports, are complete, and that the data entered across the attendance sheets and progress reports are consistent. Furthermore, supervisors will be trained to fill out a checklist of the documentation required for each student at the appropriate interval, including attendance sheets, SEPs and progress reports, and this checklist is maintained electronically.”

Inadequate Monitoring of Champion’s SES Compliance by DOE

A significant contributing factor to the deficiencies identified above is the inadequacy of DOE’s monitoring of Champion’s SES program to ensure compliance with the NCLB requirements. As a result, inaccurate and invalid attendances were processed and paid to Champion.

Inadequate Controls in the Vendor Portal

The validation rules in the Vendor Portal do not flag all questionable attendance information that is entered by vendors and help ensure that inappropriate payments are not processed as explained in previous sections. No validations or edit checks exist to prevent billing of sessions provided during school hours, at odd times, overlapping sessions, or in instances when SEPs are not created in a timely manner. According to the DOE NCLB policy, “each attendance record will be processed and validated against business rules” during the uploading process before they are paid. One of the purposes of validation rules is to prevent the Vendor Portal from processing student attendance information that does not comply with the NCLB requirements.

In addition, the edits checks in the Vendor Portal did not prevent overlapping sessions from being billed. The summary of attendance reports we received from DOE did not identify the tutor who provided the sessions. According to DOE’s Vendor Portal Guide and the validation rules, the instructor information is present and is a mandatory field. We requested from DOE on more than one occasion a summary of attendance report that included the tutor information, but this information was not provided. Accordingly, we must conclude that the information was not present in the Vendor Portal. Without this information, DOE would be significantly hindered in ensuring that vendors are not inappropriately billing for overlapping sessions.

We were able to get some limited information from Champion that identified the tutors for some students. However, when we compared this information to the summary of attendance report, we determined that the information from Champion was incomplete because all sessions for all students were not included. Nevertheless, our review identified an instance when one tutor provided services to two students on January 17, 2011, at different locations at the same time. One session was listed as taking place from 6:15 p.m. to 8:15 p.m. and the other session was listed as taking place from 8:00 p.m. to 10:00 p.m. DOE paid Champion \$285 for the services provided to these two students. Because the tutoring provided by Champion to these students was reportedly provided at their homes and these students did not live at the same address, it would not be possible for the tutor to be in two locations at the same time. It is possible that other instances of

overlapping occurred for this tutor and others. Again, because DOE did not provide the names of tutors who were associated with the summary of attendance reports we received, we were unable to perform a thorough test to determine this.

DOE Response: “While the DOE will recoup the \$285 paid for overlapping sessions provided by one tutor, we do not agree that the system fails to identify the tutor who provided the services and that this information was not provided to the Comptroller. In fact, each attendance up-loaded to the Portal requires a three to five digit number that is tied to a specific individual (tutor) registered in the Personnel Eligibility Tracking System (PETS). In order to ensure that each tutor has been fingerprinted and cleared to work, his/her PETS number must be entered in to the Portal with each attendance record so it can be verified against the PETS database. To this end, although not identified by name, there is a specific tutor associated with every session billed.”

Auditor Comment: If DOE’s system identifies the tutors, it is unclear why DOE never provided us with this information. As mentioned previously, we requested from DOE on more than one occasion a summary of attendance report that included the tutor information, but the tutor information was never provided. Had the tutor numbers been included in the summary of attendance report we received from DOE, we would have been able to test for additional instances of overlapping.

Because of deficiencies with the validation rules in DOE’s computer system, many of the discrepancies and instances of Champion’s non-compliance went undetected. For example, the validation rules should have prevented payments for services provided during school hours and overlapping billing. In addition, the validation rules should have prevented payments for sessions if the corresponding SEPs were not created.

Inadequate Oversight over SES Provided at Home

DOE does not adequately oversee the at-home tutoring services provided by Champion. To meet its monitoring responsibilities, DOE has monitors conduct phone interviews with parents of students receiving at-home tutoring. We reviewed the monitors’ phone call log for School Year 2009-2010. We determined that the review was limited and we uncovered many inconsistencies. DOE interviewed the parents for 130 (1 percent) of the 9,918 students enrolled and assigned to Champion during the period. There is no evidence that DOE followed up in instances where parents’ answers to the questionnaire were inconsistent with their overall satisfaction with the program. For example, one student’s parent responded that she was satisfied with the program and had received attendance sheets and progress reports. However, the comments section on the call log indicated that the parent stated that the child was never assigned a tutor despite several calls made to Champion. A review of Champion’s attendance billing confirmed that no services were billed for this child, which is a further indication that the child did not receive services. We asked DOE for information and evidence regarding what action, if any, was taken regarding this child, but no information was provided. In addition, the log indicated that 10 (8 percent) out of 130 parents surveyed were not satisfied with Champion’s services. At the exit conference, Champion officials stated that DOE contacts them regarding identified issues. However, neither DOE nor Champion provided any additional information on what, if anything, was done in these instances.

Furthermore, the log indicated that three parents said they were contacted by Champion to enroll their student in the program, which is contrary to the NCLB contract. The contract states the Contractor may not directly solicit students for enrollment in its program. The answer listed for each parent under the question why did you select this provider was "Provider contacted me." For two of these instances, the comments section stated that Champion contacted the parent and for the remaining instance, the comments section stated that the parent was approached outside of the school. This is at odds with the guidelines listed in the "SES Vendors-Guide to Unacceptable Marketing Practices," which clearly states that coercing parents into signing up for a specific program by visiting or calling them at home and soliciting parents outside of the school building are unacceptable practices.

DOE provided little evidence that it took any actions to address the deficiencies found during the survey even though the DOE NCLB policy states that monitors should identify areas of concern or incidents requiring intervention or further action. DOE officials stated that when deficiencies are found, they recoup payment for these services. We requested from DOE information on recoupments, if any, that were made from Champion in School Years 2009-2010 and 2010-2011. DOE did not provide sufficient evidence that any funds were recouped from Champion.

DOE Response: "Further, contrary to the audit report, which states that the comptroller requested 'information on recoupments, if any, that were made from Champion in the School Years 2009-2010 and 2010-2011' and that the 'DOE did not provide sufficient evidence that any funds were recouped from Champion,' the DOE provided the Comptroller with a full recap of the \$5,250,420.00 recouped from Champion covering School Years 2009/2010 and 2010/2011."

Auditor Comment: The \$5.2 million recoupment that DOE is referring to represents an overstatement of certain costs in Champion's 2006 budget that DOE agreed to recoup over a period of three years. We requested from DOE information on any additional recoupments that may have been made due to deficiencies found by DOE monitors during calls to parents or any other deficiencies that may have come to its attention. However, we have received little, if any. Accordingly, this finding remains.

Photocopies of Enrollment Forms Found on File

According to DOE's NCLB policy, parents of eligible students are the only ones authorized to select the SES providers to provide services to their children. Both the schools and the SES providers themselves are forbidden from recruiting students or enrolling them with a particular SES provider. The DOE SES Program Office sends original enrollment forms to schools, where student information labels are printed from the Automate the School system and placed on the enrollment forms. The schools in turn send these enrollment forms to the parents of eligible students. After completing the enrollment forms, the parents return them to the selected provider. The provider must keep only the copy of the enrollment forms and send the signed original forms to DOE. According to the DOE NCLB policy, "Enrollment forms are not to be duplicated." In order to prevent this from occurring, the DOE SES Program Office creates original enrollment forms in a unique size (slightly larger than 8 1/2 x 11) and color.

We attempted to obtain from DOE the original enrollment forms for our sample of 76 students. We found original forms for only 57 (75 percent) of the students. For 13 students, there were only photocopies of the enrollment forms and for six students there were no enrollment forms at all. Furthermore, during our search for the forms for our sampled students in DOE's archived records, we found many photocopies (approximately 100) of enrollment forms rather than original forms for additional students served by Champion. The DOE NCLB policy states that SES providers should not photocopy or procure enrollment forms for distribution to parents or make the provider selection for parents. It also states that schools are to provide only original forms to parents. The photocopied enrollment forms we found could be an indication that the forms were completed by someone other than the parent, such as an SES provider. Alternatively, these forms could have been substituted because the originals were lost or damaged. In addition, in the absence of original forms with original parent signatures, DOE has limited evidence that the parents even enrolled the students. Because of DOE's inadequate oversight over the handling of the enrollment forms, there is an increased risk that SES providers may be improperly enrolling students, thus violating the NCLB policy.

At the exit conference, DOE officials stated that they do not enroll students unless original enrollment forms are received. They stated that it is possible that the original forms were misplaced and photocopies used instead. In addition, Champion officials provided a string of e-mails between them and DOE. In the first e-mail, Champion is inquiring about the processing of approximately 2,600 enrollment forms that the vendor claims it submitted to DOE in October 2010. (These account for 20 percent of the 12,592 students who received SES from Champion during that school year.) In reply, DOE does not acknowledge that it received the forms and misplaced them. Instead, DOE simply responded that it did not have the enrollment forms and asked that Champion make copies and send them again. DOE has limited assurance that the enrollment of these students was proper because photocopies—rather than the original enrollment forms-- were accepted for a large number of them.

DOE's lack of proper monitoring of the SES program may be compounded by the fact that there are approximately 70 additional SES providers. It is possible that the weaknesses uncovered during the review of Champion's implementation of the SES program may also exist for other providers.

Recommendations

DOE should:

11. Update its Vendor Portal validation rules to ensure accurate billing and compliance with the contract provisions and NCLB requirements.

DOE Response: "As stated above, validations for school day and 'odd hour' services had been added to the Portal prior to the start of this audit. An additional validation that addresses overlapping services by the same tutor providing one-on-one services will be operational by the end of this school year."

12. Improve its monitoring of home tutoring services and take corrective actions to address any deficiencies found during the surveys.

DOE Response: “Using a report of all students who are enrolled in one-on-one tutoring, the SES office assigns monitors to make phone calls to the student’s homes for the purpose of assuring that SES services are being provided according to DOE rules and regulations. These monitoring efforts are not intended to manage or measure the quality of the provider’s services since the New York State Education Department is fully responsible for approving providers and the programmatic aspects of their services. DOE has no standing with regard to the selection of vendors; NCLB/SES is a parent choice program.”

Auditor Comment: While DOE is not responsible for approving providers and programmatic aspects of its services, it is responsible for monitoring the SES program for compliance with DOE rules and regulations.

13. Improve controls over the processing of enrollment forms.

DOE Response: “As the audit reflects, the DOE prints new enrollment forms in a different color each year and uses slightly over-sized paper stock to further mitigate the risk that photocopied enrollment forms will be submitted. Although we cannot, today, account for why some of the forms retained in files were copies, we wish to assure the Comptroller that the SES enrollment process is no longer regionally managed and the current centralized policy and practice precludes enrolling any child for whom a fully completed, accurate and original enrollment form is not in hand.”

DETAILED SCOPE AND METHODOLOGY

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary scope of the audit was School Year 2009-2010 and 2010-2011.

To gain an understanding of the Federal NCLB Act of 2001 and the SES program, we reviewed the regulations and any related documentation such as the Federal NCLB Act of 2001, *Summary Report of SES Providers* (Part A, B, C, D, and E), and Champion's NCLB contract with DOE. We also reviewed DOE's procedures and policies related to SES program, such as the *No Child Left Behind Supplemental Education Services 2010-2011—Policy and Implementation Manual For Providers and School Administrators*, updated for Fiscal Year 2011, the *NCLB-SES Vendor Portal User Guide*, and the *PETS manual*. In addition, we conducted interviews and walk-throughs with DOE officials responsible for managing the SES program and contracts, including officials from the SES Program Office, officials responsible for managing PETS and the Vendor Portal, SES service monitors, and officials from the Information Technology unit. In addition, to gain an understanding of Champion's operations and the roles of its different units, we interviewed Champion officials. During these meetings, we observed the invoicing and attendance review process.

To determine whether student attendance information used during Champion's billing process was accurate, we requested the summary of attendance reports for School Years 2009-2010 and 2010-2011 and the DOE listings of all students enrolled for these two school years. We compared the students listed on the summary of attendance reports to the enrollment lists to ensure that all students Champion billed for were eligible to receive services.

We pulled 25 student files (as a preliminary sample) from Champion's hard copy files of the 9,813 students who received services from Champion during the 2009-2010 school year. Champion was paid \$51,550 for tutoring sessions for these 25 students. In addition, we subsequently expanded our sample by randomly selecting 51 of the 12,592 students who received services during the 2010-2011 school year from the DOE enrollment list. Champion was paid \$99,885 for tutoring sessions for these 51 students.

To assess the reliability and accuracy of the summary of attendance reports, we obtained all SES records from Champion and DOE for our sample of 76 students and compared them to the information recorded in the summary of attendance reports and DOE Enrollment Reports. To determine whether Champion is maintaining all SES documents as required by the contract and whether it is complying with key provisions of the contract, we verified whether the sampled student files contained all the required documentation and whether, based on the documentation, the services were provided to these students according to the terms of the contract. We also

verified whether Champion was paid by DOE for only services it provided to the students by ensuring that services paid for were properly substantiated by attendance sheets.

In addition, to determine whether Champion was adequately monitoring its SES tutors, we verified whether attendance sheets of our sampled students were signed by the tutors and their supervisors. We also verified whether the tutors were active and eligible in the PETS system. Furthermore, we examined if students' progress reports were signed and dated by parents to ensure that Champion was regularly and timely informing the parents of the progress of the students. Furthermore, we compared the hard copies of the Student Education Plans to the information in the Vendor Portal to verify whether they were signed and dated by the parent in a timely manner to ensure that Champion timely evaluated the needs of the students and discussed those needs with the parents. Lastly, we compared the dates of sessions as recorded on attendance sheets to the dates of sessions listed on the progress reports.

To test whether Champion may have inappropriately billed for SES services during school hours and odd hours, we reviewed the summary of attendance reports for School Years 2009-2010 and 2010-2011 and generated a listing of all services provided between midnight and 5:00 a.m. and during school days between 8:00 a.m. and 2:30 p.m. We also tested whether services billed by individual tutors as part of the summary of attendance reports overlapped (the same tutor provided services to more than one student on the same day during overlapping times.) Furthermore, to ensure that all enrolled students received services, we compared the DOE enrollment file to the summary of attendance reports.

To evaluate controls in the DOE Vendor Portal, we observed a demonstration of the processing of test data by staff from the Division of Financial Operation from the IT unit. During this process, we requested that certain erroneous data be entered in the Vendor Portal so that we could see the outcome.

To determine whether DOE was adequately monitoring services provided by Champion at students' homes and ensuring that proper corrective action was taken to address any shortcomings, we reviewed DOE monitors' phone call log for School Year 2009-2010.

In addition, we learned that Champion had overestimated certain costs in its budget submitted in 2006, and DOE and Champion agreed the overestimated costs would be offset from payments made over the following three years. To determine whether the amount agreed upon was accurately recouped, we reconciled the amounts recouped by DOE from payments made to Champion to the agreed upon amount.

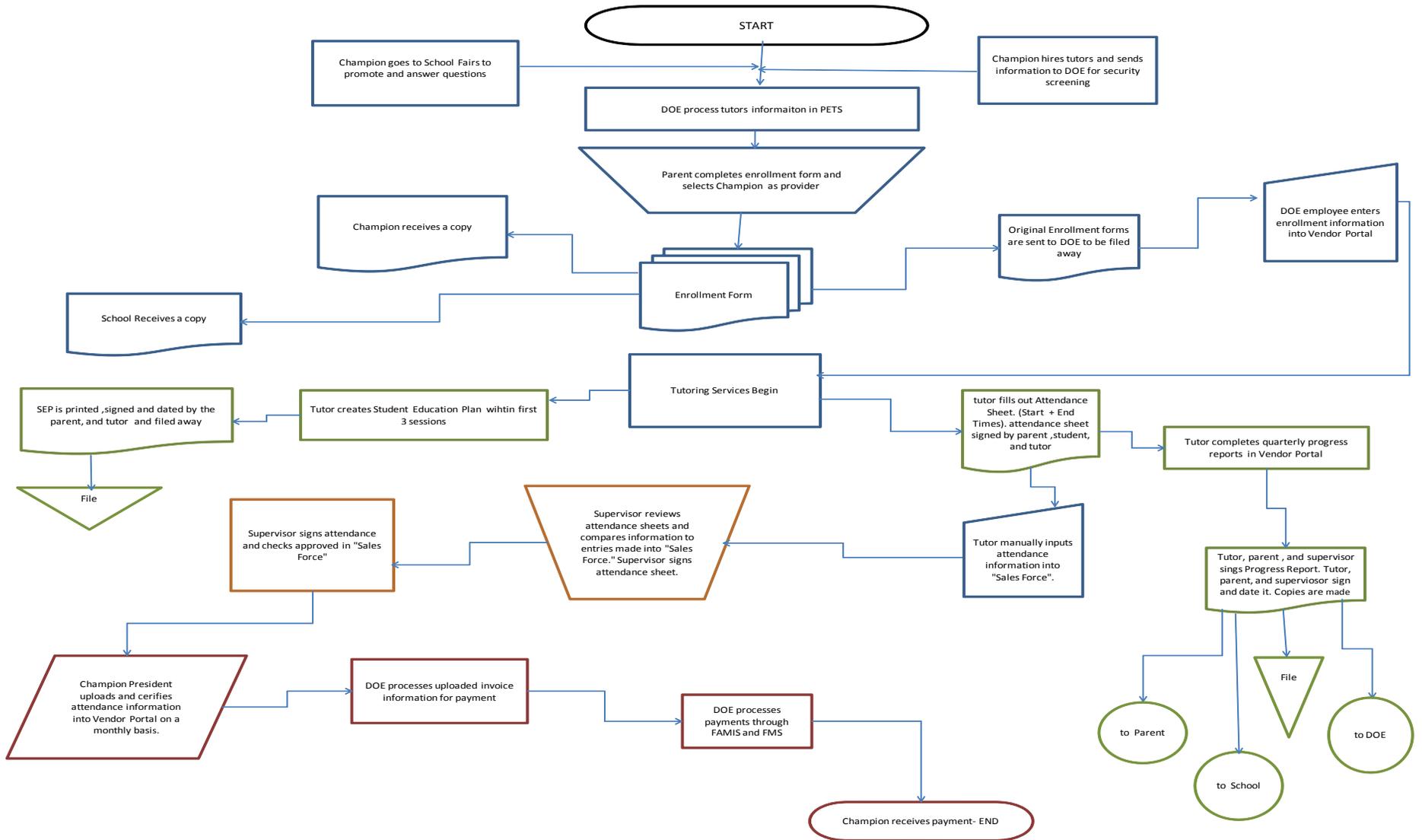
Based on our interviews with Champion officials and our review of documentation, we prepared flowcharts of the SES process to document our understanding and the areas of responsibility. Through the evaluation of these flowcharts and our analysis of the sampled students' files, we determined whether adequate internal controls were in place.

To determine whether DOE provided us with complete and accurate attendance information for the School Years 2009-2010 and 2010-2011 in the summary of attendance reports, we sorted the files for duplicates and compared them to the enrollment reports. We also compared

the summary of attendance report for School Year 2009-2010 to the DOE payments made in FMS and examined them for accuracy of amounts paid. Furthermore, we compared attendance sheets of sampled students to the summary of attendance reports to determine the reliability of the information.

The results of the above tests, several of which related to the entire population of School Years 2009-2010 and 2010-2011 and a few of which related to samples that were not statistically projected to their respective populations, provided a reasonable basis for us to assess the compliance of Champion with the terms of its contract with DOE.

SES Process Flowchart





Veronica Conforme, Chief Operating Officer

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April 13, 2012

H. Tina Kim
Deputy Comptroller for Audit
The City of New York
Office of the Comptroller
One Centre Street
New York, NY 10007-2341

**Re: Audit Report on Champion Learning Center, LLC's
Compliance with the Supplemental Educational
Services Vendor Agreement with the Department
of Education (MD11-106A)**

Dear Ms. Kim:

This letter submitted on behalf of the New York City Department of Education ("Department"), with the attached detailed response to relevant findings and recommendations ("Response"), constitutes this agency's formal response to the City of New York Office of the Comptroller's ("Comptroller") draft audit report titled *Audit Report on Champion Learning Center, LLC's ["Champion"] Compliance with the Supplemental Educational Services Vendor Agreement with the Department of Education* ("Report"). The Report separately addresses matters pertinent to Champion and to the Department. As such, this Response is made solely by and on behalf of the Department. The Department intends, however, to pay careful note to Champion's plan for improving its internal controls and to recoup overpayments as recommended and warranted.

We largely accept the findings as they relate to the Department's Supplemental Education Services ("SES") data management practices in School Years ("SY") 2009/2010 and 2010/2011, though, to be clear, certain of those practices were improved by the Department - as explained in the attached detailed response - on its own initiative before the issuance of the Report.

As to context, we point out that with 52 SES program providers serving over 75,000 students in SY 2009/2010, and with 54 SES program providers serving 76,857 students in SY 2010/2011 in various settings on and off school property, the Department's approach to SES program administration has been thoughtful and expansive, incorporating electronic systems for security clearance tracking and invoicing, SES provider in-person training, on-line guides and manuals, traditional staff-to-parent communications, and targeted desk reviews of billing.

It is useful, further, to underscore that the Department enters into a contractual relationship with an SES provider only *after* the provider has been approved by the New York State Education Department ("SED") through a process requiring the submission of applications that identify, among other items, the subjects in which extra academic help will be offered, curriculum, tutor qualifications and manner (in person or on-line) and locale of service delivery. While the Department negotiates pricing, the law requires that we offer contracts to all state approved providers wishing to offer services to our students.

Admittedly, the Department's efforts to create workable and effective SES management tools are not flawless. Neither, however, are they stagnant. We do review the product of our efforts and apply refinements, as our proactive adjustments to the electronic invoicing system edits bear out. And, to the extent that we agree with the Report's recommendations, we will undertake further enhancements and, in addition, will review payments made to other SES providers for the same audit period to determine whether services purportedly provided during school hours or "odd hours" were billed so that recoupment can be sought.

Sincerely,



Veronica Conforme

CC: Michael Tragale
David Ross
Ray Burke
Cheryl Kaplan

Michael Best
Courtenaye Jackson-Chase
Brian Fleischer
Marlene Malamy

Matthew Mittenthal
Andrea Breland-Turner
Samilda Perez-Villanueva

NEW YORK CITY DEPARTMENT OF EDUCATION RESPONSE TO FINDINGS AND RECOMMENDATIONS

The following, with the attached cover letter of New York City Department of Education ("DOE") Chief Operating Officer Veronica Conforme, comprises the response to the City of New York Office of the Comptroller's ("Comptroller") draft audit report titled *Champion Learning Center LLC's [Champion] Compliance with the Supplemental Education Services Vendor Agreement with the Department of Education* ("audit"). Only the recommendations pertaining to the DOE are addressed. It is understood that Champion will submit a response on its own behalf, independently of the DOE.

Questionable Payments Made to Champlon:

Recommendation 3: *Recoup the \$361,681 identified in this report for services reportedly provided between 8:00 a.m. and 2:30 P.M. on school days.*

Recommendation 4: *Investigate the appropriateness of the payments totaling \$472,369 for services reportedly provided during sessions that started during school hours and the payments totaling \$2,204 for services reportedly provided at odd hours. Recoup any payments deemed to be unjustified.*

Response: DOE will request that Champion repay the full \$858,779.

We note that the NCLB/SES Vendor Portal (Portal) had been modified prior to School Year ("SY") 2011/2012 to include two validations to prevent services during regular school hours and "odd" hours from being processed. One limits billing for services between 8:00 a.m. and 2:30 p.m. on DOE school days, while another prevents billing for services between midnight and 5:00 a.m. Services may be provided between 8:00 a.m. and 2:30 p.m. on weekends, holidays and on days when DOE schools are officially closed.

Inadequate Supporting Documentation for Services Billed by Champion:

Recommendation 7: *Investigate and, if warranted, recoup the total of \$22,525 for payments that were not supported by attendance sheets.*

Response: The DOE agrees that digital records and photocopies are unacceptable in that the SES contract calls for original documents to be held for at least six years. As originals were not found during the audit by the Comptroller, and only copies and digital records were sent to the Comptroller by Champion following the exit conference, the DOE will recoup the recommended amount of \$22,525.

Inadequate Controls in the Vendor Portal:

Recommendation 11: *Update its Vendor Portal validation rules to ensure accurate billing and compliance with the contract provisions and NCLB requirements.*

Response: As stated above, validations for school day and "odd hour" services had been added to the Portal prior to the start of this audit. An additional validation that addresses overlapping services by the same tutor providing one-on-one services will be operational by the end of this school year.

As to the timely entry of Student Education Plans (SEP), the DOE questions the audit's findings as the Portal has always had a validation that required the up-load of an SEP within the first few hours/sessions of service, depending on each provider's session length, blocking payment for services provided after

the provider has invoiced for a total of three hours. Additionally, while the audit report references the Vendor Portal User Guide and says SEPs “must be completed prior to or shortly after the start of tutoring services (within the first to third session) *with parental consultation*,” the NCLB/SES Policy and Implementation Manual states only that, *to the extent possible, SEPs should be done with Parental consultation*. The DOE’s search of the Vendor Portal User Guide did not turn up the standard cited by the auditors.

While the DOE will recoup the \$285 paid for overlapping sessions provided by one tutor, we do not agree that the system fails to identify the tutor who provided the services and that this information was not provided to the Comptroller. In fact, each attendance up-loaded to the Portal requires a three to five digit number that is tied to a specific individual (tutor) registered in the Personnel Eligibility Tracking System (PETS). In order to ensure that each tutor has been fingerprinted and cleared to work, his/her PETS number must be entered in to the Portal with each attendance record so it can be verified against the PETS database. To this end, although not identified by name, there is a specific tutor associated with every session billed.

Inadequate Oversight over SES Provided at Home:

Recommendation 12: *Improve its monitoring of home tutoring services and take corrective actions to address any deficiencies found during the surveys.*

Response: Using a report of all students who are enrolled in one-on-one tutoring, the SES office assigns monitors to make phone calls to the student’s homes for the purpose of assuring that SES services are being provided according to DOE rules and regulations. These monitoring efforts are not intended to manage or measure the quality of the provider’s services since the New York State Education Department is fully responsible for approving providers and the programmatic aspects of their services. DOE has no standing with regard to the selection of vendors; NCLB/SES is a parent choice program.

Further, contrary to the audit report, which states that the comptroller requested “information on recoupments, if any, that were made from Champion in the School Years 2009-2010 and 2010-2011” and that the “DOE did not provide sufficient evidence that any funds were recouped from Champion,” the DOE provided the Comptroller with a full recap of the \$5,250,420.00 recouped from Champion covering School Years 2009/2010 and 2010/2011.

Photocopies of Enrollment Forms Found on File:

Recommendation 13: *Improve controls over the processing of enrollment forms.*

Response: As the audit reflects, the DOE prints new enrollment forms in a different color each year and uses slightly over-sized paper stock to further mitigate the risk that photocopied enrollment forms will be submitted. Although we cannot, today, account for why some of the forms retained in files were copies, we wish to assure the Comptroller that the SES enrollment process is no longer regionally managed and the current centralized policy and practice precludes enrolling any child for whom a fully completed, accurate and *original* enrollment form is not in hand.



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April 13, 2012

BY HAND DELIVERY

Ms. Tina Kim
Deputy Comptroller for Audit
Audit Bureau
Office of the Comptroller
of the City of New York
One Centre Street
New York, New York 10007

Re: Audit Report on Champion Learning Center LLC's
Compliance with the Supplemental Education Services
Vendor Agreement with the Department of Education
MD11-106A

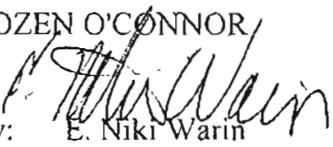
Dear Ms. Kim:

Enclosed please find the original Response by Champion Learning Center to the Comptroller's draft audit, with the related exhibits, per your request, and also provided to you yesterday by e-mail. Please note that some of the exhibits contain personal and student information which should be redacted prior to public release.

Should you require anything further, please do not hesitate to contact me.

Very truly yours,

COZEN O'CONNOR

By:  E. Niki Warin

ENW/ncb
Enclosures

CHAMPION LEARNING CENTER:

RESPONSE TO DRAFT AUDIT

DATED MARCH 30, 2012

AS OF APRIL 11, 2012

Introduction

On March 30, 2012, the Comptroller's office provided a copy of their draft audit of the New York City Department of Education's contract with the Champion Learning Center ("Champion"), a provider under the SES program. The draft audit, which was preceded by a preliminary draft audit and an exit conference,¹ contains the findings of the auditors, the Comptroller's opinion as to the significance of these findings, as well as a series of recommendations to improve the internal controls at Champion and to create better oversight by the Department of Education ("DOE"). As set forth below in detail, Champion agrees that the auditor's recommendations to improve the internal controls over its documentation of tutoring services are advisable; indeed, many of the recommendations have already been implemented either on Champion's own initiative or in response to the audit process.

Champion does not agree, however, that any of the cited alleged deficiencies in documentation warrant further action.

Specific Responses by Champion

A. Recommendations:

Champion agrees that the internal control recommendations for Champion set forth in the draft audit are appropriate and many have already been implemented. This section will identify each recommendation and Champion's anticipated or actual adoption of the same.

Page 8: Recommendations 1 & 2

Champion should:

- 1. Ensure that SES is provided only during hours allowed by the contract.*
- 2. Ensure that billing information it certifies during the invoicing process is accurate and reliable.*

¹ This draft audit was preceded by a preliminary draft audit, dated February 17, 2012, to which Champion submitted written comments, dated March 9, 2012. The preliminary draft audit and Champion's response to the same were discussed during the exit conference with the Comptroller's office, and Board of Education officials on March 5, 2012.

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Champion does not dispute that during the 2009-2010 and 2010-2011 school years, some tutoring sessions were scheduled either entirely or in part between the hours of 8:00 a.m. to 2:30 p.m. However, during the 2009-2010 and 2010-2011 contract years, which were the subject of the audit, there was no specific definition in the contract, nor in the DOE SES implementation manual that sessions were not supposed to be scheduled between 8:00 a.m. and 2:30 p.m., regardless of the individual student's actual "school day."² Indeed, as the draft audit notes, the DOE portal permitted sessions to be logged in during those hours during the period in question.

In October, 2011, the SES program director advised the providers that the "restricted day" was 8:30 a.m. to 2:30 p.m." (Email dated October 24, 2011 to Abraham Sultan, Director of Champion; submitted herewith as Exhibit A). Although Champion requested that more individualized services be continue to be permitted, citing to particular students whose classes ended at 11:30 a.m. and 12:00 noon, Champion was advised that "the SES program and the NCLB Vendor Portal are not in a position to make changes to our criteria on a student by student basis." (Email from Abraham Sultan, dated November 18, 2011, and responsive email from SES Director on same date, included in Exhibit A.). Since Champion was made aware of this definition of the "regular school day" and its applicability to all students regardless of their particular schedule, Champion has not scheduled any tutoring sessions during the hours of 8:00 a.m. to 2:30 p.m. Accordingly, this recommendation has already been implemented by DOE and followed by Champion.

Champion further does not dispute that the audit found a small number of tutoring sessions were logged into the portal as occurring during the hours of 12:00 -5:00 a.m.; specifically, a total of 9 tutoring sessions in the 2009-2010 school year, and 7 in the 2010-2011 year, for a total of \$2,204 in charged services. Champion has reviewed the attendance sheets affiliated with these sessions in an effort to confirm that the sessions occurred, albeit at different times. To date, Champion has retrieved attendance sheets for 8 of the 9 sessions logged in during "odd hours" for the 2009-2010 school year: all of these 8 sessions have signatures by both the student and the parent next to the tutoring session in question, confirming that the session did occur. (Attendance sheets for "odd hours" are submitted herewith as Exhibit B). Moreover, four of these sessions have times correctly indicated in the afternoon or evening, thus indicating that the "odd hour" entry was a key stroke error; the remaining 4 sessions at issue have neither a.m. nor p.m. indicated next to the time, but the consistency of the scheduling with the other sessions on the same attendance sheets again strongly suggests that these occurred during the afternoon or evening. Similarly, Champion has retrieved attendance sheets for 2 of the 7 sessions logged in during "odd hours" for the 2010-2011 school year, both of which bear signatures of the student and parent verifying that they occurred.

Therefore, while certain sessions were logged during "odd hours," the evidence strongly indicates that the cause was ministerial error, and these tutoring sessions were in fact provided

² As discussed in the following section, while the Contract does state that services shall be provided, "only during non-school hours" and shall not be provided during the "regular school day," (see Section 3.1(B)(1)), neither "non-school hours" nor "regular school day" are defined terms. The Policy and Implementation Manual for Providers and School Administrators states only that "SES can take place before or after school." (Section 1.2).

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during appropriate times of the day. Further, Champion notes that the vendor portal no longer accepts tutoring sessions during the hours of 12 midnight to 5:00 a.m., so inadvertent keystroke errors of this kind will no longer be logged and the tutor will know to correct the entry.

The audit also recommends that Champion ensures the “accuracy and reliability” of its billing information. As noted above, the changes made to the DOE vendor portal eliminate the possibility that tutoring sessions be entered for any hours outside of the permitted time frame. Furthermore, that tutoring sessions were scheduled during times between 8:00 a.m. to 2:30 p.m. reflected Champion’s interpretation of the contract requirements, in the absence of specific guidance from DOE, that the “regular school day” was for each individual client. The tutoring sessions were in fact actually provided to the students, as evidenced by parents’ signatures on the attendance sheets. Accordingly, Champion believes that the changes put in place in November, 2011 with the vendor portal, have already implemented this recommendation.

Page 10: Recommendations 5 & 6

Champion should:

- 5. Strengthen its internal controls to ensure that attendance sheets are properly reviewed and include the required signatures.*
- 6. Ensure that it consistently complies with the NCLB requirements and that the invoices it certifies are adequately supported by attendance sheets.*

These recommendations were based on audit findings regarding some attendance sheets missing a supervisor signature, or a tutor’s name. Champion agrees that it would benefit from the strengthening of its own internal controls monitoring this kind of paperwork, and prior to receipt of the preliminary draft audit, had already made changes to improve its own internal review of the attendance sheets prior to their filing in the student’s file. At the beginning of the 2011-2012 school year, Champion hired additional personnel whose responsibility is to verify that each attendance sheet is signed by both the tutor and the supervisor. If a signature is missing, the employee returns the form to the program manager for completion.

Further, Champion is adding checklists to its quality control call system. Supervisors currently log their calls made to students’ parents to verify sessions and inquire as to student progress and parent satisfaction, and this program will now include a checklist so the supervisor will log in that the attendance sheets have been reviewed and signed, as well as certain other information. Champion believes that these improvements to its internal controls will improve its compliance with the contract requirements regarding attendance sheets, and by extension, as the billing by DOE flows directly from the data input into the portal from the attendance sheets, further ensure proper back-up for the bills submitted to DOE.

Champion notes, however, that the underlying figures cited in the draft audit regarding the number of attendance sheets lacking signatures or identifying tutors, or even “missing” entirely, are in dispute. After the release of the preliminary draft audit, Champion conducted additional

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searches of its own records and located at least some documents from the hard files and digital back-up that are relevant to the auditor's conclusion: these records indicate that at least 3 of the 9 students listed as having attendance sheets without identified tutors, did in fact have sheets with both the name and signature of their tutor; that at least 2 of the 11 sheets listed as missing a tutor's signature, did in fact have the required signatures; and 8 of the 78 attendance sheets missing supervisor signatures did in fact have the same. (Submitted herewith as Exhibit C).

Most significantly, Champion was able to locate over one third of the attendance sheets purported to be "missing" entirely by the auditors: 11 of the alleged 30 students claimed to be missing attendance sheets, and 7 out of 18 students reported as lacking documentation for at least some tutoring sessions, were found and provided to the auditors prior to the issuance of the draft audit. (Submitted herewith as Exhibits D and E respectively). Accordingly, the draft audit's assertion that 30 students were identified for which 322 hours were "billed by Champion without adequate supporting attendance sheets" is not accurate. (Draft Audit at 9).

Champion believes that the discrepancy in these figures is a result of the manner in which the auditors reviewed the files. Over the course of the audit process, the auditors visited Champion's offices on several occasions and each time except the last, requested the assistance of Champion's staff in locating files. On each of those occasions, if a document was not found during the visit, the staff was able to locate and provide the missing document promptly after the visit. During the last visit, however, the auditors did not request the assistance of the staff, nor did they identify any documents that they were unable to locate on their own. Moreover, because a Champion staff person was not assisting the auditors while they had access to the paper files, Champion has no assurances that the files reviewed were returned to their appropriate location. Champion believes that the documents referenced as missing in the draft audit were sought during this last visit.³

To the extent possible given the time constraints, Champion has conducted its own search for any documents identified as "missing" and provided the same to the auditors as detailed above. The auditors have disregarded records located by Champion on the basis that the paperwork was allegedly "not in the students' files at the time we reviewed them" and also that paper copies, instead of digital back up, are the only acceptable paper trail under the contract. (Draft Audit at p. 9) Champion disagrees strongly with this position. That a misfiled document or a misunderstood system of organization may have prevented the auditors from locating particular documents without the assistance of Champion staff does not provide a basis to deny the

³The auditors also claim that a program manager was not made available to the auditors, despite an explicit request by email for the same. (Draft Audit at 9). Champion understood the request for access to the program manager as a request for information as to how the systems worked, not to speak to a program manager *per se*. In fact, the principal champion staff member who interacted with the auditors during their visits was the director of program managers, yet the auditors did not seek to interview her. When the auditors' intentions were made clear by the email dated July 25, 2011, Champion agreed to make them available on August 2nd. (Emails dated July 25-26th, submitted herewith as Exhibit F). While five program managers were available on that day, the auditors did not interview any of them, nor did they request to do so. The auditor's follow-up email sent on August 15, 2012 requesting additional items and another visit similarly did not make any such request. (Email dated August 15, 2012, included in Exhibit F).

existence of these documents. Furthermore, digital copies of the attendance sheets are business records kept by Champion in the ordinary course of business: that paper copies must also be maintained under the contract, does not undermine the utility of the digital copies as proof that the tutoring sessions were rendered as reported to DOE.

Champion submits that the process of audit review, especially when a session is undertaken without requesting assistance from knowledgeable staff either on-site or as follow-up, and without adequate time to permit Champion to conduct a thorough review, has resulted in an exaggeration of the extent of any deficiencies in its documentation. Champion's efforts to remedy the inaccuracy of the auditor's figures by locating these documents, whether as a paper or digital copy, should not be disregarded, especially as the existence of these records prove that any record-keeping deficiencies on Champion's behalf are significantly less than reported here.

It is important to recognize that the provision of tutoring services at the student's home with the parent present minimizes any risk that either the student or the parent would be unaware of the tutor's identity. In addition, in the in-home context, the signature of both the student and the parent on the attendance sheet, confirms that the session occurred, even without a supervisor's signature. Therefore, even with some deficiencies in Champion's paperwork, the provision of services under the contract is well documented.

Page 12: Recommendations 8, 9 & 10

Champion should:

- 8. Ensure that SEPs are created and shared by parents in a timely manner.*
- 9. Ensure parents are informed in a timely manner of the progress of their children.*
- 10. Improve its review process over the SES program to minimize discrepancies between the attendance sheets and the progress reports.*

Champion agrees that the recommendation to improve its internal monitoring of the SEP documents is advisable and Champion has already taken steps to improve the consistency and timeliness of these requirements. As noted above, Champion has hired additional administrative personnel to ensure that all the documentation for each student, including the SEP and the progress reports, are complete, and that the data entered across the attendance sheets and progress reports are consistent. Furthermore, supervisors will be trained to fill out a checklist of the documentation required for each student at the appropriate interval, including attendance sheets, SEPs and progress reports, and this checklist is maintained electronically.

Champion does not agree, however, that any inadequacies in maintaining the SEP documents or progress reports, are indicative of a larger communication problem between Champion and the families it assists. Champion provides virtually all its tutoring at the student's home with a parent present, permitting significant communication between the tutor and the parent. Moreover, Champion has an extensive system of monitoring the student's progress by quality assurance

phone calls made to the parents over the course of their sessions with Champion. Accordingly, systems are in place to ensure that parents are kept advised of their student's plan and progress.

Moreover, the auditor's figures regarding the extent of paperwork discrepancies regarding the progress reports are inaccurate. While the audit report claims that 18 of 76 sampled students had dates on their progress reports that were "unsupported" by attendance sheets, Champion has provided attendance sheets for at least 7 of these 18 students to the auditors that disprove this claim. (Submitted herewith as Exhibit E). The draft audit acknowledges that Champion has provided many of the "missing" attendance sheets that correlate with the sessions listed on the progress reports but still reports the inflated figure because the records were not located by the auditors on their own. As discussed in the previous section, Champion strongly disagrees with the auditor's decision to disregard these business records because the auditors were unable to locate them unassisted during their August 2nd on-site visit.

B. Appropriate Consequences of the Audit

As set forth above, Champion agrees with the recommendations made by the auditors to improve the consistency and accuracy of the SES documentation required for its student files; indeed, most of the recommendations have already been instituted by Champion. Champion will continue to strengthen its internal controls.

Champion disagrees, however, that any recoupment by DOE for tutoring services provided by Champion under the contract is warranted. The auditors make the following recommendations for recoupment:

Page 8: Recommendations 3 & 4

DOE should

3. Recoup the \$361,681 identified in this report for services reportedly provided between 8:00 a.m. to 2:30 p.m. on school days;

4. Investigate the appropriateness of the payments totaling \$472,369 for services reportedly provided during sessions that started during school hours and the payments totaling \$2,204 for services reportedly provided at odd hours. Recoup any payments deemed to be unjustified.

Champion believes that recoupment of monies for services provided between the hours of 8:00 a.m. to 2:30 p.m. on school days, whether in whole or in part, is not appropriate. First, the definition of what constituted the "school day," and in particular, the application of "school day" to all students regardless of their individual schedule, was not included in the contract or DOE's implementation manual, but was conveyed to Champion as a new policy in November, 2011. While the Contract does state that services shall be provided, "only during non-school hours" and shall not be provided during the "regular school day," (see Section 3.1(B)(1)), neither "non-school hours" nor "regular school day" are defined terms. The Policy and Implementation

Manual for Providers and School Administrators states only that “SES can take place before or after school.” (Section 1.2). As discussed above, Champion became aware of the DOE description of the “regular school day” when the SES program advised by email in November 2011 that services should not be provided during 8:00 – 2:30 p.m. during the week, after the contract years subject to the audit.

In the absence of any contractual definition of the “regular school day,” and consistent with the intent of the NCLB legislation, Champion provided tutoring sessions under the SES contract in the 2009-2010 and 2010-2011 school years in a manner that provided the most individualized attention to the needs of each student. Therefore, the start and end times of the school day for each student were considered in order to determine whether the services for that student were rendered during “non-school hours” or during the “regular school day” for that student. Once Champion was advised of the 8:00 a.m. -2:30 p.m. designation, sessions were no longer scheduled during those hours. In the absence of specific direction in either the contract or the manual, Champion’s interpretation of the contract requirements was reasonable and in furtherance of the larger goals of the SES program and NCLB.

It is also significant that the percentage of tutoring sessions scheduled during 8:00 a.m. – 2:30 p.m. were a small fraction of Champion’s total contract. For example, during the 2009-2010 school year, Champion provided approximately 275,000 hours in tutoring services, invoicing some \$19.5 million dollars: the audit contends that \$352,911 in tutoring services (roughly 4,948 hours)⁴ were logged during the “regular school day.” This represents less than 2% of the services rendered by Champion. When viewed in proportion to the total services rendered, the amount of sessions occurring during “regular school hours” should be construed as minor in comparison to the performance tendered under the contract with DOE.

The provision of tutoring sessions during the “regular school day” does not indicate that those services were not provided, or that Champion was not entitled to be compensated for such services. Champion’s review of its attendance records for the “during school hours” sessions has confirmed that these services were rendered, as evidenced by the signature of both the student and the parent on the attendance sheets.

Similarly, Champion does not agree with the auditor’s recommendation that DOE investigate the appropriateness of \$472,369 for services “reportedly” provided during sessions that started during school hours. As discussed above, such scheduling was done under a good faith interpretation of the contract with the intention of providing the most flexibility possible for the individual student. Moreover, the number of these overlapping tutoring sessions is insignificant when compared to the entirety of its performance under the contract. Given the documentary evidence that these sessions occurred, verified by the signatures of the parents on the attendance sheet for in-home tutoring, and particularly where only a small part of the session overlapped into the “regular school day” restriction, there is even less of an argument to recoup monies for

⁴ The draft audit does not provide the specific number of hours, nor does the underlying data provided to us by DOE. Champion arrived at this number of hours by dividing the audit’s total by \$71.33, which it is the hourly cost charged by Champion for its tutoring services.

services rendered to students. Because the auditors have not advanced any reasoned basis to challenge payments for these services, further investigation is not warranted.

The auditors also recommend investigating whether recoupment is appropriate for the \$2,204 charges for tutoring sessions that were logged during “odd hours,” that is, between the hours of 12:00 -5:00 a.m.. As discussed above, Champion’s review of the attendance sheets for these “odd hour” sessions provide adequate support that these sessions were in fact provided to the students in question, and that the “odd hours” occurred solely as a key stroke error before the portal had been fixed to prevent such mistakes.

Finally, the auditors recommend that DOE investigate further whether recoupment if warranted for sessions missing attendance sheets:

Page 10: Recommendation 7

DOE should:

7. Investigate and, if warranted, recoup the total of \$22,525 for payments that were not supported by attendance sheets.

As explained in the previous section, Champion located many of the attendance sheets described as “missing” in the preliminary draft report, and provided the same to the auditors. Specifically, Champion has located attendance sheets for 11 out of the 30 students identified as “missing” attendance sheets. (Chart provided in Exhibit D). As also explained in the previous section, the auditors have no basis to ignore the existence of these business records, especially when they did not seek assistance from Champion staff to locate them in the first instance. The recommendation to recoup \$22,525 based on 322 hours for 30 students that were purportedly “unsupported” by attendance sheets is therefore unjustified.

The remaining discrepancies between the documentation and the final certification total 5 students in the 2009-2010 school year where, according to the draft audit, Champion provided services to some 9,813 students, and 14 students in the 2010-2011 school year where Champion tutored some 12,592 students. (Draft audit at 4). Given the scope of the services rendered by Champion over these two years, Champion submits that such a minor deficiency in paperwork does not warrant further investigation or recoupment.