



# City of New York

## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



## MANAGEMENT AUDIT

**Marjorie Landa**

Deputy Comptroller for Audit

### **Audit Report on the Oversight of the Financial Operations of the Bedford Stuyvesant New Beginnings Charter School**

MJ15-094A

June 22, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, NY 10007

SCOTT M. STRINGER  
COMPTROLLER

June 22, 2016

To the Residents of the City of New York:

My office has audited the Bedford Stuyvesant New Beginnings Charter School (BSNBCS) to determine whether it exercised adequate oversight over its fiscal affairs; maintained a system of internal controls sufficient to ensure that funds were appropriately expended, authorized, valid and reasonable; accurately recorded and reported transactions; and adequately approved and disclosed potential conflicts of interest and related party transactions. The scope of this audit covered Fiscal Years 2013 and 2014 (July 1, 2012, through June 30, 2014). We audit charter schools to ensure transparency, accountability and that funds are used appropriately.

The audit concluded that, following a period where BSNBCS's financial records showed that the school had operated with a significant deficit, the school's financial conditions and operations improved. However, the audit also found that the school failed to comply with its own procedures as well as its Charter agreement and bylaws in a number of instances. Specifically, BSNBCS lacked contracts, detailed scope of services, detailed invoices, project plans, and evidence of its landlord's approval to sufficiently support \$1.66 million in reported construction costs for work reportedly performed between Fiscal Years 2011 and 2014. In addition, BSNBCS did not have adequate controls over cash receipts from its school lunch, afterschool and fundraising programs, amounting to at least \$97,000 during Fiscal Years 2013 and 2014, to provide assurance that all cash was properly accounted for.

The audit makes 19 recommendations, including that BSNBCS ensure that all contracts are in writing and signed and dated by the Head of School and approved by the Board of Directors. Further, BSNBCS should ensure that when it plans to undertake any alterations of its leased premises beyond routine repairs and maintenance, that it obtain the landlord's written consent prior to commencing work. Finally, BSNBCS should ensure that it implements adequate cash controls and properly accounts for cash payments collected.

The results of the audit have been discussed with BSNBCS officials and their comments have been considered in the preparation of this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Audit Report on the Oversight of the Financial Operations of the Bedford Stuyvesant New Beginnings Charter School

**MJ15-094A**

### EXECUTIVE SUMMARY

The objective of this audit was to determine whether the Bedford Stuyvesant New Beginnings Charter School (BSNBCS) exercised adequate oversight over its fiscal affairs; whether it maintained a system of internal controls sufficient to ensure that funds were appropriately expended, authorized, valid, and reasonable; whether transactions were accurately recorded and reported; and if potential conflicts of interest and related party transactions were adequately disclosed and approved.

BSNBCS was granted a provisional charter by the New York State Board of Regents on January 12, 2010, for a term of five years, renewable by the New York State Board of Regents. In late 2014, the school's application for renewal was approved by the New York City Department of Education (DOE), its authorizer, and in January 2015, the BSNBCS charter renewal was voted on and approved by the Board of Regents for a term of three and one-half years.

BSNBCS is overseen by a Board of Trustees (the Board), which is made up of eight unpaid volunteers. During the 2012–2013 school year (September through June), BSNBCS had an enrollment of 328 students in grades K-5. For the 2013-2014 school year, BSNBCS had an enrollment of 436 students in grades K-6, having added an additional grade that year. According to BSNBCS's certified financial statements, the school had total revenues of \$5.71 million in FY 2013, which included \$4.77 million (84 percent) in per-pupil revenue. However, BSNBCS's total expenses for that same year were \$5.76 million, which resulted in the school ending the year with a net deficit of \$588,368. In FY 2014, BSNBCS had total revenues of \$7.16 million, which included \$6.59 million (92 percent) in per-pupil revenue, and total expenses of \$6.74 million, ending the fiscal year with a net surplus of \$418,343. The increase in per pupil revenue in FY 2014 over FY 2013 was due to the increase in enrollment with the addition of grade 6 in FY 2014.

Prior to the approval of its Charter by DOE, in 2009 BSNBCS entered into a consulting agreement with Antares Venture Solutions, LLC (Antares, LLC), which required Antares LLC's president and chief operating officer to serve as BSNBCS's Executive Director, responsible for overseeing the major operations of the school. He served in that position from the school's opening in September 2010 through June 30, 2014. A new Executive Director was hired by BSNBCS as of July 7, 2014, who was an employee of the school. In that capacity, the new Executive Director was responsible for overseeing the major operations of the school under the direction of the BSNBCS Board.

## Audit Findings and Conclusions

Although the audit concluded that following a period where BSNBCS's financial records showed the school operating with a significant deficit, the Board's active oversight of the school's financial operations facilitated improvement in its financial condition during the audit scope period, it also found that the Board did not act prudently in certain fiscal matters, that the school's controls over its financial operations were not consistently followed, and that certain expenditures were made in violation of applicable rules and procedures. These weaknesses increased the risk of imprudent expenditures of school funds.

In a review of a sample of 192 expenditures for FYs 2013 and 2014, the audit found that BSNBCS had adequate documentary support for 184 of the expenditures (96 percent) and that these expenditures appeared to be for valid business purposes. However, the audit also disclosed a number of instances where the school failed to comply with its own procedures as well as its Charter agreement and bylaws, including that:

- BSNBCS lacked contracts, detailed scope of services, detailed invoices, project plans, and evidence of the landlord's approval to sufficiently support \$1.66 million in reported construction costs for work reportedly performed between FY 2011 and FY2014.
- BSNBCS did not have adequate controls over cash receipts from its school lunch, afterschool and fundraising programs, amounting to at least \$97,000 during FYs 2013 and 2014, to provide assurance that all cash was properly accounted for.
- BSNBCS did not consistently maintain a balance of \$70,000 in its escrow account in FY 2013.
- Some of BSNBCS' Board members did not submit the required Financial Disclosure Reports by the deadline August 1<sup>st</sup> for FYs 2013 and 2014.

A number of the deficiencies disclosed by the audit occurred during the period of time that the school was managed by the former Executive Director. In response to some of our audit findings, the current Executive Director has identified certain steps that have been taken to address some of the deficiencies disclosed by the audit. Nevertheless, our findings reveal that further improvements are still necessary.

## Audit Recommendations

To address these issues, the audit makes 19 recommendations, including the following:

- The BSNBCS Board should ensure that all contracts, especially those for building construction and alterations, are in writing and signed and dated by the Head of School. Further, all such contracts should be approved by the Board and evidence of such approval should be maintained.
- BSNBCS should ensure that when it plans to undertake any alterations of its leased premises, that it submits to the landlord: (a) a statement of the work proposed to be done; (b) an estimate of the cost thereof; and (c) detailed plans and specifications. Also, it should ensure that it obtains the landlord's written consent prior to undertaking any changes other than normal or routine repairs and maintenance.

- BSNBCS should ensure that it implements adequate cash controls, segregates the duties for handling cash, and properly accounts for cash payments collected from parent for afterschool programs, fundraising, and other school-related activities.
- BSNBCS should ensure that it continues to maintain the minimum required balance of no less than \$70,000 in its escrow account in accordance with its charter agreement.

## Agency Response

BSNBCS officials generally agreed with 14 of the audit's 19 recommendations. In response to four of these recommendations, BSNBCS officials stated that the school agreed with and had adopted them as its practice; in response to 10 of the recommendations, BSNBCS officials stated the school agreed with them but contended that most were not necessary because of prior changes in the school's practices or other factors, which they maintained were not adequately considered by the auditors. BSNBCS officials disagreed with the remaining five recommendations pertaining to ensuring that payments for goods and services are adequately supported and the maintenance of student files.

# AUDIT REPORT

## Background

In December 1998, New York State (NYS) enacted Article 56 of the State Education Law—the NYS Charter Schools Act—that authorized the establishment of charter schools as independent, self-governing public schools entitled to receive funding from various local, state, and federal programs, including per-pupil payments made by the local school districts where they operate.<sup>1</sup> The per-pupil payments are based on student enrollment and make up a major portion of each school’s operating budget. Charter schools may also receive donations and generate revenue through fundraising and other school-based activities.

Charter schools are not-for-profit educational corporations that are tax-exempt under section 501(c)(3) of the Internal Revenue Code. Each school is governed by a board of trustees and managed according to the provisions of its contract or charter agreement (the charter), which is approved by the NYS Board of Regents on behalf of the New York State Education Department (NYSED) or DOE.<sup>2</sup> Although they are publicly funded public schools, by design, charter schools are operated independent of many state and city regulations governing academic curriculum. Instead, charter schools are given wide latitude in developing their educational programs to suit the needs of their students. Notwithstanding, they must follow state and local laws, including those that address health, safety, civil rights and student assessment.

For Fiscal Year (FY) 2016 (July 1, 2015–June 30, 2016), DOE allocated \$1.5 billion for 205 charter schools operating in the City: 82 in Brooklyn, 59 in the Bronx, 45 in Manhattan, 15 in Queens and 4 in Staten Island. These schools collectively serve more than 95,000 students, who constitute nearly 9 percent of the City’s 1.1 million public school student enrollment. Approximately 6 percent of charter school students are English Language Learners<sup>3</sup> and 16 percent receive special education services.

BSNBCS was granted a provisional charter by the New York State Board of Regents on January 12, 2010, for a term of five years. In late 2014, the school’s application for renewal was approved by the New York City Department of Education (DOE), its authorizer, and in January 2015, the BSNBCS charter renewal was voted on and approved by the Board of Regents for a term of three and one-half years.

BSNBCS is overseen by the Board, which consists of eight unpaid volunteers. During the 2012–2013 school year (September through June), BSNBCS had an enrollment of 328 students in

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<sup>1</sup> The per-pupil amount is calculated based on a rate determined by the New York State Education Department, and a formula used for all traditional public schools.

<sup>2</sup> The Charter School Act established several entities as “chartering entities” or “authorizers” that could receive and approve applications for charters. Originally, the Act authorized the NYS Board of Regents and the Board of Trustees of the State University of New York to be statewide chartering entities, and authorized local boards of education to be chartering entities for their respective school districts, only. However, amendments to the Act in 2010 removed the authority of local boards of education to approve applications for new charters, but maintained them as the chartering entities for any charter schools they had previously authorized. This change primarily affected the New York City Department of Education and the Buffalo Board of Education, which were the only two local school districts that had previously exercised the option to approve charter schools in their districts. Based on these 2010 changes to the Act, all applications for new charters must now be submitted to either the NYS Board of Regents or the SUNY Board of Trustees. In addition, local boards of education continue to have the authority to approve applications for the conversion of existing public schools to charter schools within their respective school districts. Additional amendments were made to the Act in 2014.

<sup>3</sup> An English Language Learner, or ELL, is a student whose native language is not English and needs support learning English. <http://schools.nyc.gov/Academics/ELL/FamilyResources/ELL+Programs.htm> ELLs typically require specialized or modified instruction in both the English language and in their academic courses. [edglossary.org/English-language-learner/](http://edglossary.org/English-language-learner/)

grades K-5. For the 2013-2014 school year, BSNBCS had an enrollment of 436 students in grades K-6, having added an additional grade that year. According to BSNBCS's certified financial statements, the school had total revenues of \$5.71 million in FY 2013, which included \$4.77 million (84 percent) in per-pupil revenue. However, BSNBCS's total expenses for that same year were \$5.76 million, which resulted in the school ending the year with a net deficit of \$588,368. In FY 2014, BSNBCS had total revenues of \$7.16 million, which included \$6.59 million (92 percent) in per-pupil revenue, and total expenses of \$6.74 million, ending the fiscal year with a net surplus of \$418,343. The increase in per pupil revenue in FY 2014 over FY 2013 was due to the increase in enrollment with the addition of grade 6 in FY 2014.

The Charter Act provides that the board of trustees of the charter school has final authority over school policy and operating decisions, including whom it empowers to manage the school's operations. BSNBCS's financial leadership and oversight resides with its Board, particularly the Finance Committee (made up of the Board's Chair, Vice Chair and Treasurer) along with its Executive Director. The Board is empowered to conduct, manage and control the affairs and activities of the school and to make rules and regulations. As fiduciaries of the school's finances and assets, each trustee is expected to carry out his/her duties in good faith and with the degree of diligence, care and skill, including reasonable inquiry, as an ordinary prudent person in the same position would use under similar circumstances.

Prior to the approval of its Charter, BSNBCS entered into a consulting agreement in 2009 with Antares, LLC, which provided that its president and chief operating officer would serve as BSNBCS's Executive Director and as such was responsible for overseeing and executing the overall project management of the school's startup phase, as well as its charter application, review and submission.<sup>4</sup> From when the school opened its doors in September 2010 until June 30, 2014, the Executive Director was also responsible for overseeing the major operations of the school, including designing the curriculum, acquiring education materials, hiring all staff, and providing for all financial and accounting functions.<sup>5</sup> In compensation for services rendered by the Executive Director, Antares, LLC, was paid \$150,000 in FY 2013 and \$168,000 in FY 2014. Effective June 30, 2014, the Executive Director resigned his position and thereby ended the relationship between himself and BSNBCS. As of that date, however, BSNBCS owed Antares, LLC, \$131,501 in accordance with the consulting agreement, which was paid by BSNBCS in FY 2015.

With the departure of the former Executive Director, and at about the same time, the school's Director of Operations, some of the duties of each role was reworked. In July 2014 BSNBCS hired a new Executive Director who, as an employee under contract with the school, is responsible for establishing and monitoring fiscal policy and planning, managing all financial matters, supervising persons in school leadership roles, and other duties as directed by the Board Chair.

Through the end of FY 2014, the Director of Operations had been primarily responsible for administering the day-to-day fiscal and accounting functions of the school, under the direction of the former Executive Director. In approximately March 2014, the school hired a Finance Associate who was subsequently promoted to Finance Manager and who assumed most of the duties of the outgoing Director of Operations when he left his position as of June 30, 2014. The remaining

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<sup>4</sup> The Executive Director was an independent contractor and not an employee of the school. Antares, LLC is a limited liability corporation through which he was paid. This related party relationship was disclosed in BSNBCS' certified financial statements in accordance with generally accepted accounting principles.

<sup>5</sup> BSNBCS hired an outside financial consulting firm, Charter School Business Management Co, Inc., to perform certain bookkeeping functions and work as an independent check of the schools' Financial Associate to ensure compliance with generally accepted accounting principles. BSNBCS Executive Director was primarily responsible for all administrative decisions of the school under the direction of the Board of Trustees.

duties of the Director of Operations were assumed by the new Executive Director when he officially stepped into the position on July 7, 2014.

In 2010, BSNBCS leased the former St. John the Baptist school building at 82 Lewis Avenue in Brooklyn from the Roman Catholic Diocese of Brooklyn (the Brooklyn Diocese) to house the charter school. The lease runs from September 1, 2010, through June 30, 2030 with an annual rent of \$1,105,500 in the first year (September 1, 2010 through June 30, 2011), \$1,326,600 in years two through five (July 1, 2011 through June 30, 2015), and will increase 10 percent every five years through the end of the term, June 30, 2030. In exchange for BSNBCS's agreement to perform alterations to the building, the landlord provided a rent credit of \$4.4 million that was to be applied in the first 10 years of the agreement to reduce the annual rent.<sup>6</sup>

## Objectives

The objectives of this audit were to determine whether BSNBCS:

- exercised adequate oversight over the school's fiscal affairs;
- maintained a system of internal controls sufficient to ensure that funds were appropriately expended, authorized, valid, and reasonable;
- accurately recorded and reported transactions; and
- adequately approved and disclosed in its financial statements potential conflicts of interest and related party transactions.

## Scope and Methodology Statement

We conducted this 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 audit scope period covered FYs 2013 and 2014 (July 1, 2012, through June 30, 2014). The Detailed Scope and Methodology section at the end of this report describes the specific procedures and tests that were conducted.

## Discussion of Audit Results with BSNBCS

The matters covered in this report were discussed with BSNBCS officials during and at the conclusion of this audit. A preliminary draft report was sent to BSNBCS officials on April 7, 2016, and was discussed at an exit conference held on May 5, 2016. On May 23, 2016, we submitted a draft report to BSNBCS officials with a request for comments. We received a written response from BSNBCS officials on June 7, 2016. In its response, overall, BSNBCS officials generally agreed with 14 of the audit's 19 recommendations. In response to four of these

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<sup>6</sup> After applying the annualized rent credit over the first 10 years of the lease, BSNBCS's net annual rent for those years is as follows: \$375,000 in Year 1 of the lease; \$600,000 in Year 2; \$740,000 in Year 3; \$880,000 in Year 4; \$1,022,400 in Year 5; and \$1,144,640 in Years 6 through 10.

recommendations, BSNBCS officials stated that the school agreed with and had adopted them as its practice; in response to ten of the recommendations, BSNBCS officials stated the school agreed with them but contended that most were not necessary because of prior changes in the schools practices or other factors, which they maintained were not adequately considered by the auditors. BSNBCS officials disagreed with the remaining five recommendations pertaining to ensuring that payments for goods and services are adequately supported, and the maintenance of student files.

In its response, BSNBCS expressed disappointment with the tone of the report, stating,

Relying on statements that your audit report would take into account the current state of the school in addition to the school's condition during the audit period, we responded to your requests for information that fell outside of the temporal scope of your audit. We are therefore disappointed that your report does not acknowledge with greater particularity the positive changes at BSNBCS since the audit scope. We see this omission as a missed opportunity to portray the current state of our school accurately, particularly after such a lengthy, 19-month audit.

We appreciate the efforts that BSNBCS has represented that it has made to improve the operations of the school both during and after the audit scope period. Nonetheless, in accordance with generally accepted government auditing standards (GAGAS), we are limited to opining and drawing conclusions based on objective audit evidence and tests performed during the audit. Our audit report, therefore, describes our findings concerning the procedures and processes we found in place during the audit scope period. We do not express an opinion on any changes that BSNBCS may have implemented beyond the audit period tested.

BSNBCS further states,

[W]hen describing instances in which certain recommended documentation was missing, the report too frequently—and unjustifiably—takes an accusatory tone and suggests malfeasance. As we discussed over the course of the audit, many of the missing documents were the result of the school's change in administration, as well as its evolving document management system. There is no evidence whatsoever that any school documents were intentionally misplaced or destroyed. We would therefore request that you edit the audit report to note explicitly that there is no indication of wrongdoing in connection with any missing documents.

Nowhere in the draft audit report presented to BSNBCS for written comment did we accuse officials of malfeasance or wrongdoing. By way of explaining the lack of documentation produced in response to auditor requests, BSNBCS repeatedly pointed to its "prior administration" as the reason that it is unable to produce certain records. The lack of documentation precludes us, however, from being reasonably assured that purchases were properly authorized and that payments for goods and services were appropriate.

Despite the nature of BSNBCS's response, overall we are pleased that the school has viewed the audit as being helpful "in identifying important areas of focus."

The full text of the BSNBCS response is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

While we found that following a period where BSNBCS financial records showed a significant deficit, the Board's more recent active oversight of the school's financial operations facilitated improvement in its financial condition during the audit scope period, our audit also found that the Board did not act prudently in certain fiscal matters, that the school's controls over its financial operations were not consistently followed, and that certain expenditures were made in violation of applicable rules and procedures. These weaknesses increased the risk that that school's funds may not have been properly spent.

In a review of a sample of 192 expenditures for FYs 2013 and 2014, we found adequate documentary support maintained for 184 of the expenditures (96 percent) and that these expenditures appeared to be for valid business purposes. However, through our audit, we also found a number of instances where the school failed to comply with its own procedures as well as its Charter agreement and bylaws.

The specific deficiencies we noted include the following:

- BSNBCS lacked contracts, detailed scope of services, detailed invoices, project plans, and evidence of the landlord's approval to sufficiently support \$1.66 million in reported construction costs for work reportedly performed between FY 2011 and FY2014.
- BSNBCS did not have adequate controls over cash receipts from its school lunch, afterschool and fundraising programs, amounting to at least \$97,000 during FYs 2013 and 2014, to provide assurance that all cash was properly accounted for.
- BSNBCS did not properly authorize all checks and/or payment authorizations for the purchase of goods or services that exceeded \$5,000 by having them signed by both the Executive Director and a member of the Board.
- BSNBCS did not consistently maintain a balance of \$70,000 in its escrow account in FY 2013.
- Some of BSNBCS' Board members did not submit the required Financial Disclosure Reports by the deadline August 1<sup>st</sup> for FYs 2013 and 2014.

In addition, our audit testing disclosed other matters that we consider to be reportable conditions or weaknesses as follows:

- The Board did not hold the required minimum number of regular meetings for FYs 2013 and 2014.
- BSNBCS did not update its website to include its required annual report.
- BSNBCS could not locate the permanent record card or file for three of the 40 sampled students that were selected for review.

A number of the deficiencies that we identified occurred during the period of time that the school was managed by the former Executive Director. In response to some of our audit findings, the current Executive Director has identified certain steps that have been taken to address some of the deficiencies discussed below. For example, the current Executive Director implemented a new kiosk system to control the handling of cash receipts from parents for school lunches and activities and for tracking of those funds per student with a scan card. Further, as reflected in the

certified financial statements, BSNBCS's financial position improved by the end of FY2013/2014. Notwithstanding, our findings reveal that further improvements are still necessary.

These matters are discussed in greater detail in the following sections of this report.

## **BSNBCS Did Not Prudently Manage All of the School's Fiscal Affairs**

Our audit noted that during the audit scope period, the BSNBCS Board actively oversaw the school's financial operations and that during this period, the school's financial condition improved. Nonetheless, our audit also found a number of significant instances where the Board did not exercise prudent fiscal oversight of the school's fiscal affairs. Specifically, for the period under review, we identified occasions where the Board overrode the school's internal control procedures and/or did not comply or ensure compliance with other established rules or requirements.

We note that the BSNBCS bylaws mandate that the "Board shall conduct or direct the affairs of the Corporation and exercise its powers subject to applicable Education Law, Not-for-Profit Corporation Law, the Corporation Charter, and these Bylaws." According to those rules and regulations, the school's Board has the final authority over the school's policies, operational decisions, and fiscal management. Each Trustee in his/her position has three broad duties: the duties of care, loyalty and obedience. As fiduciaries of the school's finances and assets who oversee the expenditure of public funds, each trustee is expected to exercise good faith, due diligence, reasonable care, and caution in decision making, without placing the organization under unnecessary risk. Accordingly, the Board should design, adopt, and monitor policies and procedures that will safeguard the school's resources from misappropriation or improper use.

Key deficiencies in the Board's oversight disclosed by our audit include the Board's failure: to abide by established procurement requirements in selecting the construction contractor; to ensure that BSNBCS entered into written contracts with the contractor retained to renovate the school building; and to ensure that proper controls, safeguards and accounting procedures were established and followed in connection with the collection of cash payments received from parents or guardians for school lunches, afterschool and fundraising activities. In addition, we found that the Board approved the use of funds from the school's escrow account for operating expenses in conflict with its intended purpose "to pay for legal and audit expenses that would be associated with a dissolution should it occur." Further, there was insufficient evidence to verify that all of the trustees had submitted required annual financial disclosure reports with NYSED. These and other matters are detailed in the following sections of this report.

As stewards of public funds, the Board is responsible for ensuring that those funds are safeguarded from waste, fraud, or misappropriation and that they are spent only for the purposes intended, in accordance with its charter and governing rules and regulations.

## **\$1.66 Million in Building Alteration Costs Not Adequately Supported**

We found that BSNBCS lacked sufficient documentation to support \$1,656,670 in construction costs for work reportedly performed between FYs 2011 and 2014. BSNBCS records indicate that it paid \$690,000 of this amount to its contractor Gabriel Associates, Inc. (Gabriel), during the audit scope period, FYs 2013 and 2014, for work identified in BSNBCS' records as related to alterations to its school building that were required under its lease with the Brooklyn Diocese. However, we found that BSNBCS did not select Gabriel in accordance with its procurement policies. In addition,

we found that BSNBCS did not have contracts with Gabriel or project plans that outlined the full scope of the work that was performed and any related cost estimates. Finally, we found that BSNBCS did not have records that sufficiently detailed or identified the specific locations of the work performed or a timeline associated with each job/project, despite the fact that these items along with contracts and cost estimates, were required by BSNBSCS's Financial Controls Policy and/or its lease with the Brooklyn Dioceses.

### ***BSNBSCS Did Not Select a Construction Contractor Through a Competitive Process***

According to its lease, BSNBCS is required to repair and maintain the entire school building and its fixtures, including electrical, plumbing and heating systems. Specifically, the lease requires that BSNBCS to complete an estimated \$4.9 million in alterations to the leased premises. This includes an estimated \$1.9 million in "Initial Alterations" to be completed in the first three years of the lease and an additional estimated \$3 million in "Capital Alterations" to be completed within the first 10 years of the lease, as specified by an engineering assessment that was conducted of the building in 2009 by the landlord.<sup>7</sup>

In 2010, following its charter approval, BSNBCS hired Gabriel to perform the required Initial Alterations that were to be carried out over the course of the school's first few years of operation. However, we found that, in violation of its Financial Controls Policy, BSNBCS did not select Gabriel through a competitive process and so it did not solicit competitive bids or proposals for the building alterations from at least three contractors. Instead, Gabriel appeared to be treated as a sole source contractor.

Article XXVI of BSNBCS Financial Controls Policy specifically requires that

[w]hen a product is to be purchased that costs more than \$10,000 the head of school or his or her designee, shall make every reasonable effort to secure quotes and product specifications from at least three providers of the product or a similar product. The head of school shall select from among these offers, and document the reasons for selecting the chosen option which shall include mention of the aforementioned factors that guide such selection.

According to several Board members, the Board concluded that its retention of Gabriel was the best option for the BSNBCS because the school needed the building repairs done quickly so that they would be completed by the scheduled opening of the school to students in September 2010. The Board members informed us that Gabriel guaranteed that it could complete a sufficient amount of work prior to August 2010 and thereby enable the school to open on time. In addition, Board members said that the school was experiencing cash flow problems at the time and Gabriel was willing to work with the school and delay payment. Gabriel also promised to keep the sub-contractors "in line" so that none of them would put a lien on the school if they were not paid in a timely fashion.

However, the articulated view that BSNBCS needed work done quickly by a contractor who would accept delayed payment does not support a sole source selection of Gabriel without competitive bidding. To the contrary, because this was an apparent sole source selection, there was no evidence in BSNBCS' records that Gabriel was the only contractor that could or would perform

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<sup>7</sup> Exhibit B of the lease, entitled, "Assessment of the Existing Conditions of St. John the Baptist School 82 Lewis Ave, Brooklyn, NY 11206" prepared for the Roman Catholic Diocese of Brooklyn (Building Owner/Landlord) by Siri & Marsi Architects, P.C. and Ampol Engineering, dated October 26, 2009 (SMA #1439).

the work under the circumstances presented or that it would do the work at the best price. Since the Board was responsible for the expenditure of public funds, it was obligated to ensure that it received the best price and to not waste those funds by overpaying for goods and services. One way to reduce the risk of making such overpayments is by engaging in competitive bidding so that possible competing bids can be compared and the school could be better assured of receiving best value. That was not done here for the selection of Gabriel, however. Therefore, it is more likely that BSNBCS paid a premium to Gabriel.

### ***BSNBCS Did Not Have Required Contracts, Construction Planning Information or Evidence of Landlord Approvals***

We further found that BSNBCS did not have sufficient documentation to support its payments to Gabriel or the full cost of charges which it billed the school. Aside from BSNBCS' payment records and copies of cancelled checks, Gabriel's invoices were the only documents available to support BSNBCS's payments to Gabriel and the total construction charges that it billed for work reportedly performed at the school during FYs 2011–2014. However, those invoices lacked sufficient detail to enable us to assess the full cost of individual projects, the specific locations and dates of the work performed, and whether the work was part of the Initial Alterations or Capital Alterations, or some other type of maintenance or repair work.

By the end of FY 2014 (June 30, 2014), Gabriel submitted invoices to BSNBCS for work reportedly performed between early 2010 and June 2014 totaling \$1,656,670, of which BSNBCS paid \$1,450,087 (including the FY 2013 and FY 2014 total payments of \$690,000 noted above). The remaining balance of \$206,583 that BSNBCS owed to Gabriel as of June 30, 2014, represented all charges billed by Gabriel in FY 2014. However, because BSNBCS lacked sufficient supporting documentation, we could not ascertain whether the work reportedly performed was part of the Initial Alterations or Capital Alterations discussed in the lease.

One reason for the lack of sufficient documentation was that, with the exception of one contract between BSNBCS and Gabriel for \$200,000 for work between July 2011 and November 2011, BSNBCS did not have any contracts for any of the jobs/projects billed by Gabriel. BSNBCS's failure to enter into written contracts is not only contrary to standard business practice, it also violates Article XX of BSNBCS's Financial Controls Policy, which provides that "[a]ll contractual agreements shall be in writing and signed and dated by the Head of School [Executive Director]. All contracts of the charter school must be approved by the Board of Trustees."

We also found that BSNBCS lacked information required by its lease with the Diocese, including the following:

- BSNBCS did not have project plans outlining the scope of work for each job/project, or the project timeline, as required by section 8.01 of the lease, which states: "Before undertaking any Alterations of any kind whatsoever, Tenant shall submit to Landlord: (x) a statement of the work proposed to be done, (y) an estimate of the cost thereof, and (z) detailed plans and specifications therefore ('Plans')."
- BSNBCS also lacked a capital project schedule or plan detailing the timeline of capital alterations it agreed to perform within the first 10 years of its building lease, as required by section 8.05 of its lease agreement. Based on our meetings with board members and the Executive Director, no other contracts, project plans, or documentation was available to sufficiently support the work reportedly performed by Gabriel.
- BSNBCS had no evidence to show that it had obtained the landlord's approval prior to proceeding with any building modifications and/or alterations, as required by section 8.01

of the lease, which states: "Throughout the lease term, Tenant may not make any alterations, additions or improvements ('Alterations') in or to the building, other than normal painting, carpeting, wall coverings, and office decorations, without first obtaining Landlord's consent in each instance." While the lease does not explicitly require that BSNBCS obtain written approval from the landlord, obtaining such written approval would help the school to protect its interest. This is especially so given that the BSNBCS is a recipient of public funds.

We conducted a physical walk-through of the building and were able to confirm that some work, such as the installation of room air conditioners and heating units, had been recently completed. However, in the absence of signed contracts, project plans, or detailed invoices with job specifications, we were precluded from ascertaining the full scope of work and extent of the terms upon which BSNBCS and Gabriel initially agreed. Further, we could not determine whether the work performed was in accordance with those terms or verify that BSNBCS had paid only for services actually performed.

The lack of competitive solicitation of vendors and the failure to engage in competitive bidding, as well as the absence of written contracts, resulted in a lack of assurance that BSNBCS paid a fair and reasonable price for the work done. This is of particular concern because BSNBCS Board members acknowledged that Gabriel agreed to a delayed payment schedule and an expedited work schedule, both of which suggest that Gabriel charged a premium for its work. Yet, BSNBCS did not produce any documentation that reflected what, if any, premiums it paid in exchange for these accommodations provided by the contractor.

At the exit conference for this audit, held on May 5, 2016, BSNBCS officials asserted that they had contacted the school's former Executive Director, and that he provided them with copies of construction bids from vendors that they represented had been made prior to the school's opening in 2010, a copy of a contract with Gabriel from 2010, and some additional invoices and documents from Gabriel. BSNBCS officials offered this additional information in support of their explanation that Gabriel was initially selected to perform the work on the school because it made the lowest bid received, because it promised to complete work to make the building ready for students in September 2010, and because it was willing to defer payment. BSNBCS further asserted that they chose to use Gabriel to complete subsequent construction projects at the school through the end of the 2013-2014 school year without a competitive solicitation based on Gabriel's prior performance.

However, we have significant questions concerning the reliability of this newly provided documentation and BSNBCS' revised explanation of Gabriel's selection. Preliminarily we note that we asked BSNBCS officials to provide us documentation pertaining to the selection of Gabriel on multiple occasions during our field work, yet none was provided. Based on this lack of documentation, along with statements made by Board members and school officials with whom we met, we were led to conclude that no such information existed. We also note that the recently produced documents were not in the custody and control of BSNBCS prior to their providing them to the audit team. In consideration of these factors, we do not find them sufficiently reliable to warrant changing our audit findings.

## **Recommendations**

1. BSNBCS should ensure that when goods or services are to be purchased, it makes reasonable efforts to procure the goods or services at costs that are reasonable and customary. If the items being purchased cost more than \$10,000, BSNBCS should

make reasonable efforts to obtain competitive bids from at least three providers, and document those efforts and the reasons for selecting the vendor ultimately chosen.

**BSNBCS Response:** BSNBCS generally agreed with the recommendation and indicated that it has been implemented, stating: “While we agree with the principle of this recommendation, it is unnecessary because the school is currently in compliance. We are disappointed that your audit report failed to consider that BSNBCS followed its policies in this instance. Gabriel Associates was one of three contractors from whom the school solicited bids for the school’s initial renovation work, according to the bids we shared with the audit team. Indeed, once the school determined that Gabriel Associates could perform the initial renovations and selected it as a preferred vendor prior to the school opening in 2010, we returned to the company to perform subsequent construction work on the school’s building. The construction bids that we provided to your audit team—submitted by multiple vendors—constitute documentation that the school properly followed its policy.”

**Auditor Comment:** During the course of the audit, BSNBCS officials informed audit staff that the school did *not* obtain competitive bids from contractors prior to the selection of Gabriel to perform renovation work on the school building. Consistent with these representations, BSNBCS also informed us that it did not possess any documentation of a competitive selection process. Contrary to these statements from more than one BSNBCS official, BSNBCS claimed for the first time at the May 5, 2016, exit conference that Gabriel was one of three contractors it solicited to renovate the school. BSNBCS officials further told us that they contacted the school’s former Executive Director and obtained documentation of this solicitation from him. The fact that we were not informed of either a prior competitive bidding process or that documentation related to it existed until after our audit fieldwork and preliminary draft report were completed raises significant questions about the reliability of this information. Further, the fact that the documentation presented to us was not in the custody and control of BSNBCS prior to its production raises an additional reliability concern. We were never presented with a clear explanation of either: 1) why BSNBCS did not previously inform us that there had been three competitive bids; or 2) when the newly produced documentation had been prepared. Consequently, in the absence of credible evidence to the contrary, we find no basis to change our audit finding.

2. The BSNBCS Board should ensure that all contracts, especially those for building construction and alterations, are in writing and signed and dated by the Head of School. Further, all such contracts should be approved by the Board and evidence of such approval should be maintained.

**BSNBCS Response:** BSNBCS generally agreed and indicated that the recommendation has been implemented, stating: “We agree with the principle that contracts be signed by the school’s Executive Director, however it is not necessary in light of the school’s compliance with its current policy.” BSNBCS also stated, “The school enters over one hundred contracts annually, for items and services both large and small. The Board’s role in the Charter School model is to govern, and it properly delegates daily tasks such as contract management to its Executive Director and School Management Team. According to our policies, all contracts are properly vetted and approved by the Executive Director. To our knowledge, no law or regulation requires Board approval of all contracts. Moreover, subjecting every contract to Board review and approval would be inefficient and hinder the school’s ability to function, which runs counter to the spirit of the New York State Charter School Act.”

**Auditor Comment:** As stated in our report, BSNBCS's Financial Controls Policy expressly requires that the Board is to approve each contract entered into by the school. The Board's oversight of the school's fiscal operations and controls is fundamental, especially when considering that the school has entered into multimillion dollar contracts that are funded by public money. Therefore, we urge the BSNBCS Board to implement this recommendation as stated.

3. BSNBCS should ensure that when it plans to undertake any alterations of its leased premises, that it submits to the landlord: (a) a statement of the work proposed to be done; (b) an estimate of the cost thereof; and (c) detailed plans and specifications. Also, it should ensure that it obtains the landlord's written consent prior to undertaking any changes other than normal or routine repairs and maintenance.

**BSNBCS Response:** Although BSNBCS stated that it agrees with the recommendation in principle, its comments clearly indicate that BSNBCS generally disagreed. It reports that "BSNBCS has been in good standing with our landlord for the past six years. We intend to remain in good standing with our lease agreement and our landlord through the Diocese's current process regarding alterations. Per the school's lease, the school has never been required to obtain written authorization from its landlord for any construction work undertaken. As we have repeatedly explained, and is further stated in the letters from Father Nolan and Father Astor, as well as the Roslyn Asset Corporation, the Diocese's agent for real estate issues, the school is in good standing with its lease. The landlord has been regularly informed of and received consent for the various renovation projects at the school, per their preferred reporting methodology of verbal permission. (See Appendix A)."

**Auditor Comments:** Notwithstanding this response, BSNBCS had no evidence that it had obtained approval from the Diocese, as required by its lease, prior to proceeding with the building modifications and alterations cited in this report. While we appreciate that BSNBCS reports that it has a positive relationship with its landlord, our concern is that it be able to demonstrate that it has properly spent millions of dollars provided by the public. We do not believe that it is in the best interest of the school or its landlord to base decisions involving its multi-million dollar, 20-year lease on verbal representations and communications. Ensuring that all matters are appropriately and transparently documented serves to protect the interests of both parties in the event differences arise. Therefore, we urge BSNBCS to implement the recommendation as stated.

4. BSNBCS should ensure that it obtains sufficiently detailed contracts or project plans that outline the scope of work, related cost estimates, the general location of work performed, and a timeline associated with each job/project to support the work that was reportedly performed.

**BSNBCS Response:** BSNBCS generally agreed, stating: "We will take this recommendation under advisement for any future construction projects the school undertakes." In addition, BSNBCS stated: "The school did obtain cost estimates and timelines for the various renovation projects undertaken between 2010 and 2014, sufficient to understand the scope of work, the costs and the work to be completed. Additionally, these projects were discussed in Board meetings and the school's unpaid, volunteer trustees personally inspected work as it was in progress and completed. As noted by our landlord and its agent in the attached letters, the school has done an excellent job restoring its facility. (See Appendix A) [of the BSNBCS response]."

**Auditor Comment:** BSNBCS fails to note that although we made repeated requests as far back as August 21, 2015, for this documentation, officials reportedly did not reach out to the former Executive Director until April 2016 (after they received our preliminary draft report). Consequently, the materials it ultimately produced had not been part of the school's records or in the custody and control of the school, and had not been obtained directly from the contractor who did the work. BSNBCS's delay in providing this documentation raises significant questions as to when these materials were prepared and by whom. Consequently, in the absence of credible evidence to the contrary, we find no basis to change our finding.

5. BSNBCS should obtain adequate documentation to support the invoices presented by Gabriel and determine if the payments made for the actual work done were appropriate, and take necessary action to recoup any overpayments.

**BSNBCS Response:** BSNBCS generally disagreed with this recommendation, stating: "We have no reason to believe that any payments for the work performed on the school's building were improperly executed, and you have not identified any work that you suggest was not completed or was completed improperly. In fact, the work referenced in the audit report was completed more affordably than the initial budget estimate of \$1.9MM, referenced in the school's lease. As a result of the work performed by Gabriel Associates, the school is a safe and beautiful space for all our scholars. Any suggestion of gaps in the quality or substance of the work completed is purely speculative."

**Auditor Comment:** We do not question the quality of the work performed by Gabriel. Rather, as noted earlier, BSNBCS did not have sufficient documentation to support its payments to Gabriel or the full cost of charges which it billed the school. BSNBCS has provided no credible evidence to refute this finding. We therefore urge BSNBCS to implement this recommendation as stated.

## Lack of Controls over Cash Collections

BSNBCS lacked adequate controls to ensure that money collected—in the form of cash, checks and/or money orders—for its lunch, after-school and fund-raising programs was properly accounted for and appropriately safeguarded as required by its Charter Agreement. Section 5.1 of BSNBCS Charter Agreement requires the school to "at all times maintain appropriate management and financial controls."

The NYSED Fiscal Oversight Guidebook,<sup>8</sup> although specifically directed to Charter Schools authorized by the NYS Board of Regents and NYSED, serves as a good reference for all charter schools on the type of strong internal controls that charter schools should implement. With regard to cash receipts, the Guidebook outlines some key internal controls that should be in place, including:

- Maintaining an adequate separation of duties (i.e., authorization, custody, record keeping, and verification/reporting) over cash receipts, deposits, recording transactions, and reconciliations;

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<sup>8</sup> The NYSED Fiscal Oversight Guidebook is intended as a fiscal resource for charter schools authorized by the NYS Board of Regents and NYSED.

- Utilizing pre-numbered receipt forms or some other method to establish accountability for all funds collected, including items such as school lunch sales or other miscellaneous fees and charges;
- Ensuring that someone independent of cash collections and financial recordkeeping be responsible for opening mail, restrictively endorsing all checks, establishing a record of all funds received, and preparing deposit slips;
- Employing financial record keeping, bookkeeping, and accounting systems that verify that funds prepared for deposits are, in fact, deposited into the appropriate bank account;
- Assigning someone independent of the business, accounting, or financial office to periodically verify the reasonableness and completeness of all deposits; and
- Ensuring that all cash and checks are kept in a secure location and deposited in a bank on a timely basis.

However, we found that BSNBCS did not maintain many of these controls and as a result, did not maintain adequate controls over cash payments received from parents/guardians. Therefore, we could not be assured that all cash payments received for the school's lunch, afterschool, and fundraising programs were accurately recorded, deposited into BSNBCS's bank account and properly spent.

Our review of bank statements and supporting documentation showed that BSNBCS made 41 customer deposits, totaling \$198,040, in FYs 2013 and 2014, consisting of \$97,796 in cash and \$100,244 in checks and money orders. The funds were collected from students and parents in connection with the school's lunch and afterschool programs and fundraising activities. However, BSNBCS did not maintain adequate policies and procedures governing the receipt and accounting of these payments. In the absence of such procedures, staff and administration practices were undocumented and inconsistent. In addition, BSNBCS did not maintain adequate supporting documentation, such as copies of receipts provided to the parents or logbooks to reflect amounts collected. Further, there did not appear to be adequate segregation of duties in the authorization, custody, record keeping, and verification/reporting of cash payments. Consequently, we could not be assured that the total amount deposited into BSNBCS's bank account and recorded in its books and records reflects the total amount that was actually collected.

In reviewing all of the bank deposits for FYs 2013 and 2014, we found three deposit tickets from FY 2014 that included cash among the items to be deposited. However when compared to the bank statements, the total deposit amount for these three deposits differed. On the certified copies for two of these three tickets, we observed that someone had later crossed the cash off of the ticket, and only the checks and/or money orders were deposited. No alterations appeared on the third certified deposit ticket. In total, \$8,203 in cash that was originally identified on deposit tickets as to be deposited in the bank was never deposited. As a consequence of failing to have adequate controls, we are unable to determine whether the cash was removed from the deposit and used for appropriate business purposes or whether it was misappropriated or stolen. The Finance Manager told us that at the time, the former Executive Director and the Director of Operations had generally been responsible for handling cash payments collected from parents and taking deposits to the bank. However, there was no information available, including BSNBCS' Financial Controls Policy, from which we could ascertain any specific procedures that governed the handling of cash receipts.

The new Executive Director informed us that in September 2014 he instituted a policy, which was in effect throughout the 2014-2015 school year, whereby only office staff had collected cash payments from parents.<sup>9</sup> He explained that according to this procedure, the recipients of cash and checks had been instructed to put the money in an envelope, write on it the name of the person from whom the cash was collected and put the envelope in a key-locked, drop box that was placed in the main office in a location away from obvious view. Receipts were to be provided to the parents. He said that once a week the Finance Manager would collect and open the envelopes, count the funds, prepare the deposit and take it to the bank.

Although limited, we did observe some envelopes and some receipts as described by the current Executive Director. Although this procedure provided a stronger control over the cash than was previously in place, it still had its weaknesses. Specifically, the money was kept in the drop box until it was deposited at the end of the week. Although locked, the drop box was relatively small, portable, and although discreetly situated, it was kept in the main office, which is frequently accessed by school staff, parents, and students. Because of the noted weakness in cash controls, lack of segregation of duties over the handling of cash, and the overall lack of sufficient supporting documentation maintained by BSNBCS, we could not be assured that all cash payments received from payments for the lunch, afterschool, and fundraising programs were recorded and eventually deposited into the bank.

When we discussed this matter with BSNBCS's current Executive Director, he told us that he instituted a new policy at the start of the 2015-2016 school year that prohibited *any* school staff from directly accepting payments from parents/guardians. Instead, he reported that BSNBCS installed a computer kiosk inside the school's "Parent Engagement Suite" for parents/guardians to deposit cash, checks, or money orders to add value to their child's lunch or afterschool program account. He said that to be able to use the kiosk, parents/guardians are required to first obtain a barcode card from the school's main office and a student account must be established. Each card is unique and assigned to one student account. Once the student account is established, the parent/guardian can access the kiosk to deposit funds to add value to the child's account to use for lunch room fees or afterschool program payments. The students can then use the barcode card in the lunchroom. According to the Executive Director, each week the Finance Manager and Chief of Operations remove the cash and checks from the kiosk, count it and reconcile it to the electronically-recorded deposit amounts per student account. The Executive Director also told us that in addition to the kiosk, the school accepts online credit card payments for the lunch and afterschool programs, as well as fund raising activities.

In addition to explaining these new procedures, the Executive Director provided us with BSNBCS' Financial Policies and Procedures Manual updated for FY 2015. Our review of the manual found that, although it was more comprehensive than the former Financial Control Policy manual, it did not include the new cash payments policy and procedures as explained to us. Notwithstanding, on October 1, 2015, we verified that the new cash handling procedures had been implemented. However, because they were not in effect during the scope of the audit test period, we did not test their effectiveness and accuracy.

## Recommendations

6. BSNBCS should ensure that it implements adequate cash controls, segregates the duties for handling, and properly accounts for cash payments collected from parent for afterschool programs, fundraising, and other school-related activities.

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<sup>9</sup> Prior to this time, no policy existed and cash payments could have been collected by any staff member.

**BSNBCS Response:** BSNBCS generally agreed and indicated that the recommendation has been implemented. BSNBCS stated: “The school has an appropriate and effective cash control policy. As documented during the audit, BSNBCS implemented a new cash control system prior to commencement of the audit, and expanded it subsequently prior to any recommendations being made, which addressed the concerns identified in the report in previous fiscal years. This recommendation appears to be based on the school’s prior practice and does not consider current policy. We will continue to follow the school’s current policy, which complies with the above recommendation.”

7. BSNBCS should formally document its new cash receipts policy and procedures, circulate them to the school staff, and train responsible personnel in them.

**BSNBCS Response:** BSNBCS agreed and indicated that the recommendation has been implemented, stating: “The BSNBCS staff currently follows the new policy and have received this information via a staff memo and associated in-house training. We will add the policy to the school’s financial handbook, as an additional way to disseminate the information.”

## Payments over \$5,000 Were Made Without Two Signatures

Even though BSNBCS’ operating procedures require two signatures for every payment in excess of \$5,000, we found that this fiscal control was not consistently followed during the audit scope period. As a result, 13 percent of the funds in our sample of payments over \$5,000 were expended with only one signature in violation of BSNBCS’s own rules.

Article XI, Section C of BSNBCS’s bylaws, requires that: “[e]xcept as otherwise specifically provided by Board resolution, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Corporation may be signed by the President [Chair] of the Board, the Head of School [Executive Director], or Treasurer. Such items for amounts of \$5,000.00 or greater must be signed by two of these individuals.”<sup>10</sup> Further, BSNBCS’s Financial Controls Policy establishes that “School checks shall be signed by the head of the school. Checks in excess of \$5,000 will require the second signature of a Board member.”

As shown in Table I below, 77 of the sampled disbursements we reviewed for FYs 2013 and 2014 exceeded \$5,000. We found that the checks and/or payment authorizations for five of these sampled disbursements, accounting for \$215,771.33 (13 percent) of the \$1,612,808.86 paid out for these transactions, were not signed by two officials as required.

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<sup>10</sup> In addition to the BSNBCS’s Chair and the Treasurer, the Vice Chair is granted the authority to sign checks for the corporation.

**Table I**

Analysis of Sampled Disbursements  
Fiscal Years 2013 and 2014

Item	Total for FYs 2013 & 2014	
	No. of Sampled Transactions	Value of Sampled Transactions
<b>Total of Sampled Disbursements greater than (&gt;) \$5,000 <u>without</u> two authorized signatures</b>	<b>5</b>	<b>\$215,771.33</b>
Total of Sampled Disbursements greater than (>) \$5,000 <b><u>with</u> two authorized signatures</b>	72	\$1,397,037.53
Total of Sampled Disbursements greater than (>) \$5,000	77	\$1,612,808.86
Add: Total of Sampled Disbursements less than (<) \$5,000	115	\$604,702.86
Overall Sample Total	192	\$2,217,511.72

The five sampled payments we found that were greater than \$5,000 and lacked two authorized signatures consisted of the following: two payments, totaling \$61,207.72, for employee health care insurance; two payments totaling, \$104,563.61, for employee 401K retirement contributions; and \$50,000 for the repayment of a line of credit. Back-up documentation was provided for each of these transactions by BSNBCS, with the exception of the \$50,000, which the BSNBCS Treasurer explained was a short-term bank loan used to cover operating expenditures by the school during a period where it was short of cash. The Treasurer further explained that when funding from DOE came through, the loan was repaid in full.

Both the former Executive Director and Director of Operations that served at the school during FYs 2013 and FYs 2014 left their positions several months before this audit was initiated. None of the remaining supervisory personnel claimed to have direct knowledge about these transactions. However, according to the NYS Not-for-Profit Corporation Law, the Charter Act, and BSNBCS's bylaws, the Board has the final authority over policy and operational decisions of the school. This includes establishing policies and procedures and ensuring adherence with them. Notwithstanding, the two Board members we interviewed, who included the Vice Chair, were unable to provide any explanation for the specific uses the line of credit was put to, how and why the deviations from prescribed policy occurred and one even expressed surprise at learning that it occurred.

In addition, with regard to the \$604,702.86 in disbursements (checks and transfers) we sampled that BSNBCS issued for less than \$5,000 in FYs 2013 and 2014, we found 12 checks, totaling \$59,989.98 issued to Antares, LLP, the firm through which the former Executive Director was paid, 10 of which were for \$4,999.00 and two of which were for \$4,999.99, just under the amount requiring two signatures. The pattern and frequency of these checks just below \$5,000 raised concerns that management may have intentionally structured the payments to be under the two signature requirement for payments of \$5,000 or more.

The checks were prepared by or under the direction of the former Executive Director and signed by the Vice Chair of the Board only. When we questioned the Vice Chair about these payments, she agreed that the checks should not have been processed as they had. She explained that

when she was presented with the checks for signing, she reviewed the supporting documentation and the checks to make sure that the amounts matched; then she signed the checks. She stated that it never occurred to her that the amounts of the checks were designed to intentionally bypass the school's bylaws.

BSNBCS failures to follow its cash disbursement policies and procedures completely undermined their effectiveness. Absent BSNBCS ensuring that adequate fiscal controls were in place and consistently followed, the school increased the risk that City funds intended solely for educational purposes might be improperly spent.

## Some Sampled Payments Not Adequately Supported

Our review of the 192 sampled payment transactions for FYs 2013 and 2014 revealed that BSNBCS had approved the invoices and had supporting documentation for 184 (96 percent) of the transactions. However, BSNBCS' Financial Controls Policy, Section X, states: "No payment will be made without a properly approved invoice or other supporting documentation." The eight sampled transactions for which it did not have sufficient underlying documentation accounted for \$270,327 (12 percent) of the \$2.2 million in payments reviewed.

Of the \$270,327 in question, \$150,000 represented two payments of \$75,000 each that were made to the contractor Gabriel, one payment of \$61,667.67 for rent, one payment of \$50,000 for payment of a bank loan, and four other payments totaling \$8,659 for reimbursement of expenses for the Executive Director, computer software subscription service, educational travel, and employee flexible spending contributions. In the absence of invoices, loan agreements, and other backup documentation for these payments, we could not determine whether they were appropriate, reasonable, authorized or valid.

At the exit conference, BSNBCS officials provided us with copies of supporting documentation for four of the eight sampled transactions, totaling \$67,826.67, which covered the rent, computer software subscription service, educational travel, and employee flexible spending contributions. In addition, they provided us with copies of invoices for Gabriel, which as is discussed above, are insufficient to support the payments made. Consequently, there remained four payments, totaling \$202,500, for which there was insufficient documentation to support the payments to the vendors. These included \$150,000 representing two payments of \$75,000 each that were made to the contractor Gabriel, one payment of \$2,500 for reimbursement of expenses for the former Executive Director, and one payment of \$50,000 for payment of a bank loan. Although BSNBCS bank statements reflect the receipt and repayment of the bank loan, BSNBCS did not provide a copy of the bank note to enable us to verify the loan.

## Recommendations

8. BSNBCS should ensure that all payments over \$5,000 are signed by two authorized parties in accordance with its bylaws and policies and procedures.

**BSNBCS Response:** BSNBCS generally agreed with the recommendation and indicated that it has been implemented. BSNBCS stated: "While we agree with the principle of this recommendation, it is unnecessary in light of the school's compliance with its current financial policies. Updated in 2014, our current financial policies require multiple signatures for checks over \$10,000. We selected this figure because this number represents a sector wide standard and more accurately reflects the needs of a large, growing school with revenues currently over \$10MM. The

audit report provides no finding to suggest that this policy, adopted after the audit period, is unsound.”

**Auditor Comment:** We are pleased that BSNBCS generally agreed with the recommendation and indicated that it has been implemented. However, regardless of the monetary limit established to trigger the requirement of payments or payment authorizations requiring two signatures, the point remains that BSNBCS failed to consistently adhere to its own procedures when the limit was exceeded. Raising the monetary limit from \$5,000 to \$10,000 does not ensure that two signatures will be obtained when required. As noted, we did not test BSNBCS’ new policy since it was not in effect during the audit period.

**BSNBCS Response:** “Moreover, this recommendation appears to be based on a misunderstanding of the school’s fiscal policies. The report describes several payments as “lack[ing] two authorized signatures,” including \$61,207.72 in employee health insurance payments and \$104,563.61 in employee 401K contributions. This analysis is incorrect, as these transactions do not fall under Article XI, Section C of the school’s financial policies because they are not “checks, drafts, promissory notes, orders for the payment of money, [or] other evidence of indebtedness” and therefore did not require multiple signatures to process. These transactions are controlled by BSNBCS’s payroll policy, as we have described in detail during the course of the audit.”

**Auditor Comment:** BSNBCS’s financial policy does not exempt any disbursement or payment transaction exceeding \$5,000 from the dual signature requirement discussed above. The particular disbursements to which BSNBCS refers (discussed on page 19 following Table I) are disbursements covered under the school’s Financial Controls Policy for payments and cash disbursements. BSNBCS provides no evidence that these transactions are covered by an alternate payroll policy that exempts them from the dual signature requirement. We therefore find no basis to change our finding.

9. BSNBCS should ensure that payments are not artificially broken up to avoid approval and oversight processes that apply to larger payments.

**BSNBCS Response:** BSNBCS generally agreed with the recommendation indicating that it has already been implemented, stating: “This is the school’s current practice. School administration and trustees will continue to adhere to the approval and oversight processes outlined in the school’s current financial policies. We are disappointed by the audit report’s use of the phrase “artificially broken up” because it suggests wrongdoing without supporting evidence.

**Auditor Comment:** Clearly, the pattern and frequency of the 12 checks that were cut for \$4,999.00 or \$4,999.99, payable to the former Executive Director just under the \$5,000 amount established by BSNBCS as requiring two signatures, were made in such a way as to avoid the two-signature requirement. When established procedures are so clearly overridden, as they were in these instances, a reportable condition exists requiring that we advise management so that corrective steps can be taken.

10. BSNBCS should ensure that no payments are made without a properly approved invoice and/or other supporting documentation.

**BSNBCS Response:** BSNBCS generally agreed, noting that it agreed with the recommendation in principle, indicating that it has already been implemented in stating: “This is the school’s current practice. School administration and trustees will continue to adhere to the approval and oversight processes outlined in the school’s current financial policies. However, we disagree to the extent that the recommendation implies that the school previously made payments without invoices and/or supporting documentation.”

**Auditor Comments:** Our audit tests provided sufficient reliable evidence to show that BSNCS had made payments to certain vendors without adequate supporting documentation. As the recipients of public funds, BSNBCS needs to ensure that all disbursements are made in accordance with its procedures, including being supported by sufficient documentation.

11. BSNBCS should follow up and determine whether supporting documentation exists for the balance of \$202,500 in unsupported payments identified in this report. BSNBCS should recoup those payments for which it is unable to verify that goods or services were provided.

**BSNBCS Response:** BSNBCS disagreed with the recommendation, stating: “At the May 5, 2016 exit conference, we presented documentation to support these payments. We do not believe there is any need to seek additional documentation for these payments because we know the services were in fact provided. Regarding the \$150,000 in construction costs specifically, which were referenced in the corresponding finding of the audit report, the school’s trustees and management actually assessed the school building’s condition in August 2010, discussed projects with the contractors, witnessed work being done, and reviewed completed projects. We are satisfied that construction services were indeed provided and this information was appropriately reported to you.

**Auditor Comment:** As noted earlier, the additional documentation provided by BSNBCS officials was not presented to the audit staff until May 5, 2016, at the exit conference. Nevertheless, we did review that material and found four sampled payments, totaling \$202,500, for which we concluded there was still insufficient documentation to support the payments to the vendors. These payments included \$150,000 paid to Gabriel and \$2,500 paid to the former Executive Director in claimed reimbursement for expenses for which the school did not have receipts, invoices, and other forms of documentation to support the expenses. A third payment of \$50,000 to the bank in repayment of a bank loan was also deemed to have insufficient documentation because BSNBCS did not provide us with a copy of the bank note. Therefore, we find no basis to alter our finding and recommendation.

## **\$70,000 Escrow Account Balance Not Maintained**

BSNBCS maintains an escrow account as required by Section 8.5 of its Charter agreement “to pay for legal and audit expenses that would be associated with a dissolution should it occur.” However, in FY 2013 it did not keep the minimum required balance of \$70,000 in the account on a consistent basis.

Our review of BSNBCS’s financial statements for FYs 2013 and 2014 revealed that the cash balance of the school’s escrow account was \$30,122 on July 1, 2012, and \$2,529 on June 30,

2013, significantly less than the required minimum balance. As reflected in Table II below, a review of the escrow account activities revealed that during FY 2013, BSNBCS made four withdrawals from the account and transferred the funds to the primary checking account for operating purposes.

**Table II**

Escrow Account Transactions in FY 2013

Date	Transaction Description	(a) Additions (Replenishments)	(b) Subtractions (Withdrawals)	(c) Balance** (a-b=c)	Number of Calendar Days Balance was Below \$70,000 Required Minimum Balance
07/1/2012	Initial Balance			\$30,122	
09/6/2012	Transfer in	\$45,000		\$75,122	67 days (7/1–9/6/12)
10/11/2012	Transfer out		(\$75,000)	\$122	
03/8/2013	Transfer in	\$5,000		\$5,122	
04/8/2013	Transfer in	\$70,000		\$75,122	179 days (10/11/12–4/8/13)
04/16/2013	Transfer out		(\$70,000)	\$5,122	
04/29/2013	Transfer out		(\$3,000)	\$2,122	
05/3/2013	Transfer in	\$73,000		\$75,122	17 days (4/16–5/3/13)
06/28/2013	Transfer out		(\$72,500)	\$2,622	2 days (6/28/13–6/30/13)
<b>Total</b>					265 Calendar Days

**\*\*Note:** The balance shown above does not include total bank service charges of \$135 and Interest Earnings of \$42 for FY 2013.

Although the withdrawals from the escrow account were eventually replenished, the account balance fell below the minimum required 265 days (73 percent) out of the 365 days that fell between July 1, 2012–June 30, 2013. At the end of FY 2013, the account balance was significantly below the required balance. On July 8, 2013, funds were transferred from the operating account to bring the escrow balance above \$70,000. The withdrawals were made with the knowledge and approval of the Board to cover payroll costs and other expenses, as documented in the supporting transfer of funds authorizations. However, by not keeping the minimum escrow account balance in accordance with the Charter agreement, BSNBCS was at an increased risk of not having the resources in place to pay for legal and audit expenses that would be associated with a dissolution, should one have occurred.

As of July 8, 2013, BSNBCS corrected this deficiency. From that date and throughout the remainder of FY 2014, it maintained the escrow balance in excess of the required minimum balances each month. Our supplemental review of the bank statements for the escrow account for February 2015 and the four months of May through September 2015 disclosed that the account balance consistently exceeded \$75,000.

## Recommendation

12. BSNBCS should ensure that it continues to maintain the minimum required balance of no less than \$70,000 in its escrow account in accordance with its charter agreement.

**BSNBCS Response:** BSNBCS agreed. In its response it indicated that the recommendation has been implemented, stating: “This is the school’s current practice. The school’s escrow account has not fallen below \$70,000 since 2013.”

## Lack of Evidence That All Board Trustees Submitted Annual Financial Disclosure Reports

We reviewed the trustee disclosure reports for FYs 2013 and 2014 provided by BSNBCS officials. These forms were the same that we found posted on the NYSED website as part of BSNBCS’s annual reports for the two years under review. Of those reports, for FY 2013, we found that there were completed forms for only two of the eight trustees. For FY2014 there were completed forms for only five of the eight BSNBCS Trustees. However, BSNBCS officials did not provide any further evidence to show that the other Trustees or the school on behalf of those Trustees had submitted disclosure statements for the two years.

We also contacted NYSED and obtained copies of all of the Annual Financial Disclosure reports that NYSED received from the BSNBCS Board for FYs 2013 and 2014. Upon our review, we found that no additional forms submitted for either FYs 2013 or 2014. Thus, in total, we found that only three of BSNBCS’s eight Trustees had submitted the required financial disclosure forms in FY 2013 and five of the eight Trustees that submitted forms for FY 2014. As a result, we could not be assured that the Trustees who failed to file a disclosure report were free of conflicts with respect to their position on the BSNBCS Board.<sup>11</sup>

A public charter school trustee serves in a position of responsibility and trust and is charged with overseeing the education of all students enrolled in his/her affiliated school, as well as the expenditure of public funds directed to the school. To ensure that each trustee is free from conflicts of interest that would impair his/her ability to fulfill or carry out his/her fiduciary duties as a trustee, these disclosure reports must be completed and submitted annually and are required components of the school’s mandated annual report. Section 2.12 (d) of BSNBCS’ Charter Agreement specifically mandates that: “[t]he Board shall require that each Trustee who has served on the Board during a school year shall file annually a disclosure report (the ‘Disclosure of Financial Interest by a Charter School Trustee Report’) with the Chancellor.”

The BSNBCS Charter Agreement clearly establishes that a Trustee should be removed if s/he fails to submit the disclosure report or if the report is determined by the Chancellor to be materially incomplete, misleading or untruthful. Moreover, the failure of the Board to remove such a trustee is considered a material violation of the Charter that could lead to its revocation or termination. Our review of Board minutes for FYs 2013 and 2014 showed that the Board took no action to remove any of the trustees.

Further, we found that BSNBCS did not submit to NYSED the financial disclosure information for FYs 2013 and 2014 for those BSNBCS Trustees that did not submit the information as required.

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<sup>11</sup> In FY 2013, five Board trustees failed to submit an Annual Disclosure Report, including the Chair, the Vice Chair, the Secretary and two other trustees. In FY 2014, three Board trustees did not submit an Annual Disclosure Report, including the Secretary and two other trustees.

According to NYSED Annual Report Guidelines for the same years, “If a trustee is unable to complete the form by the deadline, the school is responsible for listing the transactions and/or providing the information required to the [financial disclosure] form.”

At the exit conference, the current Executive Director asserted that he had met with all of the BSNBCS Trustees, each of whom recalled filing out the disclosure forms. However, the Trustees had no evidence to support their assertions; none had received a receipt or a copy of the submission from the NYSED Charter School Office, which is not the Office’s policy. Moreover, they did not keep a copy for themselves to verify the submission. Thus, in the absence of credible evidence, we have no basis to alter our finding.

The current Executive Director further stated that to alleviate any questions, subsequent to receiving the preliminary audit report, he had all of the Trustees manually complete and re-file the forms for FYs 2013 and 2014. In addition to copies of the completed forms, he provided us with proof of delivery of the refiled forms to NYSED Charter School Office on April 22, 2016, subsequent to the release of the preliminary audit report on April 7, 2016.

## Recommendations

13. BSNBCS Trustees should complete and submit by August 1 each year the financial disclosure forms going forward as required.

**BSNBCS Response:** BSNBCS generally agreed with the recommendation and indicated that it has been implemented, stating: “We agree with this recommendation in principle, but it is unnecessary given that the school is already in compliance. Since 2010, BSNBCS trustees have completed all required paperwork and financial disclosure forms on an annual basis. BSNBCS remains confident that its trustees submitted all required disclosure forms for all years. When you alerted us in your preliminary audit report that several disclosures were not on file with NYSED, we refiled these forms, which underwent no revisions and confirmed that there were no conflicts of interest for any of the years in question.

The confusion here may stem from NYSED’s electronic filing system for disclosure reports. Unfortunately, during the audit period, NYSED did not provide a receipt of disclosure submission or a copy of completed submissions to the school or the trustees themselves. Additionally, we are aware of instances in which NYSED accidentally and erroneously filed disclosure reports under the incorrect school. In fact, as you have previously noted, NYSED has accidentally misfiled at least one BSNBCS trustee’s disclosure form to an unrelated school.”

**Auditor Comments:** We are pleased that BSNBCS agrees with this recommendation. As we state in the report, we found no evidence that the disclosure reports in question were submitted to NYSED in a timely manner, and BSNBCS provided no credible evidence to refute this finding. Accordingly, we have no basis to alter this finding.

14. BSNBCS should follow-up with each Trustee well in advance of the August 1 deadline each year to determine whether s/he filed the required financial disclosure information. If any BSNBCS Trustee has not filed the form, the school should, on behalf of that Trustee, provide to NYSED the information required for each BSNBCS Trustee that has not filed the financial disclosure form with NYSED.

**BSNBCS Response:** BSNBCS generally agreed with the recommendation and indicated that it has been implemented, stating: “While we agree with this

recommendation in principle, it is unnecessary because it is the school's current practice. As a part of its regular practice, BSNBCS trustees will continue to submit their conflict of interest forms to NYSED. BSNBCS has no need to seek additional financial information from its trustees, as all previous annual disclosures have been submitted to NYSED and our Trustees do not currently (nor have they historically) had any reportable conflicts of interest for Board business."

15. The BSNBCS Board should take all appropriate action to ensure that each member completes and submits the required financial disclosure forms, including removal from the Board.

**BSNBCS Response:** BSNBCS disagreed with the recommendation, stating: "BSNBCS remains confident that its trustees submitted all required disclosure forms for all years during the audit period. However, when your office notified us that several disclosures were not on file with NYSED, we refiled these forms, which confirmed that there were no conflicts of interest for any of the years in questions. As noted in your report, we provided copies of the resubmitted forms at the May 5 exit conference. You have identified no concerns with these documents or any preciously [sic] undisclosed conflict. It remains unclear why the resubmitted financial disclosure are referenced via this recommendation as inadequate for purposes of this audit. Moreover, your suggestion that the school remove its volunteer trustees, upstanding community members, business and academic leaders, is entirely unhelpful in light of the facts."

**Auditor Comment:** While we commend BSNBCS recent refileing of the disclosure forms for the years in question, this does not diminish the fact that each trustee must file the required form each year. Therefore, we find no basis to alter this recommendation and its associated finding.

## Other Matters

### Minimum Number of Board of Trustees Meetings Not Held

Although the BSNBCS's Board met fairly regularly, it did not hold "a minimum of ten regular meetings" in either FY 2013 or FY 2014, as required by the corporation's bylaws. This may have contributed to the Board's laxness in exercising adequate care and oversight of the school's fiscal affairs, as noted above.

Our review of all available minutes from the Board's meetings revealed that the Board held eight meetings in FY 2013 and nine meetings in FY 2014. The Vice Chair and Treasurer of the Board both stated that some of the Board meetings scheduled for the winter months might have been canceled or postponed because of bad weather. We found one meeting scheduled in December 2013 had been cancelled but not rescheduled. We also found that another meeting initially scheduled for March 31, 2014, did not occur, but another took place shortly after on April 2, 2014 (as mentioned in the April 18, 2013 minutes). Despite these additional meetings, the Board did not hold the minimum number of meetings required.

By establishing a requirement for a minimum number of regular meetings, the BSNBCS bylaws highlight the importance of the Board's role and the need for its members to be kept apprised, on a regular basis, of matters related to the school.

## Annual Reports Not Posted on BSNBCS Website

BSNBCS did not post to its website all information components of its annual report submitted to the NYS Board of Regents, as mandated, nor did it make this information publically available otherwise. Specifically, Section 2857.2 of the Charter Act states,

Each charter school shall submit to the charter entity and to the board of regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year and shall be made publicly available by such date and shall be posted on the charter school's website.<sup>12</sup>

The report is to be made publicly available by sending it to local newspapers of general circulation and making it available for distribution at board of trustee meetings. The section goes on to specify the specific components that comprise the annual report.

For both FYs 2013 and 2014, NYSED provided a document entitled "Annual Report Guidelines for New York State Charter Schools" to assist schools in how to use the online portal to submit their annual reports. Those guidelines clearly establish that each school's annual report should provide information on its performance for the prior academic year, as well as a discussion of progress toward the achievement of goals established within a school's charter agreement. Specifically, each charter school must submit basic school information, the school's progress toward goal achievement, fiscal performance data, board of trustee membership information and financial disclosure forms. Charter schools are responsible for uploading each component of information through an online portal. The various information components are compiled by NYSED as a single report. The schools are able to download a completed report to make available to the public by posting it to their respective websites.

We accessed BSNBCS's annual reports for FYs 2013 and 2014 on the NYSED website and found that the school had submitted the various required information components, including basic school information, the school's progress toward goal achievement, fiscal performance data, Board membership information and disclosures. In addition, we noted that the annual report contained the school's audited financial statements for FYs 2013 and 2014, along with information on school enrollment, expenditures per child, teacher and administration attrition, uncertified teaching staff, and a schedule of the school's functional expenses.

However, a review of the BSNBCS website found that although the school had posted its audited financial statements for FYs 2011 through 2015 and Minutes of the Board Meetings covering FYs 2011 through 2015 (through January 2015), it had not posted the annual reports for the same years to its website nor had it posted a link to the NYSED website where one could find the BSNBCS annual reports posted.

## Student Files Could Not Be Located

BSNBCS could not locate four of the 40 sampled student files that we selected for review. Consequently, we were unable to verify that the four students attended BSNBCS in FYs 2013 and 2014. For the other 36 sampled student files, we found the required permanent file documentation in the file, including the students' Cumulative Record Cards, Cumulative Health Record Cards, Home Language Identification forms, and Parent/Guardian Student Ethnic Identification forms. We also reviewed hard-copy documentation, including doctor's notes, parent's notes, and report

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<sup>12</sup> NYS Ed Law, Section 2857, Subdivision 2, Section 23 as amended by Chapter 101 and 102 of the Laws of 2010.

cards for FYs 2013 and 2014. Collectively, this evidence provided reasonable assurance that the students were enrolled at the school.

According to the Pupil Accounting Handbook for NYC Public Schools and the New York State Archives, a student's permanent record is to be filed indefinitely, and include a permanent record card (or cumulative record folder), test record showing cumulative achievement, cumulative health record, and immunization history form. The handbook further establishes that the "last school attended by the student is responsible for maintaining the records of students" who leave or are discharged from the NYC public school system. The length of time these records must be maintained are established by the New York State Archives Records Retention Schedule ED-1.

According to DOE's Automate the Schools (ATS) computer system, the four above-referenced students were enrolled in BSNBCS during school years 2012-2013 and 2013-2014. However, school officials told us that they could not find the four student files.

At the exit conference, BSNBCS officials provided the auditors with records that showed that three of the four students had been in attendance at the school during school years 2012-2013 and 2013-2014. Although these records provided reasonable assurance that the students attended the school, the school did not have the required permanent record card or cumulative record folder that included the students' test record, cumulative health record, and immunization history as noted above. BSNBCS provided no verifiable evidence of the fourth student and asserted that the student had never attended the school. Notwithstanding, BSNBCS is required to keep the student on the enrollment list until it receives verification that the child is enrolled in another school.

## Recommendations

16. BSNBCS Board should ensure that it schedules and holds at least the minimum number of 10 regular meetings during the school year to keep abreast of all pertinent matters facing the school.

**BSNBCS Response:** BSNBCS agreed, stating: "This is our current practice. The board held at least ten meetings each year since the 2014-15 school year."

17. BSNBCS should ensure that it obtains a copy of its complete annual report for each of FYs 2011 through 2015 and for all years going forward and post those reports to its website, as required.

**BSNBCS Response:** BSNBCS agreed. In its response it indicated that the recommendation has been implemented, stating: "This is our current practice. While the annual reports were always publicly available, the missing link on our website was remedied on the same day the issue was brought to our attention in 2015. The documents remain accessible via our website."

18. BSNBCS should immediately locate the three missing permanent student records.

**BSNBCS Response:** BSNBCS generally disagreed with the recommendation, stating: "The records identified by your audit team are not missing and this recommendation is premised on a misunderstanding of New York City Department of Education ("NYCDOE") policy and BSNBCS's responsibilities. The specific documents that you requested for four former students (one of whom was enrolled, but never attended) exist in the students' permanent files, on file at their current schools. When the students transferred from BSNBCS, the students' permanent files were also transferred to the NYCDOE so they could be sent to the students' new schools. Your audit report correctly notes that the NYCDOE requires the 'last

school attended by the student [to be] responsible for maintaining the records of students' who leave or are discharged from the NYC public school system. However, this policy applies to a NYCDOE school discharging a student to a non-NYCDOE school (e.g., to a charter school, private school, or a school outside of New York City). BSNBCS is not required to retain permanent records for students who transfer *into* NYCDOE schools. Rather, it is required to transfer these records to the NYCDOE, which is exactly what occurred.”

**Auditor Comment:** Although we first inquired about the location of the files for the above-mentioned students in August 2015, it was not until the exit conference in April 2016 that BSNBCS officials presented their claim that the school transferred the permanent files for those students to other schools. However, officials provided no evidence of these transfers so we are unable to verify their claim. Further, BSNBCS’s assertion that it does not retain files for transferred and discharged students is contrary to the school’s general practice. Of the eight students in our sample that were transferred or discharged, BSNBCS retained the files for the seven of them for nearly two years after they left the school.

19. BSNBCS should review its procedures and make any necessary changes to ensure that its student permanent files are appropriately tracked and maintained as required by the applicable rules.

**BSNBCS Response:** BSNBCS generally disagreed with the recommendation, stating: “The audit report misinterprets the applicability of requirements for NYCDOE district schools and substituting those for the regulations in the school’s policies. As a matter of practice and policy, BSNBCS maintains all required student records in its file system for current students and provides the student’s permanent record for any transferred students, to their new school. . . . Per the regulations of the Charter Schools Act of 1998, a charter school operates independent of the regulations of the local school district, which in our case means that BSNBCS is not required to follow the Chancellor’s regulations or other NYCDOE policies. This fundamental element of the State law governing charter schools gives them more autonomy in exchange for more accountability. BSNBCS has correctly followed its policy in the maintenance of student records and its other accountability functions.”

**Auditor Comment:** DOE’s policies regarding record retention are based on State regulations that cover the same topic of records management.<sup>13</sup> According to those regulations, with which BSNBCS *is* required to comply, schools are required to maintain permanent record cards for their students. Moreover, as BSNBCS is required to report student information including transfers and discharges in ATS and that BSNBCS is authorized by the NYC DOE, it would be to the school’s benefit to align its procedures with DOE’s Pupil Accounting Handbook.

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<sup>13</sup> New York Codes, Rules and Regulations (NYCRR), Title 8 (Education Department), Part 185

## DETAILED SCOPE AND METHODOLOGY

We conducted this 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 audit scope covered Fiscal Years 2013 and 2014 (July 1, 2012, through June 30, 2014). (The school's Fiscal Year corresponds to the school year and is the same as the City's Fiscal Year.) However, the audit scope was expanded for certain tests involving (1) cash payments received from parents/guardians, (2) payments to Gabriel Associates for alterations to the school building, and (3) BSNBCS lease obligations pertaining to agreed-upon building alterations. To accomplish our objectives we performed the audit procedures discussed below.

We reviewed the New York State Charter Schools Act of 1998 (as amended), BSNBCS's initial and renewal charter agreements with DOE, and BSNBCS's bylaws to gain an understanding of the school's responsibilities and obligations regarding its financial operations and management. We also reviewed BSNBCS's Financial Controls Policy, its lease agreement, and relevant consulting and construction contracts, along with the NYSED 2013 and 2014, "Annual Report Guidelines for New York State Charter Schools." These resources, along with the Charter Schools Act, the BSNBCS charter, and the New York State Not-for-Profit Corporation Law formed the basis of our audit criteria. To supplement these criteria, we also reviewed the following:

- "The Guide to Not-for-Profit Governance 2012", issued by the Not-for-Profit Group and the Pro Bono Committee of Weil, Gotshal & Manges, LLP
- "Fiscal Oversight Guidebook; A Guide for Charter School Leaders, Employees, and Boards of Trustees, issued by NYSED, May 2014, and
- "Internal Controls and Financial Accountability for Not-for-Profit Boards" issued in 2005 by the New York State Attorney General's Office
- NYSED "Annual Report Guidelines for New York State Charter Schools" covering FYs 2011 through 2015.

To gain an understanding of BSNBCS's financial conditions and related matters, we reviewed the minutes from the Board meetings posted on its website, along with its federal tax form 990 filed for Fiscal Years 2012–2014, and certified financial statements covering FYs 2012–2015. We performed analytical procedures on the financial statements to assess the school's financial viability as a going concern. In addition, to ascertain the manner in which BSNBCS spent its funds, we calculated the portion of the school's total expenses allocated to programmatic and administrative expenses, respectively, as well as the allocation of such expenses per pupil. Further, we noted findings and conditions disclosed in the financial statements that were relevant to this current audit.

To gain an understanding and to evaluate BSNBCS's operations, accounting policies and practices, and internal controls over its financial operations and management, we interviewed key officials, including the Chairman, Vice Chair and Treasurer of the Board, the school's current Executive Director, Finance Manager and Senior Financial Consultant. Meetings and interactions

with school personnel and BSNBCS Trustees included the involvement of the school's legal counsel, who acted as the school's liaison. We also conducted walkthroughs of BSNBCS's accounting functions, reviewed relevant documentation and reports, and performed tests of controls. We documented our understanding of BSNBCS's operations and controls in written memoranda.

To determine the reliability and completeness of BSNBCS's financial records, we reconciled the general ledger and trial balances to the financial statements for FYs 2013 and 2014. We totaled all disbursements by payee and deposits by source that appeared on the bank statements for the school's operating checking and escrow accounts for FYs 2013 and 2014 and compared those amounts to the general ledger.

To test disbursements based on our analysis of the bank statements, we selected a judgmental sample of disbursements. From a population of 1,836 transactions totaling \$11,923,883, we judgmentally selected a sample of 192 disbursements totaling \$2,217,511 (19 percent). To select this sample, we stratified the disbursements into five groups based on check number series or disbursement type as noted therein (3-, 4-, 5-, and 8-digit check numbers and electronic transfers). From each group we selected the highest amount per payee greater than \$1,000 or the highest paid amount if a payee had no payments greater than \$1,000. We reviewed supporting documentation, (i.e., canceled checks, invoices, check requests, purchase orders, authorization forms etc.) for the 192 sampled payment/disbursement transactions to determine whether checks or authorization forms were signed by an authorized party or parties; whether checks greater than \$5,000 had two signatures as required; whether supporting documentation was present; and whether the expense was recorded timely and accurately.

We identified a total of \$690,000 in payments to Gabriel Associates in FYs 2013 and 2014 for building alterations reportedly carried out during FYs 2011 through 2014. Accordingly, we expanded the scope of our tests in this area to cover the same period. We requested and reviewed available contracts, invoices, canceled checks, and other available documentation for the period. We assessed whether BSNBCS had carried out building alterations as specified under its lease agreement. We determined whether BSNBCS had obtained competitive bids for proposed jobs or projects over \$10,000, obtained approval from the landlord for all building alterations, had appropriate project plans outlining the scope of work performed, and had written contracts that had been approved by the Board.

To test cash receipts based on our analysis of the bank statements, we grouped all the receipts into four groups by type (direct deposit including transfers, customer deposit, card purchase return, and line of credit). For transfers between BSNBCS's accounts, we prepared a transfer schedule and traced transfers between accounts to ensure that all cash was properly accounted for. We also reviewed the transfer authorizations for transfers between BSNBCS bank accounts that occurred in FYs 2013 and 2014 to ensure that they were made with the knowledge and/or approval of the Board.

We examined available supporting documentation to identify the sources and handling of funds related to 41 customer deposits, totaling \$198,040, reflected on the bank statements for FYs 2013 and 2014. These deposits included funds received from students' parents or guardians for the afterschool, lunch, and fund-raising programs. We determined whether BSNBCS maintained adequate controls and segregation of duties over the handling of cash (currency, checks and money orders) and appropriately recorded, accounted for, and deposited those funds in the bank.

To determine whether BSNBCS accurately recorded per pupil funding received from DOE, we traced each invoice over the two-year period to the school's general ledger. In addition, we verified the payments made by DOE by reviewing the payment information recorded on the bank

statements for FYs 2013 and 2014. To determine the accuracy of the invoices, we reviewed DOE's Automate the Schools (ATS) reports and the School's student Full-Time Equivalent (FTE) end of the year reconciliation for FY14.

We reviewed the files of all 62 employees on staff in FYs 2013 and 2014 and determined whether those employees were actually employed at the school and had been fingerprinted and undergone a criminal background check. We also accessed NYSED's Office of Teaching Initiatives' website (<http://eservices.nysed.gov/teach/certhelp/CpPersonSearchExternal.jsp>) to determine whether the teachers held New York State teacher certifications. Further, we determined whether the school maintained the required level of certified teachers.

To determine whether BSNBCS maintained adequate controls and safeguards over its assets, particularly, computers, equipment, furniture, and fixtures, we asked to review the school's inventory list of its assets. In the absence of such a list, we reviewed supplemental information and interviewed officials to ascertain the school's procedures and practices for tracking and reconciling its assets inventory.

We randomly selected 40 student files, without duplication, from among the 328 students reported enrolled in FY 2013 and 436 students reported enrolled in FY 2014. We compared the information in DOE's ATS system to the information in the files, including each student's name, address, enrollment date, discharge dates, etc. We also reviewed the student files and certain documents therein, such as admission or discharge forms (where applicable), to determine the accuracy of the enrollment data reported to DOE. We also determined whether required documentation was maintained in students' permanent files. Further, for all eight of the students in our sample that had been discharged from the school, we determined whether the school reported the discharge promptly.

We reconciled BSNBCS's payroll expense amounts reported in the financial statements to the trial balance and general ledger for FYs 2013 and 2014. We determined whether personnel were paid at the rate established by existing contracts. To ensure that the payroll expenditures were aligned with the total annual salary of all active personnel, we compared the total annualized salary of all active employees for FYs 2013 and 2014 to the total salaries and wages reported in the financial statements. We also reviewed the employment contracts, payroll registers, and employee W-2 forms for both years.

The results of these tests, while not projectable to the population of receipts and disbursements in Fiscal Years 2013 and 2014, provided sufficient, competent evidence to support our findings and conclusions about BSNBCS' financial operations and management.



**By Email and Hand Delivery**

Marjorie Landa  
Deputy Comptroller  
Bureau of Audit  
The City of New York Office of the Comptroller  
1 Centre Street  
New York, NY 10007-2341

June 7, 2016

**Re: Audit Report on the Bedford Stuyvesant New Beginnings Charter School - MJ15-094A**

Dear Deputy Comptroller Landa:

On behalf of Bedford Stuyvesant New Beginnings Charter School (“BSNBCS”), I am thankful to you and your staff for the effort and diligence you exercised in completing the above-referenced audit. We take great pride in the stellar education we have provided to our students since we opened our doors in 2010, especially as we prepare to graduate our first class this month. Your audit has been helpful to us in identifying important areas of focus as we continue to grow and improve our school in order to best serve our students and our community.

At the same time, we are compelled to point out some aspects of the report and recommendations with which we disagree. In line with convention, we have attached detailed responses to each of the audit report’s recommendations. Our responses are divided into three categories:

- Recommendations with which we agree;
- Recommendations with which we agree in principle, but are unnecessary in light of current practice; and
- Recommendations with which we disagree.

In addition, we have two overarching general responses to the report.

First, many of the report’s recommendations and purported issues of concern focus on policies and practices under BSNBCS’s prior administration, which BSNBCS has since addressed. Following the end of the audit scope of June 30, 2014, and prior to the commencement of your audit in November 2014, the school had undergone a number of changes, many of them in line with the recommendations that are suggested in your audit report. Indeed, on numerous occasions over the course of the audit process, your staff commended the school’s administration and trustees on the improvements that we made to the school in recent years. Relying on statements that your audit report would take into account the current state of the school in addition to the school’s condition during the audit period, we responded to your requests for information that fell outside of the temporal scope of your audit.



We are therefore disappointed that your report does not acknowledge with greater particularity the positive changes at BSNBCS since the audit scope. We see this omission as a missed opportunity to portray the current state of our school accurately, particularly after such a lengthy, 19-month audit.

Second, when describing instances in which certain recommended documentation was missing, the report too frequently—and unjustifiably—takes an accusatory tone and suggests malfeasance. As we discussed over the course of the audit, many of the missing documents were the result of the school’s change in administration, as well as its evolving document management system. There is no evidence whatsoever that any school documents were intentionally misplaced or destroyed. We would therefore request that you edit the audit report to note explicitly that there is no indication of wrongdoing in connection with any missing documents.

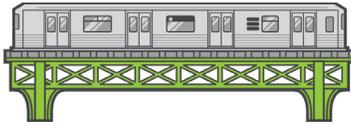
BSNBCS appreciates the feedback and recommendations offered by the draft audit report. As noted, the school previously identified and addressed many of the issues raised in the report.

Please feel free to contact me at [jsciame@bsnbcs.org](mailto:jsciame@bsnbcs.org) if you have any questions about our response.

Sincerely,

A handwritten signature in black ink that reads "Joseph Sciamé".

Joseph Sciamé  
Chair, BSNBCS Board of Trustees



ATTACHMENT

**BSNBCS's Responses to the Comptroller's Recommendations**

**We Agree with the Following Recommendations**

**Recommendation 7:** BSNBCS should formally document its new cash receipts policy and procedures, circulate them to the school staff, and train responsible personnel in them.

**Response:** The BSNBCS staff currently follows the new policy and have received this information via a staff memo and associated in-house training. We will add the policy to the school's financial handbook, as an additional way to disseminate the information.

**Recommendation 12:** BSNBCS should ensure that it continues to maintain the minimum required balance of no less than \$70,000 in its escrow account in accordance with its charter agreement.

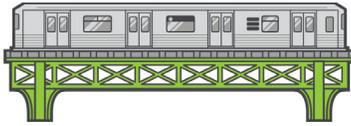
**Response:** This is the school's current practice. The school's escrow account has not fallen below \$70,000 since 2013.

**Recommendation 16:** BSNBCS Board [sic] should ensure that it schedules and holds at least the minimum number of 10 regular meetings during the school year to keep abreast of all pertinent matter facing the school.

**Response:** This is our current practice. The board held at least ten meetings each year since the 2014-15 school year.

**Recommendation 17:** BSNBCS should ensure that it obtains a copy of its complete annual report for each of FYs 2011 through 2015 and, for all years going forward, post those reports to its website, as required.

**Response:** This is our current practice. While the annual reports were always publicly available, the missing link on our website was remedied on the same day the issue was brought to our attention in 2015. The documents remain accessible via our website.



**We Agree with the Follow Recommendations in Principle, but They are Unnecessary in Light of Current Practice**

**Recommendation 1:** BSNBCS should ensure that when goods or services are to be purchased, it makes reasonable efforts to procure the goods or services at costs that is [sic] reasonable and customary. If the items being purchased cost more than \$10,000, BSNBCS should make reasonable efforts to obtain competitive bids from at least three providers, and document those efforts and the reasons for selecting the vendor ultimately chosen.

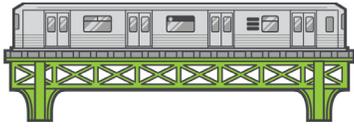
**Response:** While we agree with the principle of this recommendation, it is unnecessary because the school is currently in compliance. We are disappointed that your audit report failed to consider that BSNBCS followed its policies in this instance. Gabriel Associates was one of three contractors from whom the school solicited bids for the school's initial renovation work, according to the bids we shared with the audit team. Indeed, once the school determined that Gabriel Associates could perform the initial renovations and selected it as a preferred vendor prior to the school opening in 2010, we returned to the company to perform subsequent construction work on the school's building. The construction bids that we provided to your audit team—submitted by multiple vendors—constitute documentation that the school properly followed its policy.

**Recommendation 2:** The BSNBCS Board should ensure that all contracts, especially those for building construction and alterations, are in writing and signed and dated by the Head of School. Further, all such contracts should be approved by the Board and evidence of such approval should be maintained.

**Response:** We agree with the principle that contracts be signed by the school's Executive Director, however it is not necessary in light of the school's compliance with its current policy. The school enters over one hundred contracts annually, for items and services both large and small. The Board's role in the Charter School model is to govern, and it properly delegates daily tasks such as contract management to its Executive Director and School Management Team. According to our policies, all contracts are properly vetted and approved by the Executive Director. To our knowledge, no law or regulation requires Board approval of all contracts. Moreover, subjecting every contract to Board review and approval would be inefficient and hinder the school's ability to function, which runs counter to the spirit of the New York State Charter School Act.

**Recommendation 3:** BSNBCS should ensure that when it plans to undertake any alterations of its leased premises, that it submits to the landlord: (a) a statement of the work proposed to be done; (b) an estimate of the cost thereof; and (c) detailed plans and specifications. Also, it should ensure that it obtains the landlord's written consent prior to undertaking any changes other than normal or routine repairs and maintenance.

**Response:** BSNBCS has been in good standing with our landlord for the past six years. We intend to remain in good standing with our lease agreement and our landlord through the Diocese's current process regarding alterations. Per the school's lease, the school has



never been required to obtain written authorization from its landlord for any construction work undertaken. As we have repeatedly explained, and is further stated in the letters from Father Nolan and Father Astor, as well as the Roslyn Asset Corporation, the Diocese's agent for real estate issues, the school is in good standing with its lease. The landlord has been regularly informed of and received consent for the various renovation projects at the school, per their preferred reporting methodology of verbal permission. (See Appendix A)

**Recommendation 4:** BSNBCS should ensure that it obtains sufficiently detailed contracts or project plans that outline the scope of work, related cost estimates, the general location of work performed, and a timeline associated with each job/project to support the work that was reportedly performed.

**Response:** The school did obtain cost estimates and timelines for the various renovation projects undertaken between 2010 and 2014, sufficient to understand the scope of work, the costs and the work to be completed. Additionally, these projects were discussed in Board meetings and the school's unpaid, volunteer trustees personally inspected work as it was in progress and completed. As noted by our landlord and its agent in the attached letters, the school has done an excellent job restoring its facility. (See Appendix A) We will take this recommendation under advisement for any future construction projects the school undertakes.

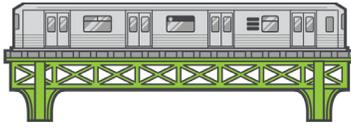
**Recommendation 6:** BSNBCS should ensure that it implements adequate cash controls, segregates the duties for handling, and properly accounts for cash payments collected from parents for afterschool programs, fundraising, and other school-related activities.

**Response:** The school has an appropriate and effective cash control policy. As documented during the audit, BSNBCS implemented a new cash control system prior to commencement of the audit, and expanded it subsequently prior to any recommendations being made, which addressed the concerns identified in the report in previous fiscal years. This recommendation appears to be based on the school's prior practice and does not consider current policy. We will continue to follow the school's current policy, which complies with the above recommendation.

**Recommendation 8:** BSNBCS should ensure that all payments over \$5,000 are signed by two authorized parties in accordance with its bylaws and policies and procedures.

**Response:** While we agree with the principle of this recommendation, it is unnecessary in light of the school's compliance with its current financial policies. Updated in 2014, our current financial policies require multiple signatures for checks over \$10,000. We selected this figure because this number represents a sector wide standard and more accurately reflects the needs of a large, growing school with revenues currently over \$10MM. The audit report provides no finding to suggest that this policy, adopted after the audit period, is unsound.

Moreover, this recommendation appears to be based on a misunderstanding of the school's fiscal policies. The report describes several payments as "lack[ing] two authorized



signatures,” including \$61,207.72 in employee health insurance payments and \$104,563.61 in employee 401K contributions. This analysis is incorrect, as these transactions do not fall under Article XI, Section C of the school’s financial policies because they are not “checks, drafts, promissory notes, orders for the payment of money, [or] other evidence of indebtedness” and therefore did not require multiple signatures to process. These transactions are controlled by BSNBCS’s payroll policy, as we have described in detail during the course of the audit.

**Recommendation 9:** BSNBCS should ensure that payments are not artificially broken up to avoid approval and oversight processes that apply to larger payments.

**Response:** This is the school’s current practice. School administration and trustees will continue to adhere to the approval and oversight processes outlined in the school’s current financial policies. We are disappointed by the audit report’s use of the phrase “artificially broken up” because it suggests wrongdoing without supporting evidence.

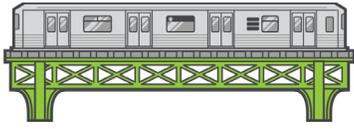
**Recommendation 10:** BSNBSC should ensure that no payments are made without a properly approved invoice and/or other supporting documentation.

**Response:** This is the school’s current practice. School administration and trustees will continue to adhere to the approval and oversight processes outlined in the school’s current financial policies. However, we disagree to the extent that the recommendation implies that the school previously made payments without invoices and/or supporting documentation.

**Recommendation 13:** BSNBCS Trustees should complete and submit by August 1 each year the financial disclosure forms going forward as required.

**Response:** We agree with this recommendation in principle, but it is unnecessary given that the school is already in compliance. Since 2010, BSNBCS trustees have completed all required paperwork and financial disclosure forms on an annual basis. BSNBCS remains confident that its trustees submitted all required disclosure forms for all years. When you alerted us in your preliminary audit report that several disclosures were not on file with NYSED, we refiled these forms, which underwent no revisions and confirmed that there were no conflicts of interest for any of the years in question.

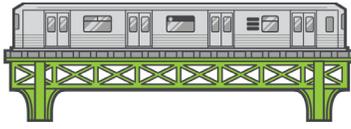
The confusion here may stem from NYSED’s electronic filing system for disclosure reports. Unfortunately, during the audit period, NYSED did not provide a receipt of disclosure submission or a copy of completed submissions to the school or the trustees themselves. Additionally, we are aware instances in which NYSED accidentally and erroneously filed disclosure reports under the incorrect school. In fact, as you have previously noted, NYSED has accidentally misfiled at least one BSNBCS trustee’s disclosure form to an unrelated school.



We are happy to report that NYSED's current submission process allows for an automatic PDF download of financial disclosure forms, which allows the school to have an independent record of the Trustee's disclosure submission, beyond those archived by NYSED.

**Recommendation 14:** BSNBCS should follow-up with each Trustee well in advance of the August 1 deadline each year to determine whether s/he filed the required financial disclosure information. If any BSNBCS Trustee has not filed the form, the school should on behalf of that Trustee, provide to NYSED the information required for each BSNBCS Trustee that has not filed the financial disclosure form with NYSED.

**Response:** While we agree with this recommendation in principle, it is unnecessary because it is the school's current practice. As a part of its regular practice, BSNBCS trustees will continue to submit their conflict of interest forms to NYSED. BSNBCS has no need to seek additional financial information from its trustees, as all previous annual disclosures have been submitted to NYSED and our Trustees do not currently (nor have they historically) had any reportable conflicts of interest for Board business.



**We Disagree with the Following Recommendations**

**Recommendation 5:** BSNBCS should obtain adequate documentation to support the invoices presented by Gabriel and determine if the payments made for the actual work done were appropriate, and take necessary action to recoup any overpayments.

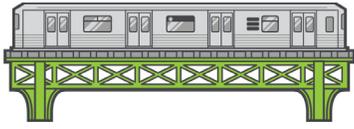
**Response:** We have no reason to believe that any payments for the work performed on the school's building were improperly executed, and you have not identified any work that you suggest was not completed or was completed improperly. In fact, the work referenced in the audit report was completed more affordably than the initial budget estimate of \$1.9MM, referenced in the school's lease. As a result of the work performed by Gabriel Associates, the school is a safe and beautiful space for all our scholars. Any suggestion of gaps in the quality or substance of the work completed is purely speculative.

**Recommendation 11:** BSNBCS should follow up and determine whether supporting documentation exists for the balance of \$202,500 in supported payments identified in this report. BSNBCS should recoup those payment for which it is unable to verify that goods or services were provided.

**Response:** At the May 5, 2016 exit conference, we presented documentation to support these payments. We do not believe there is any need to seek additional documentation for these payments because we know the services were in fact provided. Regarding the \$150,000 in construction costs specifically, which were referenced in the corresponding finding of the audit report, the school's trustees and management actually assessed the school building's condition in August 2010, discussed projects with the contractors, witnessed work being done, and reviewed completed projects. We are satisfied that construction services were indeed provided and this information was appropriately reported to you.

**Recommendation 15:** The BSNBCS Board should take all appropriate action to ensure that each member completes and submits the required financial disclosure forms, including removal of the Board.

**Response:** BSNBCS remains confident that its trustees submitted all required disclosure forms for all years during the audit period. However, when your office notified us that several disclosures were not on file with NYSED, we refiled these forms, which confirmed that there were no conflicts of interest for any of the years in question. As noted in your report, we provided copies of the resubmitted forms at the May 5 exit conference. You have identified no concerns with these documents or any preciously undisclosed conflict. It remains unclear why the resubmitted financial disclosures are referenced via this recommendation as inadequate for purposes of this audit. Moreover, your suggestion that the school remove its volunteer trustees, upstanding community members, business and academic leaders, is entirely unhelpful in light of the facts.



**Recommendation 18:** BSNBCS should immediately locate the three missing permanent student records.

**Response:** The records identified by your audit team are not missing and this recommendation is premised on a misunderstanding of New York City Department of Education (“NYCDOE”) policy and BSNBCS’s responsibilities. The specific documents that you requested for four former students (one of whom was enrolled, but never attended) exist in the students’ permanent files, on file at their current schools. When the students transferred from BSNBCS, the students’ permanent files were also transferred to the NYCDOE so they could be sent to the students’ new schools. Your audit report correctly notes that the NYCDOE requires the “last school attended by the student [to be] responsible for maintaining the records of students” who leave or are discharged from the NYC public school system. However, this policy applies to a NYCDOE school discharging a student to a non-NYCDOE school (*e.g.*, to a charter school, private school, or a school outside of New York City). BSNBCS is not required to retain permanent records for students who transfer *into* NYCDOE schools. Rather, it is required to transfer these records to the NYCDOE, which is exactly what occurred.

**Recommendation 19:** BSNBCS should review its procedures and make any necessary changes to ensure that its student permanent files are appropriately tracked and maintained as required by the applicable rules.

**Response:** The audit report misinterprets the applicability of requirements for NYCDOE district schools and substituting those for the regulations in the school’s policies. As a matter of practice and policy, BSNBCS maintains all required student records in its file system for current students and provides the student’s permanent record for any transferred students, to their new school.

In response to the preliminary audit report’s statement that the auditors “were unable to verify that the students attended the school,” BSNBCS provided additional documentation of the three students who attended, including photographs of the students, in uniform, inside of the school, daily attendance records for the students and other evidence of attendance.

Per the regulations of the Charter Schools Act of 1998, a charter school operates independent of the regulations of the local school district, which in our case means that BSNBCS is not required to follow the Chancellor’s regulations or other NYCDOE policies. This fundamental element of the State law governing charter schools gives them more autonomy in exchange for more accountability. BSNBCS has correctly followed its policy in the maintenance of student records and its other accountability functions.

# Appendix A

DE ANDREIS HOUSE  
124 COTTON STREET  
PHILADELPHIA, PA 19127

June 1, 2016

Ms. Landa:

My name is Father Nolan, and I write to you to verify my professional relationship with Bedford Stuyvesant New Beginnings Charter School ("BSNBCS"), in my previous position as the Priest of St. John the Baptist Parish, located in Brooklyn, NY.

In my role as the Priest of St. John the Baptist Church, I worked closely with the educational leaders of our affiliated parochial school, located at 82 Lewis Avenue, also called St. John the Baptist School, until its closing in 2009 due to financial issues. Following the closing of our parochial school, BSNBCS signed a lease for the building.

The condition of the building was a major issue prior to BSNBCS opening. In those initial days, I worked with the BSNBCS' trustees and administration and witnessed the facility restoration, allowing it to open for students in the August 2010. In the years that followed, and until my departure from the parish in 2015, I visited the school frequently, and took note of the continued renovation. Major repairs allowed classes once again to be held, including on the upper floors, which were previously not used for classes due. Consistent with the understanding between the parish and the school, I received regular updates on the facilities work. I was proud to see the building, once the related site of St. John's College's Prep School, once again be filled with students.

Please let me know if you have any questions regarding St. John's the Baptist School or our Parish's relationship with BSNBCS. I can be reached at the address below.

Sincerely,



Father Emmet Nolan, CM  
Former Pastor of St. John the Baptist RC Parish  
Vincentian Theologate Director, Philadelphia, PA



St John the Baptist Parish  
Parroquia de San Juan Bautista

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Serving the Churches of Our Lady of Good Counsel and St. John the Baptist  
Sirviendo las Iglesias de Nuestra Señora de Buen Consejo y San Juan Bautista

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June 1, 2016

Ms. Landa:

My name is Father Astor Rodriguez and I have been the Pastor at St. John The Baptist Roman Catholic Parish, located at 75 Lewis Avenue in Brooklyn, NY since 2015. I currently lead a dynamic faith community being formed in the Vincentian charism for the spreading of the gospel of Jesus Christ, especially among the poor and marginalized.

I regularly work with Bedford Stuyvesant New Beginning Charter School ("BSNBCS"), which leases the building at 82 Lewis Avenue from the Parish. I work with the school's Executive Director, Nicholas Tishuk, and the school's Board Chair, Joseph Sciame. We enjoy a positive and productive relationship and I am very proud to see the educational opportunities currently offered at the site of our previous parish school. It is remarkable that the building has been an educational center for the Bedford Stuyvesant community for over 90 years.

By virtue of the lease agreement between the Parish and the school, we have a financial relationship with BSNBCS. We are regularly in contact with the school's administration regarding monthly rent payments, facilities improvements, and other matters that affect our respective communities. BSNBCS is in good standing with its current lease, and its improvement of the school facility is a source of pride. We have several parishioners who attend the school, and we still hold events in the school on weekends and certain evenings. We have seen the improvements in the building and we look forward to maintaining a positive relationship with BSNBCS, its Trustees and administration.

I can be contacted at 718-455-6864 or the address below, should you have any questions regarding St. John the Baptist Parish and its relationship to BSNBCS.

Sincerely,

Father Astor Rodriguez  
Pastor, St. John the Baptist Church  
75 Lewis Avenue, Brooklyn, NY

Rocklyn Asset Corporation  
243 Prospect Park West  
Brooklyn, New York 11215

June 3, 2016

To Whom It May Concern:

My name is Coleen Ceriello, and I write on behalf of Rocklyn Asset Corporation, which manages the real estate affairs of the Roman Catholic Diocese of Brooklyn and its parish corporations. My office has a strong working relationship with Joseph Sciame, a founder and Chairman of the Board of Trustees for Bedford Stuyvesant New Beginnings (BSNBCS), whom I met in 2009. Rocklyn assisted the parish in locating BSNBCS at the former location of St. John the Baptist School, at 82 Lewis Avenue and was involved with the negotiation of the school's lease.

A key component of the school's moving to 82 Lewis Avenue in 2010 was the undertaking of repairs to the electrical, plumbing, and other building systems and any necessary carpentry work. In the past six years, the school has done a good job with this facility, including the aesthetics and function of the building and meeting its monthly rent obligations. To my knowledge, BSNBCS continues to have a strong relationship with the diocese and its landlord, the Parish of St. John the Baptist.

I am happy to discuss this matter further, should you need any additional information.

Sincerely,



Coleen A. Ceriello  
Executive Director  
Rocklyn Asset Corporation