

JAMES M. SINGLETON CHARTER MIDDLE SCHOOL



INVESTIGATIVE AUDIT
ISSUED JULY 2, 2014

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

July 2, 2014

**MR. GREGORY PHILLIPS, PRESIDENT AND CEO,
AND MEMBERS OF THE BOARD OF DIRECTORS
JAMES M. SINGLETON CHARTER MIDDLE SCHOOL**
New Orleans, Louisiana

We have audited certain transactions of the James M. Singleton Charter Middle School. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the Orleans Parish District Attorney and others as required by law.

Respectfully submitted,

A handwritten signature in blue ink that reads "Daryl G. Purpera". The signature is written in a cursive style.

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

SINGLETON 2014

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EXECUTIVE SUMMARY

Charter School Failed to Enroll Certain Employees in the Teachers' Retirement System

It appears that, contrary to state law, from January 2009 to August 2012, the James M. Singleton Charter Middle School (Singleton) failed to enroll certain employees in the Teachers' Retirement System of Louisiana (TRSL). Had these employees been properly enrolled in TRSL during this time period, Singleton would have been required to remit retirement contributions totaling \$686,081 to TRSL. Instead, these employees were either improperly enrolled in a nonstate retirement program or not enrolled in a retirement program at all. In addition, some of these employees were removed from payroll reports, which caused inaccurate wage and contribution information to be submitted to TRSL. By failing to enroll and remit retirement contributions to TRSL for certain employees and by providing inaccurate information to TRSL, Singleton management may have violated its charter agreement and state law.

BACKGROUND AND METHODOLOGY

James M. Singleton Charter Middle School (Singleton) is an independent public school sponsored by the Dryades Young Men's Christian Association (Dryades), a Louisiana non-profit corporation. On September 12, 2006, Dryades entered into an agreement with the Louisiana Board of Elementary and Secondary Education (BESE) to operate Singleton as a charter school in the Louisiana Recovery School District (RSD). Singleton is publicly funded by BESE and the Louisiana Department of Education and its charter agreement is approved through 2014.

In its charter agreement with BESE, Singleton elected to allow eligible employees to participate in the Teachers' Retirement System of Louisiana (TRSL). In December 2011, TRSL began a limited review of Singleton's salary/contributions data. To complete the review, TRSL requested Singleton officials to provide detailed payroll reports for all employees for the fiscal year ended June 30, 2011. According to TRSL representatives, the payroll reports submitted by the school had been altered. Further examination of these records suggested that certain Singleton employees eligible for participation in TRSL were removed from the payroll reports resulting in their wages not being reported to TRSL.

This audit was initiated after receiving allegations regarding the school's failure to report wages to TRSL. The procedures performed during this audit included:

- (1) interviewing Singleton's employees;
- (2) interviewing other persons as appropriate;
- (3) examining Singleton's documents and records;
- (4) gathering and examining external parties' documents; and
- (5) reviewing applicable state laws and regulations.

FINDING AND RECOMMENDATIONS

Charter School Failed to Enroll Certain Employees in the Teachers' Retirement System

It appears that, contrary to state law, from January 2009 to August 2012, the James M. Singleton Charter Middle School (Singleton) failed to enroll certain employees in the Teachers' Retirement System of Louisiana (TRSL). Had these employees been properly enrolled in TRSL during this time period, Singleton would have been required to remit retirement contributions totaling \$686,081 to TRSL. Instead, these employees were either improperly enrolled in a non-state retirement program or not enrolled in a retirement program at all. In addition, some of these employees were removed from payroll reports which caused inaccurate wage and contribution information to be submitted to TRSL. By failing to enroll and remit retirement contributions to TRSL for certain employees and by providing inaccurate information to TRSL, Singleton management may have violated its charter agreement and state law.¹

Singleton is an independent public school sponsored by the Dryades Young Men's Christian Association (Dryades). On September 12, 2006, Dryades entered into an agreement with the Louisiana Board of Elementary and Secondary Education (BESE) to operate Singleton as a charter school in the Louisiana Recovery School District (RSD) through 2014. Although Dryades and Singleton have separate budgets, all Singleton employees are considered employees of Dryades and are subject to Dryades' personnel policies and procedures. Singleton's staff consists of more than 70 employees whose salaries/wages and related benefits are either fully funded by Singleton or split and paid by both Dryades and Singleton based on the amount of time spent performing functions for each entity.

Louisiana Revised Statute (La. R.S.) 17:3997(A)(3) states that employment in any charter school, other than those employees exempted by state law, shall be deemed to be employment in a public school of the state for purposes of eligibility for benefits which would otherwise accrue under state law to the employee. That includes, but is not limited to, the school employees' and teachers' retirement systems. It further provides that participation of the charter school and its employees in such benefit programs shall be contingent upon provisions contained in the school's charter. Although Singleton could have chosen not to participate in TRSL, Singleton's charter contains the provision for the school and eligible employees to participate in the TRSL.

According to Dryades' personnel policies, all full-time employees at Singleton, except certified teaching staff, must be enrolled in the YMCA retirement fund after two full years of employment. Dryades' policy states that the school's certified teaching staff must be enrolled in the approved state teacher retirement system (TRSL). However, contrary to Dryades' policies, TRSL law^{2,3} includes unclassified employees of any state or parish-run public educational institution in the definition of "teacher" and requires all "teachers" to become members of the retirement system as a condition of their employment. Because Singleton is a state-supported educational institution whose charter provides for participation in TRSL, all employees defined

as teachers are required to be enrolled in TRSL. Further, as a qualified governmental pension plan under IRS regulations, TRSL must provide definitely determinable benefits to each participant not subject to the discretion of the employer (Singleton). As such, the exclusion of certain eligible employees by Singleton could jeopardize TRSL's status as a qualified governmental pension plan.

Employees Not Enrolled in the Teachers' Retirement System

From January 2009 to August 2012, we identified 27 school employees--mainly administrative staff or paraprofessionals, such as teachers' aides--who met the definition of "teacher" as defined by TRSL law, but were not enrolled in TRSL. Rather, these employees were either improperly enrolled in the Dryades' YMCA retirement fund or were not enrolled in any retirement plan. Had the 27 employees been properly enrolled in TRSL, Singleton would have been required to remit retirement contributions totaling \$686,081 to TRSL from January 2009 to August 2012. We calculated this amount based on the reported earnings/wages for these employees using the contribution rates in effect during the period for both the employer (Singleton) and employees. Of the total, Singleton's share was calculated to be \$484,684 and the employees' share was calculated to be \$201,397.

The following table provides the number of Singleton employees (by year) who were eligible but not enrolled in TRSL, and the retirement contributions that should have been paid to TRSL on their behalf from January 2009 to August 2012.

Retirement Contributions Not Paid to TRSL January 2009 to August 2012

	(A)	(B)	(C)	(D)
	Number of Employees Not Enrolled in TRSL^A	Singleton Employer Contributions Required by TRSL (15.5% to 24.5%)	Employee Contributions Required by TRSL (8%)	Total Contributions That Should Have Been Paid to TRSL (B + C)
2009	23	\$116,814	\$60,291	\$177,105
2010	16	114,763	51,894	166,657
2011	17	150,240	54,696	204,936
2012	16	102,867	34,516	137,383
Total		\$484,684	\$201,397	\$686,081

Of these 27 employees, 11 did not meet Dryades' two-year employment requirement and were not enrolled in any retirement system, and 16 met the requirement and were enrolled (improperly) in the YMCA retirement fund. It should be noted that state/public funds were used

^A Although there was a total of 27 employees not enrolled in TRSL, column A provides the number of employees not enrolled for each of the years presented. As such, some employees were duplicated from year to year (within column A).

by Singleton to pay contributions to the YMCA retirement fund. We also noted that contrary to the TRSL, which requires employees to contribute 8 percent of their wages, the YMCA retirement fund did not require employee contributions. Therefore, retirement contributions were not withheld from wages paid to these employees; however, records indicate that Singleton and the employees not enrolled in TRSL did make contributions into Social Security.

According to Singleton's former Executive Director Douglas Evans and Chief Financial Officer Catrina Reed, it was their understanding that only teachers were required to "pay into" TRSL. They said that employees other than teachers are automatically enrolled in the YMCA retirement fund after two years of employment, and that Singleton/Dryades pays 100 percent of the contributions required by the YMCA retirement fund. Although state law³ does not allow eligible employees to choose to participate in TRSL, Ms. Reed stated that new employees are now provided an option to choose between enrolling in TRSL or the YMCA retirement fund. She stated that she promotes choosing the YMCA fund because it will save the employee from paying the 8 percent contribution required by TRSL.

In its response to this finding, management disputed the reported number of individuals not participating in TRSL and requested a list of all employees included. It should be noted that this information had already been provided to Catrina Reed, Chief Financial Officer, on April 21, 2014. After receipt of this information, Ms. Reed provided documentation to indicate that two individuals were not required to participate in TRSL during the audit period. Based on the information provided by Ms. Reed, the reported number of individuals not participating in TRSL, as well as the corresponding amounts not remitted to TRSL, was adjusted accordingly.

Management's response also indicated that LLA erroneously assumed that certain YMCA employees were employees of the charter school (Singleton) and lists examples. Management asserts that because certain YMCA employees performed functions on behalf of the Singleton, it does not necessarily follow that these employees left their YMCA employment and became direct employees of Singleton. Management further states that YMCA employees are not eligible for TRSL participation regardless of how they interact with Singleton.

Although management makes a distinction between employees of the YMCA and Singleton, the YMCA's charter school application indicates that all employees of the charter school shall be deemed to be employees of the YMCA. As such, it would appear that employees of the YMCA who work for Singleton and are defined as teachers under state law are eligible for participation in TRSL. We found that certain employees did allocate a percentage of their time to the YMCA and Singleton; however, only employees for whom a majority (in most cases 80%) of their time was allocated to Singleton were considered for participation in TRSL. For example, although the charter school's assistant principal allocates 20% of his time to the YMCA, his employment agreement stated that "Acceptance of this offer requires you to commit yourself to fulfilling the mission of the Dryades/James M. Singleton Charter School and perform all duties as it relates to the school." It should be noted that employees for whom a majority of their time was allocated to Singleton accounted for a total of \$393,914 of the retirement contributions not remitted to TRSL.

TRSL law does not appear to provide an exemption (from participating in the system) for these employees; however, it does provide that in all cases of doubt, the TRSL board of trustees shall determine whether any person is a teacher within the scope of the definition. As such, we recommend that management seek an opinion from the TRSL board of trustees to ultimately determine the eligibility of these employees.

Altered Payroll Reports Provided to Teachers' Retirement System

In December 2011, TRSL notified Singleton that its auditing department would perform a limited review of the school's salary/contributions data. To complete the review, TRSL requested Singleton to provide detailed payroll reports for all employees for the fiscal year ended June 30, 2011. Upon receipt of the payroll reports provided by the school, TRSL representatives noted that the payroll reports had been altered as follows:

- The payroll information on certain employees had been completely removed from the reports and the altered reports were then submitted to TRSL.
- The payroll information for one employee had been removed and replaced with the payroll information of another employee and the altered reports were then submitted to TRSL.
- In some instances, information manually cut from a different report was simply taped on top of the original report and then submitted to TRSL. This information could be peeled off to reveal the original report's information.

Therefore, we requested and obtained Singleton's original payroll reports for the year ended June 30, 2011. Our comparison of the original payroll reports to the payroll reports submitted to TRSL indicate that school employees who should have been enrolled in TRSL but were not, had either been removed from the report and/or replaced with other staff members. For example, the payroll reports submitted to TRSL included 51 instances in which paraprofessionals were completely removed from the reports. In addition, we noted nine instances in which payroll data for paraprofessionals had been covered up and replaced with the payroll data of other staff members.

Rhennette Tobias, former executive assistant and audit liaison for the school, stated that she altered and submitted the payroll records to TRSL at the direction of Ms. Reed (CFO). Ms. Tobias stated that Ms. Reed instructed her to remove the names of the paraprofessionals from the payroll reports before submitting them to TRSL. She said that Ms. Reed showed her the manner in which Ms. Reed wanted the names removed.

Ms. Reed stated that she informed Ms. Tobias that TRSL only needed the records of the individuals that were required to participate in TRSL. Ms. Reed stated she did not instruct Ms. Tobias to alter the records and that Ms. Tobias should have only drawn a line through the names instead of cutting and pasting.

Because Singleton management provided TRSL with inaccurate payroll information, TRSL was not able to conduct its audit to determine retirement eligibility for school employees or if the school had been remitting the appropriate amount of contributions based on eligible wages. By failing to enroll and remit contributions to TRSL for certain employees and providing inaccurate information to TRSL, Singleton management may have violated its charter agreement and state law.¹

Recommendations

We recommend that management adopt and implement detailed policies and procedures to ensure public funds are spent in accordance with state law. In addition, management should:

- (1) discontinue using public funds to provide private retirement benefits for public employees;
- (2) consult with legal counsel about seeking reimbursement of improper retirement contributions paid to the YMCA retirement fund;
- (3) implement detailed written policies and procedures to ensure that all eligible employees are properly enrolled in TRSL;
- (4) approve, in writing, the enrollment of eligible participants into the appropriate state retirement system;
- (5) consult with legal counsel about making the appropriate payments to TRSL to fund contributions for eligible employees who were not enrolled in TRSL; and
- (6) always provide accurate and complete payroll information to TRSL.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 17:3997(A)(3)(a)** states, “Employment in any charter school for all employees other than those provided for in Paragraph (2) of this subsection shall be deemed to be employment in a public elementary or secondary school in the state regarding eligibility for any or all benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school, including, but not limited to membership in the school employees’ and teachers’ retirement systems. However, participation of the charter school and its employees in such benefit programs shall be contingent upon provisions contained in the school’s approved charter.”

² **La. R.S. 11:701 (33)(a)** states, in part, “Teacher, shall mean any of the following: (i) Any employee of a city or parish school board, parish or city superintendent, or assistant superintendent of public schools. (ii)(aa) Any president, vice president, dean, teacher, guidance counselor, or unclassified employee at any state college or university or any vocational-technical school or institution or special school under the control of the State Board of Elementary and Secondary Education, or any educational institution supported by and under the control of the state or any parish school board.”

³ **La. R.S. 11:721** states, “All teachers shall become members of this system as a condition of their employment.”

APPENDIX A

Management's Response



FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

June 24, 2014

Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

RE: Response to Updated Investigative Audit Report on James M. Singleton Charter School dated June 18, 2014

Dear Mr. Purpera:

DRYADES YOUNG MEN'S CHRISTIAN ASSOCIATION, a private Louisiana non-profit corporation (the "Association" or "Dryades YMCA"), hereby acknowledges receipt of the draft investigative audit report dated April 14, 2014 (the "Original LLA Report"), concerning the Association's independently run public school, the James M. Singleton Charter School (the "Charter School"); as well as the updated investigative report dated on or about June 18, 2014 (the "Updated LLA Report"). In an attempt to be respectful of your unilaterally imposed response deadline of April 28, 2014 for the Original LLA Report, we succinctly stated the Dryades YMCA position in our letter response dated April 24, 2014 (attached hereto and made a part hereof, "Original Dryades Response"), which was based on the files we were able to gather and review in the week and a half after receiving the Original LLA Report. Dryades YMCA further submitted a written request dated May 5, 2014 (also attached hereto and made a part hereof, the "Supplemental Request for Information"), for certain specific information from the Louisiana Legislative Auditor ("LLA") in order for the Association to undertake its own internal audit and provide a more expansive and detailed written response to the Original LLA Report. LLA has yet to even acknowledge the Association's Supplemental Request for Information, let alone provide the requested underlying documentation in order to lend credence to LLA's outlandish claims. It seems the LLA is intent on presenting selective information to the public with the purpose of alleging unfounded claims of wrongdoing against the Dryades YMCA without giving the Dryades YMCA the requested information and a meaningful opportunity to fact check the LLA's unsubstantiated claims.

Even though we previously noted the challenge associated with presenting the Original Dryades Response within LLA's unilaterally imposed short timeline, LLA has once again requested a written response from Dryades YMCA to the Updated LLA Report (which we were not

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expecting), except this time the response was expected in less than a week after receiving the Updated LLA Report.

The Updated LLA Report states in the second paragraph of the first page that, “Although Dryades and [the Charter School] have separate budgets, all [Charter School] employees are considered employees of Dryades” That revision from the Original LLA Report is, quite simply, a misstatement of fact. Firstly, we would like LLA to clarify who, specifically, considers all Charter School employees to also be employees of the Dryades YMCA? Certainly, Dryades YMCA does not. Charter School employees are Charter School employees and are reported as such to the appropriate chartering authorities. As clearly outlined in the Original Dryades Response, there are certain employees of Dryades YMCA who are not employees of the Charter School and render such employees ineligible to participate in TRSL. Now, the Updated LLA Report attempts to muddy that very straightforward reality, while LLA refuses to release (despite two written requests from Dryades YMCA) a full list of Charter School employees who supposedly were not enrolled in TRSL when they should have been. The fact still remains, however, that the following individuals are not – and never have been – employees of the Charter School:

Douglas Evans, President and Chief Executive Officer

Joshua Williams, Technology Director

Catrina Reed, Chief Financial Officer

Delwin Davis, Assistant Director

Jacquelin Singleton, Accountant Secretary

Donita Carey, Accountant

Rhennette Tobias, Executive Assistant to Douglas Evans (No longer employed at the Association)

To the extent any of the above listed individuals were included in the unnamed “school employees” that LLA used to come up with its calculation of outstanding retirement contributions to TRSL, then LLA’s math is incorrect because these individuals need to be excluded from TRSL as they are not Charter School employees.

Secondly, we now renew our request of over a month ago for further detail and clarification from LLA on its chart entitled, “Retirement Contributions Not Paid to TRSL” on page 3 of the Original LLA Report and the Updated LLA Report. We still dispute the imputed sum of \$686,081 alleged as outstanding retirement contributions owed by the Charter School (even though it has been reduced from the amount alleged as outstanding in the Original LLA Report). Specifically, which Charter School employees (by year) is LLA alleging were eligible but not enrolled in TRSL? We would like to see the LLA’s detailed accounting of how it arrived at its numbers. Once we receive and review LLA’s accounting of the alleged outstanding retirement contributions, we will be able to undertake our own internal review and confirm any actual outstanding retirement contribution details. As it stands, without full transparency from LLA, we are not in a position to respond with more explanation or detail because you have not provided us with the identity of the personnel in question, and which years those personnel are alleged to have been omitted from TRSL payroll report submissions.

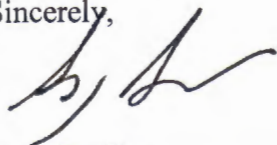
Dryades YMCA Response to Updated LLA Report

June 24, 2014

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Please feel free to contact me at (504) 299-4310 or Ms. Catrina Reed, Dryades YMCA Chief Financial Officer at (504) 522-8811, with any additional follow up or requests for information. We look forward to continuing to work cooperatively with LLA and TRSL to address and resolve any outstanding issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Phillips', written over a light blue horizontal line.

Greg Phillips
Chief Executive Officer