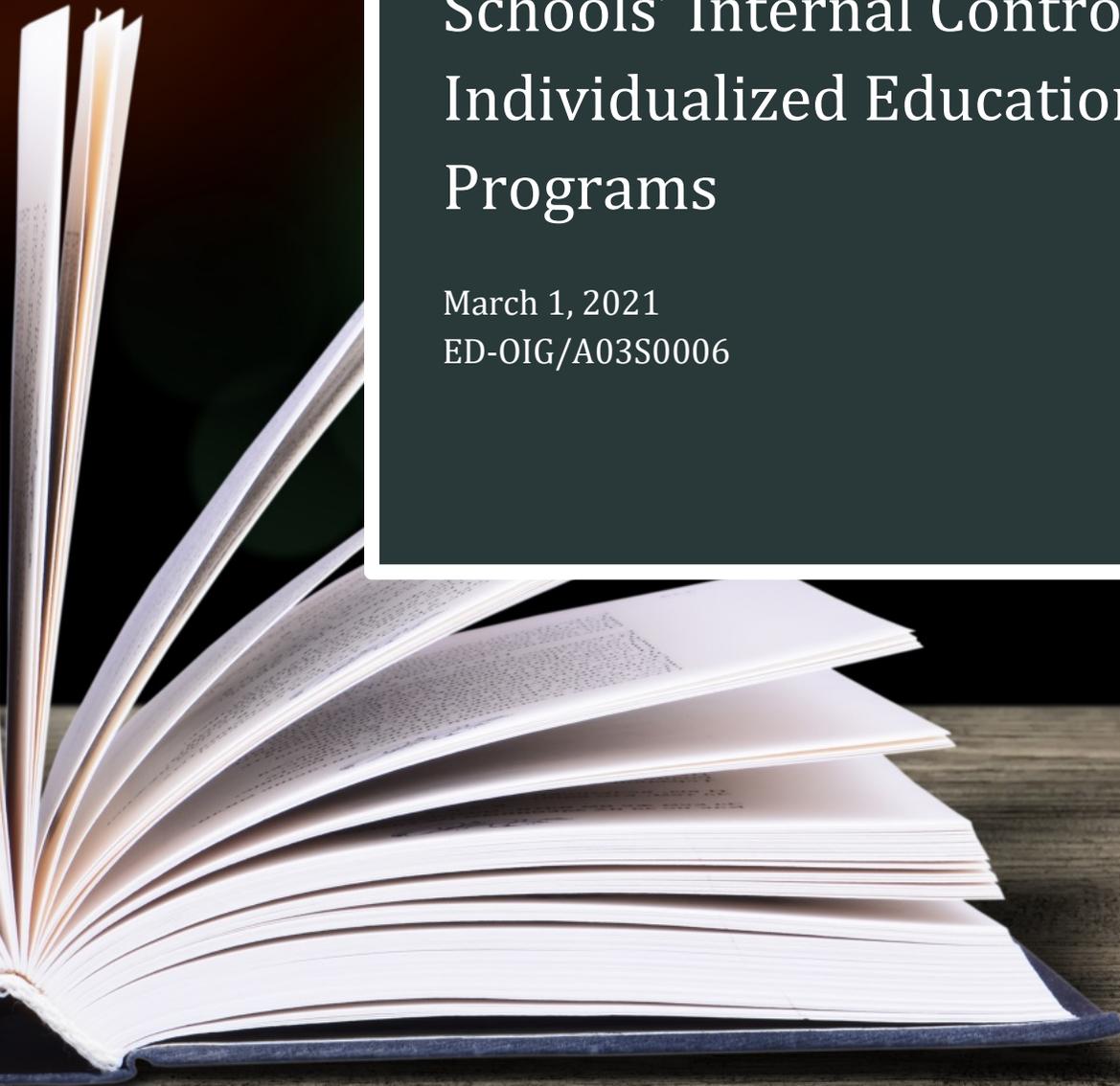




U.S. Department of Education  
Office of Inspector General

# Ohio Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs

March 1, 2021  
ED-OIG/A03S0006



## NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. The appropriate Department of Education officials will determine what corrective actions should be taken.

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UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL

Audit Services

March 1, 2021

Mr. Paolo DeMaria  
Superintendent of Public Instruction  
Ohio Department of Education  
25 South Front Street  
Columbus, Ohio 43215-4183

Dear Superintendent DeMaria:

Enclosed is our final audit report, "Ohio Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs," Control Number ED-OIG/A03S0006. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department of Education official, who will consider them before taking final Departmental action on this audit:

David Cantrell  
Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

The U.S. Department of Education's policy is to expedite audit resolution by timely acting on findings and recommendations. Therefore, if you have additional comments, we would appreciate receiving them within 30 days.

Sincerely,

/s/

Michele Weaver-Dugan  
Regional Inspector General for Audit

Enclosure

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# Results in Brief

## What We Did

Our audit objective was to determine whether the Ohio Department of Education (Ohio Education) and selected Ohio local educational agencies (LEAs) have sufficient internal controls to ensure that individualized education programs (IEPs) are developed in accordance with Federal and State requirements for children with disabilities who attend virtual charter schools and that those students are provided with the services<sup>1</sup> described in their IEPs. The audit period was July 1, 2017, through June 30, 2018. Although this audit was not conducted in response to the 2019 Novel Coronavirus Disease (COVID-19) pandemic declared in March 2020, and is focused on services provided to students attending virtual charter schools during an audit period that preceded the pandemic, it nonetheless addresses issues and requirements intended to ensure that special education and related services are provided in accordance with Part B of the Individuals with Disabilities Education Act (IDEA) to students with disabilities<sup>2</sup> in a virtual learning environment.

We judgmentally selected 2 of 14 virtual charter schools in Ohio, Tri-Rivers Educational Computer Association Digital Academy (TRECA) and Ohio Virtual Academy (Ohio Virtual), to include as a part of the audit.<sup>3</sup> We limited our scope to services identified in IEPs that were provided to students with disabilities during the audit period.

Federal funds are provided to State educational agencies under IDEA to make available a free appropriate public education to students with disabilities in the State. The State educational agencies must exercise general supervision over all educational programs for children with disabilities administered within the State to ensure that the education standards of the State educational agency and the IDEA requirements are met. Accordingly, the State educational agency is responsible for ensuring that all LEAs receiving these funds, including virtual charter schools operating as LEAs, implement the IDEA requirements. The LEAs must ensure that each eligible child with a disability has an

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<sup>1</sup> For purposes of this report, unless otherwise specified, when we refer to services we mean special education and related services.

<sup>2</sup> References to “students with disabilities” is the same as references to “children with disabilities” throughout this report and refer to children who meet the IDEA definition of child with a disability. (20 United States Code section 1401(3) and 34 Code of Federal Regulations (C.F.R.) section 300.8).

<sup>3</sup> In Ohio, each virtual charter school is considered an LEA. We use the term virtual charter schools and LEAs interchangeably as appropriate throughout the report.

IEP that describes the special education<sup>4</sup> and related services the child will receive to meet his or her IEP annual goals, including academic and functional goals.

To accomplish our objective, we reviewed relevant Federal and State laws, regulations, and guidance, and assessed Ohio Education's and selected virtual charter schools' internal controls over IEP development and service delivery. We also reviewed a stratified random sample of 50 student files at each virtual charter school to assess whether they developed IEPs in accordance with Federal and State requirements and provided students with the services described in their IEPs.

## What We Found

We determined that Ohio Education generally had sufficient internal controls to ensure that LEAs developed IEPs in accordance with Federal and State requirements for children with disabilities who attend virtual charter schools and that these students were provided with the services described in their IEPs. These internal controls included developing model policies and procedures; monitoring LEAs; and providing technical assistance, guidance, and training. However, we found that Ohio Education could strengthen its monitoring process to ensure that LEAs also have written procedures on how they implemented the model policies for IEP development and how they provided and documented service delivery for students with disabilities, and by requiring sponsors<sup>5</sup> to timely report significant compliance issues found during their LEA monitoring reviews. (See [Finding 1.](#))

Regarding the two virtual charter schools that we reviewed, we found that Ohio Virtual generally had sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities and provided students with the services described in their IEPs. However, Ohio Virtual should ensure that its processes for documenting related services are followed. Although the virtual charter

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<sup>4</sup> Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability (34 C.F.R. section 300.39(a)). Specially designed instruction means adapting, as appropriate to the needs of the eligible child, the content, methodology or delivery of instruction (i) to address the unique needs of the child that result from the child's disability; and (ii) to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. (34 C.F.R. section 300.39(b)(3))

<sup>5</sup> A virtual charter school in Ohio may only operate under the oversight of a sponsor. Sponsors are responsible for providing oversight and technical assistance and ensuring that their schools comply with Federal and State laws and regulations, including the requirements of IDEA.

school had policies and procedures in place for the delivery of services and for maintaining documentation of the related services, we found, through our testing of student files, that Ohio Virtual did not maintain sufficient documentation to support that all related services, as outlined in each IEP, were delivered to 3 (12 percent) of the 25 students we reviewed for whom related services were required. (See [Finding 2.](#))

We found that TRECA generally had sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities; however, through our testing of student files, we found that TRECA did not ensure it maintained IEPs that included all of the required information describing the services that students needed for 7 (14 percent) of the 50 students we reviewed. TRECA also did not have sufficient internal controls to ensure that it provided students with the services described in their IEPs. Specifically, TRECA did not have sufficient written policies and procedures for documenting the delivery of services for students with disabilities or completing progress reports. We found, through our testing of student files, that TRECA did not maintain sufficient documentation to support that all special education services, as outlined in each IEP, were provided to 27 (54 percent) of the 50 students we reviewed. We also found that TRECA did not have written procedures for its service provider invoice review process; however, it had sufficient documentation to support that related services were delivered to the students we reviewed. (See [Finding 3.](#))

## What We Recommend

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require Ohio Education to—

- Develop a method to ensure that LEAs have written procedures that describe their processes for ensuring they follow IDEA requirements for developing IEPs and delivering services and ensure sponsors timely report any significant compliance issues identified during their monitoring of schools.
- Ensure that Ohio Virtual provides training to staff and assure that its record retention policy and documentation processes for related services are followed and performed consistently.
- Ensure that TRECA develops internal controls that will assure it maintains IEPs that include all required elements and develops written policies and procedures that detail how it documents the delivery of services for students with disabilities, reviews service provider invoices, and completes progress reports.

## Ohio Education Comments

We provided a draft of this report to Ohio Education for comment. In its comments on the draft report, Ohio Education stated that it generally agreed with Finding 1, except for the interpretation within the report that there is a requirement for Ohio Education to ensure that an LEA has additional specific written processes for the implementation of its adopted written policies and procedures. Ohio Education specifically stated it is not required under Federal or State regulations to require an LEA to have specific processes written down, and that its review processes collect evidence from interviews, meetings, and document collection to support the implementation of the adopted policies and procedures to ensure compliance with IDEA. Regarding Findings 2 and 3, Ohio Education stated it cannot admit or deny the draft report's statements without further documentation.

We did not make any changes to the report as a result of Ohio Education's response. We summarize Ohio Education's comments at the end of each finding and have included the full text of its comments at the end of this report (see Appendix C).<sup>6</sup>

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<sup>6</sup> We also received comments from the U.S. Department of Education's Office of Special Education and Rehabilitative Services and Office of the General Counsel and made minor technical and clarifying edits throughout the report.

# Introduction

## Background

The U.S. Department of Education's (Department) Office of Special Education Programs (OSEP), within the Office of Special Education and Rehabilitative Services, is responsible for ensuring that children with disabilities, from birth through age 21, and their families receive access to fair, equitable, and high-quality education and services. OSEP provides formula grants to States for meeting the excess costs of providing special education<sup>7</sup> and related services<sup>8</sup> to children with disabilities under Part B of the Individuals with Disabilities Education Act (IDEA). OSEP monitors States' implementation of IDEA. Generally, Federal IDEA funds provided to State educational agencies must be awarded to eligible local educational agencies (LEAs) that meet the requirements in section 613 of IDEA.

Under IDEA, LEAs must ensure that a meeting to develop an IEP is conducted within 30 days of a determination that a child needs special education and related services (34 Code of Federal Regulations (C.F.R.) section 300.323(c)(1)). According to 34 C.F.R. section 300.321(a), the IEP team must include parents, educators, and an LEA representative, among others.

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<sup>7</sup> Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability (34 C.F.R. section 300.39(a)). Specially designed instruction means adapting, as appropriate to the needs of the eligible child, the content, methodology or delivery of instruction (i) to address the unique needs of the child that result from the child's disability; and (ii) to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children (34 C.F.R. section 300.39(b)(3)).

<sup>8</sup> Related services means transportation, developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education. Related services include speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. (34 C.F.R. section 300.34).

Under 34 C.F.R. section 300.320(a), the IEP must include, among other things,

- measurable annual goals, including academic and functional goals, designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum;
- a description of how and when progress toward goals and objectives will be measured;
- a statement of the special education, related services, and supplementary aids and services the child will be provided to enable the child to advance appropriately toward attaining his or her annual goals, and to be involved in and make progress in the general education curriculum, including projected beginning and end dates of any services, frequency of the services, and where services will be delivered; and
- how the child will be educated in regular classes and will participate in extracurricular and other nonacademic activities with children with and without disabilities.

Additionally, at the beginning of each school year, the LEA must have an IEP in effect for each child with a disability within the LEA's jurisdiction. The child's IEP must be reviewed at least annually, or more often if necessary, at an IEP meeting. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. The child's IEP must be accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. Each regular education teacher, special education teacher, and related services or other service provider must be informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP (34 C.F.R. sections 300.323 and 300.324).

If a child with a disability (who had an IEP that was in effect in a previous LEA in the same State) transfers and enrolls in a new LEA in the same State, in the same school year, the new LEA (in consultation with the parents) must provide a free appropriate public education to the child (including services comparable to those described in the child's IEP from the previous LEA), until the new LEA either adopts the child's IEP from the previous LEA or develops and implements a new IEP that meets the applicable requirements (34 C.F.R. section 300.323(e)).

## Virtual Schools

The August 2016 “OSEP Dear Colleague Letter Regarding Education of Children with Disabilities Attending Public Virtual Schools” cites the Department’s ED Facts information collection’s definition of virtual school as a public school that offers only virtual courses, provides instruction in which children and teachers are separated by time or location, has interaction that occurs via computers or telecommunications technologies, and generally does not have a physical facility that allows children to attend classes on site. If the virtual charter school operates as an LEA, its responsibilities include, but are not limited to

- ensuring that each eligible child with a disability receives free appropriate public education;
- implementing the evaluation and eligibility requirements;
- carrying out the IEP requirements; and
- implementing the requirements regarding education in the least restrictive environment, including ensuring the availability of a continuum of alternative placements to provide special education and related services.

According to OSEP’s Dear Colleague Letter, IDEA requires States to ensure that each LEA, including virtual charter schools, make available a free appropriate public education in the least restrictive environment<sup>9</sup> and provide a continuum of placement alternatives for children with disabilities.

## Ohio Department of Education

For fiscal year (FY) 2017 (October 1, 2016, through September 30, 2017), OSEP awarded \$119 million in IDEA special education grant funds to the Ohio Department of Education (Ohio Education). The State of Ohio considers virtual charter schools to be LEAs. As LEAs, virtual charter schools can receive IDEA subgrants from Ohio Education if they have established their eligibility under section 613 of the IDEA. For school year 2017–2018,

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<sup>9</sup> Under IDEA, LEAs must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (20 U.S.C. section 1412(a)(5) and 34 C.F.R. section 300.114(a)).

Ohio had 929 LEAs, of which 14 were virtual charter schools<sup>10</sup> that served about 3,270 students with disabilities. If a virtual charter school operates as an LEA and receives an IDEA subgrant from the State education agency, the virtual charter school is responsible for ensuring that the requirements of IDEA are met, unless State law assigns that responsibility to some other entity (34 C.F.R. section 300.209(c)).

Ohio's charter school and virtual charter school laws are outlined in the Ohio Revised Code, Chapter 3314. Ohio's special education regulations are outlined in the Ohio Administrative Code, Chapter 3301-51. Ohio's Administrative Code mirrors the Federal requirements for the development of IEPs and delivery of services to students with disabilities. Ohio has policies in place specific to virtual charter schools, including a policy that limits the number of new virtual charter schools to no more than five each year. It also has enrollment limitations for virtual schools and requires compliance with standards for online schools and programs developed by the International Association for K-12 Online Learning.

Ohio Education's Office for Exceptional Children provides oversight of LEAs and other entities that provide instruction for students with disabilities, including charter and virtual schools. Its responsibilities include administering State and Federal funds and monitoring, coordinating, and administering programs to improve outcomes for students with disabilities. Ohio Education provides support and technical assistance to Ohio's 929 LEAs through its 16 State support teams. The State support teams are responsible for the regional delivery of training and support to LEAs related to special education, school improvement, and early learning.

A virtual charter school in Ohio may only operate under the oversight of a sponsor that Ohio Education has approved. Sponsors ensure that their schools adhere to the contract between the school and themselves, provide ongoing oversight and technical assistance, and ensure that their schools comply with State and Federal regulations. Ohio Education's Office of Community Schools provides technical assistance for sponsors and performs yearly sponsor evaluations. Joint vocational school district boards of education, local boards of education, qualified nonprofit organizations, educational service centers, and Ohio State universities' boards of trustees can all be sponsors in Ohio. There were 34 sponsors in Ohio during our audit period.

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<sup>10</sup> Four Ohio virtual charter schools closed during our audit period; Electronic Classroom of Tomorrow closed in January 2018, and Newark Digital Academy, Insight School of Ohio, and Akron Digital Academy in June 2018.

## **Selected Ohio Local Educational Agencies**

As a part of the audit, we selected two Ohio virtual charter schools: Ohio Virtual Academy (Ohio Virtual) and Tri-Rivers Educational Computer Association (TRECA).

### ***Ohio Virtual***

Ohio Virtual is a general education school in Maumee, Ohio. During school year 2017–2018, Ohio Education awarded Ohio Virtual an IDEA subgrant totaling \$1.9 million, the second largest award in the State, and Ohio Virtual had about 1,179 students with disabilities enrolled. Ohio Virtual contracted with K12 Inc., an education management organization,<sup>11</sup> to deliver curricular, administrative, technological, and financial services. In 2018, Ohio Virtual enrolled 590 students with disabilities affected by the closure of the virtual charter school Electronic Classroom of Tomorrow.

The administrators at Ohio Virtual are employees of K12, Inc. The Ohio Council of Community Schools has sponsored Ohio Virtual for the last 13 years.

### ***TRECA***

TRECA is a dropout prevention and recovery school<sup>12</sup> in Marion, Ohio. During school year 2017–2018, Ohio Education awarded TRECA an IDEA subgrant totaling \$424,400 and TRECA had about 294 students with disabilities enrolled. Tri-Rivers Career Center has sponsored TRECA for the last 18 years.

## **Virtual Education During a Pandemic**

On March 13, 2020, the United States declared a national emergency because of the 2019 Novel Coronavirus Disease (COVID-19) pandemic. Subsequently, Ohio closed all of its schools for the remainder of the 2019–2020 school year, but schooling continued through virtual (remote) learning. Although special education or related services needed to be adjusted, LEAs were responsible to ensure students continued to receive appropriate services during the COVID-19 mandatory closure. According to the Department’s March 2020 fact sheet “Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities,” LEAs must remember that the provision of free and appropriate public education may include special education and related services provided through distance instruction virtually, online, or telephonically.

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<sup>11</sup> An education management organization is a for-profit entity that manages charter schools.

<sup>12</sup> Dropout prevention and recovery schools are charter schools that either operate a drug recovery program in cooperation with a court or operate a dropout prevention and recovery program and enroll more than 50 percent of their students in that program.

For the 2020–2021 school year, Ohio Education has left it up to each LEA to determine how the school year will proceed, whether 100 percent remote learning, 100 percent in-person attendance, or some combination of the two. Ohio Education issued a planning guide to help LEAs understand guidelines and considerations for reopening schools. Although this audit is focused on services provided to students attending virtual charter schools during an audit period that preceded the pandemic, it is evident that virtual education will be widespread during this pandemic crisis and that it will be important for States and LEAs to adopt policies and procedures to ensure that students with disabilities continue to receive the services they need.

## **Finding 1. The Ohio Department of Education Generally Had Sufficient Internal Controls Over LEA IEP Development and Service Delivery for Students with Disabilities, But Could Strengthen its Monitoring Process**

We determined that Ohio Education generally had sufficient internal controls to ensure that LEAs developed IEPs in accordance with Federal and State requirements for children with disabilities who attend virtual charter schools and that these students were provided with the services described in their IEPs. These internal controls included developing model policies and procedures; monitoring LEAs; and providing technical assistance, guidance, and training. However, we found that Ohio Education could strengthen its monitoring process to ensure that LEAs also have written procedures on how they implemented the model policies for IEP development and how they provided and documented service delivery for students with disabilities. Ohio Education should also require sponsors to timely report significant compliance issues found during their LEA monitoring reviews.

### **Developing Model Policies and Procedures**

The Ohio Operating Standards for Ohio Educational Agencies Serving Children with Disabilities require LEAs to adopt written policies and procedures regarding the education of students with disabilities. To help ensure all LEAs had policies and procedures in place to meet the Operating Standards and applicable Federal<sup>13</sup> and State requirements, in July 2009, Ohio Education developed the document “Ohio Department of Education Special Education Model Policies and Procedures” (Model Policy) for LEAs to adopt. The Model Policy generally reiterates State and Federal requirements for identifying and educating students with disabilities. Because all virtual charter schools do not use the same processes to develop IEPs or deliver services, the Model Policy document does not prescribe how a virtual charter school should implement Federal and State requirements for IEP development and the delivery of services for students with disabilities.

In conjunction with the issuance of the Model Policy, Ohio Education required LEAs to sign an “Adoption of Written Policies and Procedures” form, which stated that the LEA adopted the Model Policy or that the LEA developed its own written policies and

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<sup>13</sup> See conditions of LEA eligibility starting at 34 C.F.R. section 300.200. 34 C.F.R. section 300.201 requires that LEAs have in effect policies, procedures, and programs that are consistent with State policies and procedures established under 34 C.F.R. sections 300.101–163 and sections 300.165–174.

procedures. If the LEA developed its own policies and procedures to meet Federal and State requirements, the LEA was required to attach them to the adoption form for review and approval when it was submitted to Ohio Education. LEAs were not required to submit the adoption form again unless they made changes to the policies and procedures that were previously provided to Ohio Education. We found that although the two LEAs we reviewed signed the form stating that they adopted the State’s Model Policy, one of them did not have policies and procedures that described its processes for implementing Federal and State requirements for the delivery of services for students with disabilities, as discussed further below.

## **Monitoring LEAs**

Ohio Education performed annual monitoring of LEA special education programs to review LEA compliance with Federal and State special education requirements. This monitoring included (1) compliance and performance indicator reviews, (2) selective reviews, (3) LEA self-reviews, and (4) sponsor reviews.

### **Indicator Reviews**

Ohio Education’s compliance and performance indicator reviews were performed annually for every LEA to determine whether the LEAs were meeting IDEA compliance and performance indicators. The indicators used by Ohio Education to review LEAs included many of the same indicators used by OSEP to evaluate States under the State Performance Plan/Annual Performance Report,<sup>14</sup> as well as data reporting (timeliness and accuracy) and whether the LEA had submitted the “Adoption of Written Policies and Procedures” form.

### **Selective Reviews**

Ohio Education conducted selective reviews using a monitoring guide to determine compliance with Federal and State special education program requirements and whether corrections or performance improvements in specific areas were needed. Ohio Education performed between two and eight selective reviews a year. Prior to school year 2017–2018, Ohio Education conducted a total of five selective reviews of virtual

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<sup>14</sup> Ohio Education uses indicators 1 through 14 from the 17 indicators used by OSEP to evaluate LEAs.

charter schools, the last of which was performed in 2012–2013. In 2018–2019, Ohio Education performed selective reviews of three virtual charter schools.<sup>15</sup>

Ohio Education selected LEAs for review based on a risk assessment, which included the results of the indicator reviews, the special education scores from the LEA’s special education profile,<sup>16</sup> and a fiscal risk assessment.<sup>17</sup> Selective reviews consisted of a desk review, which was performed remotely, followed by an onsite review. The desk review included a sample of 30 student files that were assessed using a template that included questions about IEP development and delivery of services. Ohio Education also reviewed LEA background information and performance data to identify possible areas to target during the onsite review. Ohio Education also determined whether LEAs had a copy of the adopted Model Policy or whether the LEA developed its own special education policies and procedures and whether they had been revised since their initial submission.

The onsite review included public parent meetings, staff interviews, and classroom observations. Onsite reviews could also include follow-up on the student files that were reviewed during the desk review. Reviewers used an “IEP Verification Checklist” to assess items such as a teacher’s awareness of what should be implemented in the classroom under a student’s IEP and whether special education and related services were being delivered. In addition, according to the former assistant director of Monitoring and Support Services, Ohio Education reviewed the LEAs’ processes used to implement the Model Policy or their own policies and procedures during selective reviews.

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<sup>15</sup> The most recent selective review of Ohio Virtual was performed in 2010–2011. Findings from this review included IEPs that were missing measurable annual goals, the amount and frequency of special education, or statements of special education that addressed the needs of the student. The most recent selective review of TRECA was in 2012–2013, with a follow up visit conducted in 2014–2015. Findings from the 2012–2013 review included IEPs that were missing measurable annual goals, modifications, or the identification of services that addressed the needs of the student. None of the issues noted in the follow up review were related to our audit objectives.

<sup>16</sup> Ohio Education annually developed a special education profile for every LEA that showed whether the LEA was meeting its goals, over time, for students with disabilities based on its performance on the key indicators set forth by IDEA.

<sup>17</sup> The fiscal risk assessment included, among other things, the prior fiscal review score, maintenance of financial support, IDEA budget carryover, whether the school had single audit findings, and the graduation and dropout rates for students with disabilities.

If the reviewers found a compliance issue during the monitoring review, the LEA had 60 school days from the date of the monitoring report to submit a corrective action plan to Ohio Education for approval. Ohio Education required the LEA to take corrective actions related to individual student records found to be noncompliant, as well as submission of written procedures and practices that would address systemic areas of noncompliance. Corrective actions could also include training provided by Ohio Education’s support teams.

### **LEA Self-Assessments**

Another type of monitoring performed by Ohio Education was a multiyear self-assessment performed by LEAs to analyze their compliance with Federal and State special education requirements. About five to seven LEAs were chosen by Ohio Education to go through this process every year. Ohio Education chose LEAs to undergo this process as part of the corrective action from a selective review. The intent of this process was to maximize the use of resources that would result in better academic, social, and postsecondary outcomes for students with disabilities, to implement Federal and State requirements, and to create systemic change and sustained improvement. No virtual charter school has gone through this process to date.

Ohio Education developed an “IDEA Monitoring Process Guide” that included tools to assist LEAs in performing a self-assessment and to ensure that the self-reviews were completed consistently. The tools included questions on the data that was used to perform the self-review, such as graduation and dropout rates, a template to develop a summary report of the review, and a sample project map to assist in developing a timeline for the process. Ohio Education provided additional resources to LEAs undergoing this process through their State support teams. These teams served as the primary source for technical assistance and professional development during implementation of improvement strategies and activities.

### **Sponsor Reviews**

Ohio Education required each virtual charter school to have a sponsor that monitored their compliance with Federal and State regulations, including IDEA. Sponsors conducted annual monitoring reviews that included a review of a sample of student with disabilities files as well as teacher and staff interviews. Ohio Education required sponsors to use a compliance checklist that contained over 200 compliance items, including determining whether IEPs were developed in accordance with IDEA and that the virtual charter school provided services to students with disabilities in a manner consistent with its approved policies.

As a part of the review, sponsors also determined whether the virtual charter school had special education policies that complied with IDEA and were approved by Ohio Education. According to the sponsor of one of the LEAs we reviewed, since most virtual charter schools adopted Ohio Education’s Model Policy, the sponsor only verified that the school had a copy of it on file. The sponsor did not determine whether the school had written procedures detailing the processes it used to implement the Model Policy.

Ohio Education did not require sponsors to timely report significant compliance issues found during their annual monitoring reviews, nor did it require sponsors to report the results of any additional monitoring conducted beyond the annual requirement; however, Ohio Education’s Director of Community Schools stated that sponsors routinely reported major findings or issues to the office. Ohio Education relied on the annual evaluations of sponsors conducted by its Office of Community Schools to obtain information about schools’ compliance findings. Ohio Education required sponsors to submit the completed compliance checklist, along with supporting documentation collected for each item, for each LEA reviewed. The sponsor indicated whether the LEA was compliant or not for each item on the checklist. Although any significant compliance issues would be noted in the checklist, the issues would not be reported to Ohio Education until the annual evaluation took place.

To monitor whether there were systemic issues at an LEA, the evaluators<sup>18</sup> reviewed past compliance checklists completed by the sponsor to ensure that the same areas of noncompliance did not occur in consecutive years. The Office of Community Schools would informally relay, by discussion or email, areas of noncompliance about the LEA’s special education program to the Office for Exceptional Children. The Office for Exceptional Children would contact the LEA and provide technical assistance and support through the State support teams. Ohio Education’s former Assistant Director of Monitoring and Support Services stated that issues identified as a result of the sponsor’s evaluation concerning students with disabilities would also be taken into consideration during the selective review risk assessment process.

In addition to LEA compliance, Ohio Education’s sponsor evaluation system was based on the academic performance of the sponsor’s schools and the sponsor’s adherence to quality practices.<sup>19</sup> Each sponsor is given a rating for each component to determine an overall rating. Sponsors could achieve overall ratings of exemplary, effective, ineffective, or poor. If a sponsor is rated ineffective, the Office of Community Schools will place the

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<sup>18</sup> Ohio Education used a third-party vendor to perform the sponsor evaluations.

<sup>19</sup> There are 32 quality practice standards that include oversight transparency, onsite visits, ongoing technical assistance, and legal and policy updates.

sponsor on a Quality Improvement Plan that requires the sponsor to complete corrective actions for all areas of noncompliance and monitors the progress of those actions until they are completed. If a sponsor is rated poor, Ohio Education revokes the sponsoring authority of the sponsor.

### **Providing Technical Assistance, Guidance, and Training**

Ohio Education had 16 regional State support teams made up of educators with experience in school improvement, preschool, and special education. The State support teams provided technical assistance and training to LEAs on topics such as alternate assessments, parent procedural safeguards, and how to use the model IEP and evaluation team report<sup>20</sup> forms developed by Ohio Education. The State support teams also delivered training sessions to the LEAs that were developed by Ohio Education. These training sessions were based on issues found during monitoring reviews or new special education guidance or regulations.

State support teams also assisted LEAs in completing corrective action plans which resulted from Ohio Education monitoring reviews, participated in work groups on developing new IEP forms, and took part in question-and-answer sessions with LEA special education staff.

### **LEA Monitoring Could be Improved**

Overall, we noted that Ohio Education had several monitoring processes in place to help ensure that LEAs were developing IEPs in accordance with Federal and State requirements and that students were provided with the services described in their IEPs, to include ensuring that each LEA adopted the Model Policy (or an acceptable alternative). Based on our review of the compliance and performance indicators, monitoring review guides, templates, and checklists used by Ohio Education, as well as the sponsor evaluation process employed, we concluded that these monitoring tools were sufficient to assess compliance with applicable requirements.

However, none of the monitoring processes ensured that LEAs had written procedures on how they actually implemented the Model Policy requirements for IEP development and how they provided and documented service delivery for students with disabilities. In addition, there was no requirement for sponsors to timely report areas of significant noncompliance based on their annual monitoring reviews, nor a requirement to report

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<sup>20</sup> The evaluation team report is a summary of the evaluation of a student's eligibility for special education and related services.

on any compliance issues noted during any reviews conducted in addition to the annual reviews.

Under IDEA, 34 C.F.R. Sections 300.149 and 300.600, State educational agencies are required to exercise general supervision over all educational programs for children with disabilities in the State, including LEAs that provide services under IDEA. The State educational agency must monitor LEAs for compliance with IDEA requirements. This includes ensuring that it monitors to identify and correct findings of noncompliance and that correction of noncompliance occurs as soon as possible but not later than one year from the identification of the noncompliance.

According to 2 C.F.R. section 200.303, a non-Federal entity (such as Ohio Education) must establish and maintain effective internal control over the Federal award that provides reasonable assurance that it is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Further, the non-Federal entity must also evaluate and monitor its compliance with statute, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States<sup>21</sup> or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission. In addition, 2 C.F.R. section 200.331 states that pass-through entities (such as Ohio Education) must ensure that the Federal award is used for authorized purposes and that performance goals are met.<sup>22</sup>

OSEP’s August 2016 Dear Colleague Letter provided guidance to State educational agencies and LEAs to assist in implementing IDEA in the virtual education environment, including virtual charter schools that operate as LEAs. The letter stated that the State educational agency retains ultimate responsibility for ensuring that the requirements of IDEA Part B are met in all educational programs for children with disabilities administered within the State (34 C.F.R. sections 300.149 and 300.600).

When asked why Ohio Education did not determine whether an LEA had written procedures for implementing these processes during its monitoring, the Director of Ohio Education’s Office for Exceptional Children stated that it reviews the implementation of the policies and procedures during interviews, meetings, and document review. While

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<sup>21</sup> All references in the report to the Government Accountability Office’s “Standards for Internal Control in The Federal Government” are to the 2014 revision.

<sup>22</sup> A pass-through entity is a non-Federal entity that provides a subaward to a subrecipient (such as a virtual charter school) to carry out part of a Federal program.

this indicates that Ohio Education reviews evidence of an LEA's implementation of special education policies and procedures, it does not ensure that an LEA's specific processes are documented in written procedures.

Although Ohio Education relied on the LEA adoption forms as verification that policies were in place to meet Federal and State requirements, by not having a step in its monitoring protocol to verify that LEAs actually have written procedures for IEP development and the delivery of services to students with disabilities, Ohio Education could not ensure LEAs developed sufficient written procedures for implementing Ohio Education's Model Policy. We found that TRECA, which adopted the Model Policy, did not have sufficient written procedures for the processes it used for delivery of services. This was not detected during monitoring performed by Ohio Education or during the sponsor's annual review. Further, Ohio Education may not be recommending appropriate corrective actions, such as the creation of written procedures, when it identifies weaknesses in the development of IEPs and the delivery of services to students with disabilities. In addition, by not requiring sponsors to timely report all significant findings from its monitoring reviews, Ohio Education cannot adequately ensure that actions are taken to quickly correct any instances of noncompliance.

## **Recommendations**

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require Ohio Education to—

- 1.1 Develop a method to ensure that LEAs have written procedures that describe their processes for ensuring that they follow IDEA requirements for developing IEPs and delivering IEP services.
- 1.2 Develop a method to ensure that sponsors timely report any significant compliance issues found during their monitoring of schools, along with any corrective actions taken, to the Office of Community Schools.

## **Ohio Education Comments**

In its response, Ohio Education generally agreed with the finding, except for the interpretation within the report that there is a requirement for Ohio Education to ensure that an LEA has additional specific written processes for the implementation of its adopted written policies and procedures. Ohio Education stated that any specific processes supporting the procedures are going to be specific to each LEA within the State and that the report applied a stricter standard than what is required by IDEA and the Ohio Administrative Code. Ohio Education specifically stated that it is not required under Federal or State regulations to require an LEA to have specific processes written down, and that its review processes collect evidence from interviews, meetings, and

document collection to support the implementation of the adopted policies and procedures to ensure compliance with IDEA. Ohio Education also asserted that the Model Policy is applicable to virtual charter schools and that there is no language within IDEA that exempts virtual charter schools from IDEA requirements.

In response to recommendation 1.1, Ohio Education stated that the report is based on information collected and investigated during the 2017–2018 school year. Since then, the Office for Exceptional Children has undergone significant leadership and staff changes as well as monitoring practices updates. Ohio Education’s current LEA monitoring practice is to request any and all applicable written policies, procedures, and processes that relate to special education. Specific written processes are not prescribed, but Ohio Education reviews the LEA documentation provided and determines if it is necessary to implement further processes.

In response to recommendation 1.2, Ohio Education stated that within 60 days of the release of the report, the Office of Community Schools will conduct training with all sponsors to discuss the impact of any significant compliance issues related to the delivery of special education. The Office of Community Schools will inform sponsors of significant compliance issues related to the delivery of special education that should warrant a school being placed on probationary status, which would then require the sponsors to notify Ohio Education pursuant to applicable sections of the Ohio Administrative Code.

### **OIG Response**

We did not make any changes to our finding or recommendations as a result of Ohio Education’s comments. We agree that neither IDEA nor the Ohio Administrative Code require that LEAs document their processes for implementing the adopted policies and procedures. However, applicable internal control standards cited in this report apply to non-Federal entities receiving Federal awards, such as Ohio Education and LEAs that receive IDEA funding, and those standards do require entities to document policies in the appropriate level of detail to allow management to effectively monitor the control activity. It is the internal control standards that underlie our recommendation that Ohio Education develop a method to ensure that LEAs have written procedures that describe their processes for ensuring that they follow IDEA requirements for developing IEPs and delivering IEP services.

We also agree with Ohio Education that any processes that support the adopted policies and procedures are going to be specific to each LEA within the State. It is for this reason that we recommended that Ohio Education develop a method to ensure that these specific processes are documented so that it has some additional assurance that they are performed consistently and effectively by the LEA. We would also note that

nowhere in our report do we state that the Model Policy is not applicable to virtual charter schools or that IDEA exempts virtual charter schools from its requirements. We actually state the exact opposite earlier in this report by citing applicable sections of OSEP’s Dear Colleague Letter and the C.F.R. that state that virtual charter schools operating as LEAs are responsible for ensuring IDEA requirements are met.

Regarding Ohio Education’s comments on recommendation 1.1, although our audit scope was the 2017–2018 school year, our fieldwork began after the 2017–2018 school year. As part of our review, we held discussions with Ohio Education and gave it the opportunity to provide additional or updated information regarding their processes. We specifically requested and reviewed Ohio Education’s current monitoring guides.<sup>23</sup> While Ohio Education stated that its current practice is to request any and all applicable written policies, procedures, and processes that relate to special education, we found that the monitoring guides only had minor wording and formatting changes from those we had previously reviewed that were applicable to the scope of our audit and still did not show that Ohio Education developed a method to ensure LEAs have written procedures for their special education processes. Although the current guides use the terms policies, procedures, and processes, they do not include a step to review the LEAs’ policies and procedures related to the specific special education processes used to develop and implement IEPs, other than having the LEAs submit their board-adopted special education policies and procedures, as was the case in the previous monitoring guides. As stated in the report, in most cases an LEA’s adopted special education policies and procedures are Ohio Education’s Model Policy, which does not detail an LEA’s special education processes.

Regarding Ohio Education’s comments on recommendation 1.2, we believe that providing training would be useful; however, significant compliance issues related to the delivery of special education should be timely reported to the Office of Community Schools and the Office for Exceptional Children regardless of whether they warrant a school being placed on probationary status. All significant compliance issues should be timely reported to help ensure corrective actions are taken and issues are resolved, and to assist with risk assessments associated with future monitoring efforts.

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<sup>23</sup> Ohio Education’s current monitoring guides that were reviewed as part of this audit are the “IDEA Monitoring Process Guide 2021” and the “Indicator Review Process Manual 2020–2021” (dated November 2020 and October 2020, respectively).

## **Finding 2. Ohio Virtual Generally Had Sufficient Internal Controls Over IEP Development and Delivery of Services, But Needs to Ensure its Processes are Followed**

We found that Ohio Virtual generally had sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities and provided students with the services described in their IEPs. Specifically, Ohio Virtual developed sufficient written procedures for IEP development and the delivery of services for students with disabilities. Ohio Virtual also used standardized forms including checklists to ensure consistency in implementation among staff and compliance with State and Federal requirements. However, Ohio Virtual should ensure that its processes regarding the documentation of related services are followed.

To test Ohio Virtual's internal controls over IEP development and the delivery of services, we reviewed a stratified random sample of 50 student files, including 68 IEPs,<sup>24</sup> from the universe of 2,570 students who were enrolled and had at least 1 IEP during the audit period. We found that the controls provided reasonable assurance of compliance with applicable Federal and State requirements. However, we found that Ohio Virtual was unable to provide all service provider invoices and treatment notes to support that related services were provided to 3 (12 percent) of the 25 students we reviewed who had IEPs that included related services.

### **IEP Development**

Ohio Virtual had sufficient written procedures for IEP development, including determining student eligibility for special education through initial evaluation or reevaluation, writing and reviewing IEPs, scheduling and holding IEP meetings, and finalizing the IEPs. In addition to adopting Ohio Education's Model Policy, Ohio Virtual developed written procedures to show how it implemented IDEA requirements and to ensure consistency in implementation among staff. Ohio Virtual had a special education procedural manual that cited the Federal and State IDEA requirements, its best practices, and resources for each of its special education processes. This manual had detailed written procedures for various aspects of the IEP development process including initial evaluations or reevaluations; holding IEP meetings; and writing, reviewing, and implementing the IEPs. Ohio Virtual used a web-based software, approved by Ohio Education, that provided forms for writing IEPs and related

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<sup>24</sup> Eighteen students had two IEPs during our audit period, therefore we reviewed both IEPs for those students.

documents, which helped standardize the IEP development process. Staff also used spreadsheets and reminders from the lead special education teacher to ensure reevaluations and annual IEPs were completed on time and to ensure that staff developed and reevaluated IEPs by required deadlines. In addition, Ohio Virtual’s compliance coordinator maintained and monitored a master list of all students’ IEP and evaluation dates.

Ohio Virtual used a “Special Education Documents Completion Checklist” to ensure all parts of the IEP were fully completed and prepared within the required timeframes and to ensure that services were delivered timely. The checklist included items to ensure that the IEP was sent to the lead special education teacher for review prior to the IEP meeting; the IEP was provided to the necessary parties; and multiple attempts had been made to have parents participate in the IEP meeting. The checklist also included items to ensure services in Ohio Virtual’s Related Service Manager database were updated so that the services were started as soon as possible after the IEP was developed. Special education teachers were required to complete and attach the checklist to each IEP.

Ohio Virtual also developed guidance for its special education teachers to assist in reviewing, writing, and amending IEPs for new transfer students because of the increase in enrollment of students with disabilities during the 2017–2018 school year. The guidance helped special education teachers ensure that incoming students had IEPs that were compliant with IDEA and were written to include Ohio Virtual’s terminology for staff and services. The written procedures, forms, and checklists were electronically stored and readily available to teachers and school administrators.

## **Delivery of Services**

Ohio Virtual had sufficient written procedures and developed processes to ensure timely implementation and delivery of special education and related services outlined in each student’s IEP. The written procedures and processes included special education and related services manuals, training on how to prepare teachers’ notes so that they were uniform and consistent, and procedures on how to complete progress reports.

Despite the insufficient documentation of related service delivery described below, we found that Ohio Virtual implemented all IEPs for the 50 students we reviewed in a timely manner.<sup>25</sup> In addition, we found that for the 17 students in our sample who transferred to Ohio Virtual during the 2017–2018 school year, the virtual charter school

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<sup>25</sup> Federal regulations do not cite a specific timeframe for IEP implementation. Ohio Operating Standards require implementation as soon as possible after IEP development. Ohio Virtual required services to begin within 7 to 10 days of service provider assignment.

met requirements for providing comparable services to the student's existing IEP from the previous LEA until Ohio Virtual developed and implemented a new IEP. For one of these transfer students who withdrew shortly after enrollment, Ohio Virtual provided comparable services until the time of withdrawal.

### **Special Education**

Ohio Virtual had sufficient written procedures and developed processes to ensure timely implementation and the delivery of special education as outlined in each student's IEP. This included instructions related to preparation of teachers' notes and progress reports as well as the use of the student information system and attendance tracking.

The special education procedure manual required that all teachers working with a student receive their IEP and provided best practices for daily progress monitoring. Special education was delivered to students through the Blackboard online learning system, in a class setting or one on one. Teachers kept running notes on service delivery, student progress, attendance in special education sessions, and contact with parents in Ohio Virtual's Total View student information system. All special education teachers received training at the beginning of the year on this system and on how to document notes to ensure that the notes were completed in a uniform manner. Although there is no Federal or State requirement to prepare teacher notes, Ohio Virtual used them to document delivery of special education.

Ohio Virtual pulled data from their online learning management system to track the time a student was logged into the curriculum. The attendance data was sent to general education and special education teachers weekly, which helped to ensure that they were monitoring student participation and delivery of special education. We reviewed attendance data for all students in our sample by comparing the data to the frequency and duration of special education the student was supposed to receive as outlined in their IEP. Although we found that one student's attendance data showed less time than the amount of time required by the frequency and duration of special education outlined in the IEP, it was because of the student's lack of attendance and participation and not the result of an internal control issue at Ohio Virtual.

Ohio Virtual required special education teachers to complete progress reports every 18 weeks (2 progress reports per school year) that detailed the student's progress on meeting the goals outlined in their IEPs. The progress reports were sent to the students' parents. Teachers used their notes on the special education delivered to students to complete the progress reports. We found that Ohio Virtual did not have one of the progress reports for the 2017–2018 school year for one of the students in our sample. Although this documentation was missing, we were able to determine that an

appropriate amount of special education was delivered to the student through teachers' notes and attendance data.

### **Related Services**

Ohio Virtual had sufficient written procedures to help ensure timely implementation and delivery of the related services outlined in each student's IEP; however, it did not always ensure that its processes related to submission of treatment notes and invoices by related service providers were followed. Ohio Virtual's related services manual included procedures for using the Related Service Manager database; assigning providers to students; attendance procedures for providers and students; Ohio Virtual's invoice review process; and the required elements of session treatment notes that were to be submitted with every invoice.

An Ohio Virtual related services coordinator assigned students to service providers upon receipt of the finalized IEP document. Once a provider was assigned to a student, Ohio Virtual required services to begin within 7 to 10 days.

Ohio Virtual required related service providers to use its Related Service Manager database to input treatment notes, invoices, and progress reports. Treatment notes detailed the activities completed with each student during each related service session, including the date and length of the session. Special education teachers could access service providers' progress reports to include them in their students' overall IEP progress reports.

In its contracts with service providers, Ohio Virtual required the providers to submit monthly invoices which included the dates of service, length of sessions, and no shows or cancellations. Ohio Virtual's related services coordinators stated that they reviewed the invoices submitted and ensured that there were corresponding treatment notes for each session for each student listed on the invoice before it was submitted to the billing department for payment. In addition, one of Ohio Virtual's related services coordinators monitored and ran a weekly "No Show" report. The "No Show" report was generated from Ohio Virtual's Related Services Manager system and included every instance when a student did not attend a scheduled session without prior notice to the provider. Related services coordinators also reviewed the students' IEPs to ensure that the service hours were met as outlined in the IEP and compared the invoices to the "No Show" report to ensure that Ohio Virtual was properly billed.

While Ohio Virtual had internal controls in place to ensure the delivery of related services, it did not always ensure that its policies and processes for the documentation of related services were followed. Specifically, Ohio Virtual staff did not maintain sufficient documentation to support that all related services, as outlined in each IEP,

were delivered to 3 (12 percent) of the 25 students we reviewed for which related services were required.

Ohio Virtual's Special Education Manager stated that the parents of one of the students declined services prior to the 2017–2018 school year. However, Ohio Virtual could only provide documentation to show that the parents declined services in an IEP amendment dated February 2018. No other documentation showing the delivery of related services or declination of related services prior to February 2018 was provided.

For another student, there were no invoices or treatment notes provided for this student after October 2017. Ohio Virtual's Special Education Manager stated that this service provider had continuous issues with billing, but submitted progress reports that indicated progress was made and services were delivered and that Ohio Virtual did not pay them for services not billed. Although progress reports show students' progress in relation to their IEP goals, they do not include specific session times and dates to document that an appropriate amount of services were delivered; therefore, progress reports alone are not adequate documentation.

For the other student, we noted that the parents declined the services for part of the school year; however, for the part of the school year for which services were not declined, we found that the available invoices and treatment notes provided support for only half of the time required for the speech and occupational therapy services outlined in the student's IEP. When asked why this student only appeared to have received half of the required related services, the Special Education Manager responded by providing progress reports as documentation to show that all services were provided.

As stated above, progress reports only show a student's progress in relation to their IEP goals. They do not include specific session times and dates to document that an appropriate amount of services were delivered and therefore should not be used as the only means of documentation of service delivery. Without ensuring that adequate documentation is available to support service delivery, Ohio Virtual could not ensure that the three students received an appropriate amount of services as outlined in their IEPs. This documentation can also be helpful in the case of a dispute regarding potential noncompliance, to the extent that it provides an accurate and complete record of events.

According to 2 C.F.R. section 200.303, a non-Federal entity (such as Ohio Virtual) must establish and maintain effective internal control over the Federal award that provides reasonable assurance that it is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Further, the non-Federal entity must also evaluate and monitor its compliance with statute,

regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Principle 10.03 of the Government Accountability Office’s Standards for Internal Control in the Federal Government states that “Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination.... Documentation and records are properly managed and maintained.”

Ohio Virtual’s record retention policy required that invoices are to be retained for 10 years and student records are to be retained permanently.

Overall, we determined that Ohio Virtual’s internal controls provided reasonable assurance that IEPs were developed in accordance with Federal and State requirements for children with disabilities and that students were provided with the services described in their IEPs, but it should ensure that processes regarding the documentation of related services are consistently followed.

### **Recommendation:**

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require Ohio Education to ensure that Ohio Virtual—

- 2.1 Provides training to staff to ensure that its record retention policy and documentation processes for related services are followed and performed consistently.

### **Ohio Education Comments**

Ohio Education stated that it cannot admit or deny the draft report’s statements without further documentation. Ohio Education stated that it will review the report upon release to determine any required implementation of monitoring activities. If monitoring activities are necessary, Ohio Education will involve the State Support Team and Ohio Virtual’s sponsor in the monitoring of the virtual charter school.

### **OIG Response**

We did not revise our finding or recommendation as a result of Ohio Education’s response. We will not be issuing a separate report on Ohio Virtual for Ohio Education to review upon which to base any further actions to be taken. Ohio Education should work

with the applicable Department officials, as noted on the transmittal memorandum for this audit report, to ensure that Department officials have and consider all relevant information before taking final action on this audit.

### **Finding 3. TRECA Generally Had Sufficient Internal Controls Over IEP Development, But Did Not Have Sufficient Internal Controls Over the Delivery of Services**

We found that TRECA generally had sufficient internal controls to ensure that it developed IEPs in accordance with Federal and State requirements for children with disabilities; however, TRECA did not always ensure that the IEPs it maintained included all of the required information describing the services that students needed. TRECA did not have sufficient internal controls to ensure that services described in student IEPs were delivered. Specifically, TRECA did not have sufficient written policies and procedures for documenting the delivery of services for students with disabilities, reviewing service provider invoices, or completing progress reports.

To test TRECA's internal controls over IEP development and the delivery of services, we reviewed a stratified random sample of 50 students' files, including 56 IEPs,<sup>26</sup> from the universe of 789 students who were enrolled and had at least 1 IEP during the audit period. We found that the controls did not reasonably ensure that TRECA delivered services as outlined in student IEPs. Specifically, TRECA did not maintain IEPs that included all required service delivery information for 7 (13 percent) of the 56 student IEPs we reviewed. We also found that TRECA did not have sufficient documentation to support the delivery of special education for 27 (54 percent) of the 50 student files we reviewed.

#### **IEP Development**

TRECA generally had adequate controls over its IEP development process. However, we noted that TRECA did not always ensure that the IEPs it maintained included all required information pertaining to location, frequency, and duration of services for students enrolled during our audit period. TRECA's internal controls over IEP development included using Ohio Education's special education model forms, conducting draft IEP reviews, maintaining a special education binder of resources and processes, and tracking IEP due dates. In addition to adopting Ohio Education's Model Policy, TRECA's Assistant Director of Special Education maintained a binder that contained additional guidance for special education teachers such as TRECA's processes for developing the different types of IEPs (initial, amended, annual review, and transfer). Both the Model Policy and this additional guidance were made available to staff online. Special

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<sup>26</sup> Six students had two IEPs during our audit period therefore we reviewed both IEPs for those students.

education teachers tracked IEP expiration dates for their students using spreadsheets and by receiving reminders of due dates from the special education office.

TRECA developed IEPs using the Frontline software program approved by Ohio Education which included Ohio Education's model IEP form. Special education teachers developed a draft IEP prior to the IEP meeting and sent it to TRECA's Special Needs Coordinator. The Special Needs Coordinator reviewed the draft IEP in Frontline to ensure it was complete, met requirements, and met the student's special education needs. After the IEP meeting, the finalized IEPs were converted into PDF format and uploaded into TRECA's student management system.

According to 34 C.F.R. section 300.320(a)(7) and Ohio Administrative Code 3301-51-07(H)(1)(i), IEPs are required to include the anticipated frequency, location, and duration of the services to be provided to the student. Although TRECA had a process in place to review the draft IEPs, we found that 7 (13 percent)<sup>27</sup> of the 56 final IEPs reviewed did not include the required information. Of the seven IEPs with missing information:

- four were missing the location for one of the services listed in the IEP;
- one was missing the location, frequency, and duration for one of the services listed in the IEP; and,
- two were missing the frequency and duration for all of the services listed in the IEP.<sup>28</sup>

According to TRECA officials, there was an issue with their IEP software program during fiscal year 2018. The program cut off portions of the finalized IEPs, which included the frequency, duration, and location of services, when they were converted to PDFs. TRECA's Executive Director stated that these errors were caught most of the time but not always. The official also stated that this in no way impacted the services the students were to receive because the special education teachers could have obtained the original IEP in the Frontline system. The official further stated that TRECA has since moved to a new IEP software program.

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<sup>27</sup> The seven IEPs represented six students. One student had two IEPs.

<sup>28</sup> We found sufficient documentation to show that special education was provided to students for three of the seven IEPs reviewed. The results of our review for the other four IEPs are discussed below under the Special Education section.

Although TRECA officials stated that students' services were not impacted by the IEP software issue, TRECA cannot prove that it was in compliance with IEP requirements for these seven students because TRECA was unable to provide us with the original IEPs that included the complete service information.

## **Delivery of Services**

TRECA's internal controls did not ensure that it retained accurate and complete documentation to support the delivery of services to students as described in their IEPs. Specifically, TRECA did not have a written policy requiring completion of teacher notes or progress reports or related procedures on how to complete them. TRECA also did not design adequate control activities to ensure that staff completed progress reports. In addition, TRECA did not have written procedures for its related service invoice review process.

Despite these issues and the insufficient documentation of service delivery described below, we found that TRECA implemented all IEPs in a timely manner.<sup>29</sup> In addition, we found that for 32 students in our sample who transferred to TRECA during the 2017–2018 school year, the virtual charter school met requirements for providing comparable services to the student's existing IEP from the previous LEA until TRECA developed and implemented a new IEP. For 12 of these students who withdrew shortly after enrollment, TRECA provided comparable services until the time of withdrawal.

## **Special Education**

TRECA did not have sufficient written policies and procedures regarding the documentation of special education specific to the completion of teachers' notes and progress reports. Special education at TRECA was delivered through individual "Jigsaw"<sup>30</sup> sessions and embedded in the general education curriculum. TRECA used an attendance tracking software called "Active Track" to record the time students were logged in and participated in its various instructional systems.

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<sup>29</sup> IDEA regulations do not cite a specific timeframe for IEP implementation, but do require that special education and related services be made available to the child as soon as possible following the initial IEP team meeting (34 C.F.R. section 300.323(c)). Ohio Operating Standards require implementation as soon as possible after IEP development.

<sup>30</sup> Jigsaw is an online tool used by TRECA as a classroom or chat room where students and teachers can interact as a group or one-on-one.

TRECA did not have a written policy requiring teachers to prepare notes documenting the delivery of special education or a process to ensure that the notes were prepared. Although there is no Federal or State requirement to prepare teacher notes, TRECA's Special Education Director stated that special education teachers were expected to record notes to document delivery of specially designed instruction in TRECA's student management system, Evolve. Teachers could also use them to prepare progress reports. Notes on special education generally included the date, duration, and subject of the delivered instruction and whether the student attended. For example, a note on special education would state, "John Doe attended (or did not attend) 30 minutes of writing special education today."

TRECA's Special Education Director also said that special education teachers were expected to complete progress reports every 12 weeks that detailed the student's progress on meeting the goals outlined in their IEPs, and that TRECA used model IEP forms that described this requirement. The progress reports were sent to the students' parents. However, TRECA did not develop a written policy to show how it would implement the expectation, to include how it would ensure that progress reports were actually prepared and distributed.

According to 34 C.F.R. section 300.320(a)(3)(ii) and Ohio Administrative Code 3301-51-07(H)(1)(d), each child's IEP must contain a description of when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided. Ohio Education's model IEP form also included a note that stated progress reports must be provided to parents of a child with a disability at least as often as report cards are issued to all children. TRECA special education teachers used the model progress report developed by Ohio Education to record the data on a student's progress. The teachers used data from their own notes or notes from service providers and other teachers to complete the progress reports. When asked why a written policy was not developed, TRECA's Special Education Director stated that they have a written document that shows the due dates for progress reports, and that they considered this to be a written policy.

Without written policies and procedures related to the preparation of special education notes and progress reports, TRECA has less assurance that these items are being completed as expected and being completed appropriately and consistently. This can ultimately lead to TRECA being unable to confirm that students were provided with the required special education and that progress is being communicated as noted in their IEPs. As a result of these insufficient internal controls, TRECA did not maintain sufficient documentation to support that the special education outlined in each IEP was delivered to or that progress was adequately communicated for 27 (54 percent) of the 50 students

we reviewed. TRECA did not have progress reports for 3 of the 27 students; sufficient teachers' notes for 16 students; and neither progress reports nor sufficient teachers' notes for 8 students. For 20 of the 24 students without sufficient teachers' notes, there were no notes at all on special education. For the remaining four students, there were some notes but not enough to show that an appropriate amount of special education was delivered as outlined in the students' IEPs.

### **Related Services**

TRECA did not have sufficient written policies and procedures to ensure the timely implementation and delivery of related services detailed in each student's IEP. Specifically, it did not have a policy that required verification to be completed or written procedures that detailed the processes it used to verify the delivery of related services. TRECA's Assistant Director of Special Education was responsible for the oversight of related services, including obtaining related service providers for students, contacting providers if there were issues, and verifying the delivery of related services as outlined in students' IEPs.

In its contracts with service providers, TRECA required vendors to submit quarterly progress reports and monthly invoices with detailed records of services provided, to include the date of service, duration of service, type of service, and the student's name. Service providers sent special education teachers notes on the progress students made on their related service goals every 12 weeks which were then included in the students' overall IEP progress reports. Related service providers submitted the invoices, which included students who did not attend service sessions (no shows), and treatment notes<sup>31</sup> through TRECA's Ez ED Med system.

The Assistant Director of Special Education maintained a spreadsheet of information on each student that included the service provider and the duration and frequency of services to help ensure students were receiving services. The official compared the amount of time and frequency of services submitted on the provider invoices and in treatment notes to the IEP information on the spreadsheet to ensure students were receiving the appropriate amount of services. The Assistant Director of Special Education also used the Ez ED Med system to generate a list of no-show dates for each student to track absences from related service sessions. Parents were required to be contacted after three no shows to reschedule the services missed.

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<sup>31</sup> Service providers prepared treatment notes during each session with a student. The notes included the name of the provider, the date, progress made by the student, and what was done during each session.

According to the Assistant Director of Special Education, the related services invoice review process was solely the responsibility of this position. Therefore, TRECA did not develop written procedures. In November 2018, the Assistant Director of Special Education stated that TRECA was in the process of hiring a new person to perform this review and that written procedures would be created at that time. In June 2020, the Assistant Director of Special Education informed us that someone had been hired and that the invoice review process was included in the position description. However, no written procedures had been created for this process. The position description may include the invoice review process as one of the duties to be performed, but without formal written procedures, TRECA cannot ensure that the review will be performed correctly and consistently. While we determined that there was sufficient documentation to support that related services were delivered as outlined in the IEPs of the eight students in our sample for which related services were included, if the Assistant Director of Special Education or the newly hired official left their positions or were unable to perform their duties, there would be no written procedures for a new staff person to follow, which could result in students not receiving related services.

According to 2 C.F.R. section 200.303, a non-Federal entity (such as TRECA) must establish and maintain effective internal control over the Federal award that provides reasonable assurance that it is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Further, the non-Federal entity must also evaluate and monitor its compliance with statute, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission.

According to 34 C.F.R. section 300.201, an LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under sections 300.101 through 300.163, and sections 300.165 through 300.174.

Additionally, Principles 10.02 and 10.03 of the Government Accountability Office’s “Standards for Internal Control in the Federal Government” state that management

designs control activities<sup>32</sup> in response to the entity’s objectives and risks to achieve an effective internal control system and clearly documents<sup>33</sup> internal control and all transactions and other significant events in a manner to make it readily available for examination. Principles 12.03 and 12.04 state that each unit should also document policies in the appropriate level of detail to allow management to effectively monitor the control activity and management should communicate to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities. Principle 12.05 states that management should periodically review policies and procedures for continued relevance and effectiveness in achieving the entity’s objectives or addressing related risks.

### **Recommendations:**

We recommend that the official Delegated the Duties of Assistant Secretary for Special Education and Rehabilitative Services require Ohio Education to ensure that TRECA—

- 3.1 Develops a process to ensure that IEPs are maintained that include all required elements of services to be provided.
- 3.2 Develops written policies and procedures that detail its processes for ensuring IDEA requirements related to special education and related services are completed, such as communicating any requirements related to progress reports, teachers’ notes, and service provider invoice reviews.

### **Ohio Education Comments**

Ohio Education stated that it cannot admit or deny the draft report’s statements without further documentation. Ohio Education stated that it will review the report upon release to determine any required implementation of monitoring activities. If monitoring activities are necessary, Ohio Education will involve the State Support Team and TRECA’s sponsor in the monitoring of the virtual charter school.

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<sup>32</sup> Control activities are the policies, procedures, techniques, and mechanisms that enforce management’s directives to achieve the entity’s objectives and address related risks.

<sup>33</sup> The documentation may appear in management directives, administrative policies, or operating manuals and should be properly managed and maintained.

## **OIG Response**

We did not revise our finding or recommendations as a result of Ohio Education's response. We will not be issuing a separate report on TRECA for Ohio Education to review upon which to base further actions to be taken. Ohio Education should work with the applicable Department officials, as noted on the transmittal memorandum for this audit report, to ensure that Department officials have and consider all relevant information before taking final action on this audit.

## Appendix A. Scope and Methodology

Our review covered Ohio Education’s and two virtual charter schools’ internal controls for ensuring that IEPs for students with disabilities who attend virtual charter schools are developed in accordance with Federal and State requirements and that students are provided with the services described in their IEPs. Our review covered services provided to students with disabilities during our audit period of July 1, 2017, through June 30, 2018.

To achieve our audit objective, we performed the following procedures:

1. We reviewed Federal and State laws, regulations, and guidance relevant to our audit objective, including Part B of IDEA; 34 C.F.R. Part 300, including, but not limited to, sections 300.101 through 300.123, 300.2 through 300.45 and 300.200 through 300.324 and 300.600;<sup>34</sup> 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” including, but not limited to section 200.303; the Department’s August 2016 OSEP Dear Colleague Letter Regarding Education of Children with Disabilities Attending Public Virtual Schools; Ohio Administrative Code Chapter 3301-51; and Ohio Revised Code Chapter 3314.
2. We assessed Ohio Education’s internal controls for ensuring that IEPs for students with disabilities who attend virtual charter schools are developed in accordance with Federal and State requirements and that students are provided with the services described in their IEPs. To do this we performed the following procedures.
  - Reviewed the Ohio Department of Education “Special Education Model Policies and Procedures” (July 2009).
  - Reviewed Ohio Education’s monitoring procedures, virtual charter schools monitoring schedule, and reports of findings and corrective action plans as a result of OSEP FY 2016 IDEA Part B Fiscal Monitoring of Ohio Education.
  - Interviewed Ohio Education officials responsible for the administration and oversight of the special education programs in virtual charter

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<sup>34</sup> These sections refer to the definitions and eligibility requirements under IDEA, the provision of a free appropriate public education, and several other requirements related to the development of an IEP and delivery of services.

schools, including those involved in the monitoring of IEP development and delivery of services at virtual charter schools.

3. We assessed the virtual charter schools' internal controls over ensuring that IEPs for students with disabilities who attend virtual charter schools are developed in accordance with Federal and State requirements and that students are provided with the services described in their IEPs. To do this, we judgmentally selected two virtual charter schools for review and performed the following procedures at each school.
  - Reviewed virtual charter school policies and procedures, processes, and information on database systems developed or used by the virtual charter school related to the administration of the special education program, the development and implementation of IEPs, and the provision of services.
  - Interviewed virtual charter school officials responsible for the administration and oversight of the special education program, including those involved in the development of IEPs and delivery of services.
4. To assess whether IEPs were developed in accordance with Federal and State requirements, we reviewed 50 students' IEPs and related documentation, such as evaluation/reevaluation reports, at each virtual charter school. We verified whether the
  - evaluation/reevaluation report confirmed special education eligibility, as indicated by the evaluators' conclusions listed in the reports;
  - IEP meeting took place within the required timeframe;
  - required participants were included on the IEP team, as indicated by participants' signatures on the IEP; and
  - the IEP included performance levels, postsecondary transition (if applicable), measurable goals with objectives, methods, and how progress will be reported, and the type, length, frequency, location, and duration of special education and related services (if applicable).
5. To corroborate whether services were provided for the 50 students at each virtual charter school, we reviewed service delivery records and related

documentation required by each virtual charter school,<sup>35</sup> such as school calendars, teachers' notes on special education, progress reports that included special education teacher and provider input, related service provider monthly invoices, related service provider treatment notes, related service "No Show" lists, and attendance data. We compared this information to the service information included in the IEP for each student. Specifically, we corroborated whether special education outlined in the IEPs was provided by reviewing attendance data, progress reports, and teachers' notes. We corroborated whether related services were provided to students by reviewing progress reports, related service "No Show" lists, and provider treatment notes and invoices detailing information about the type of service that was provided, the date of the service, and the amount of time spent with students.

Our review of the student files and conclusions regarding service provision and receipt were based on the adequacy of existing documentation rather than any judgments regarding the nature or quality of services. We did not verify the actual receipt of services by students delivered virtually or in-person through a third-party provider.

We performed audit work at Ohio Education offices in Columbus, Ohio, from July 17, 2018, through July 18, 2018. We performed audit work at TRECA's offices in Marion, Ohio, from October 15, 2018, through October 18, 2018, and at Ohio Virtual's offices in Maumee, Ohio, from April 2, 2019, through April 5, 2019. We also performed audit work at our offices from April 8, 2019, through February 26, 2020, using remote electronic access to the virtual charter schools' database systems. We held an exit conference with Ohio Education officials on June 23, 2020.

## **Internal Controls**

We assessed Ohio Education's and the virtual charter schools' internal controls significant to our audit objective; specifically, Ohio Education's processes for monitoring IEP development and delivery of services at virtual charter schools and the virtual charter schools' processes for IEP development and delivery of services. We reviewed Ohio Education's policies and procedures for monitoring virtual charter schools' compliance with IDEA, including its model LEA special education policies and procedures, and Ohio Education's internal controls over providing technical assistance to virtual charter schools. We reviewed the virtual charter schools' policies and procedures for IEP development and service delivery. In addition, we reviewed source documents to corroborate the testimonial evidence that we obtained from Ohio

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<sup>35</sup> These documentation standards are set by the virtual charter schools. There are no explicit Federal standards regarding documentation for delivery of services.

Education about its monitoring processes concerning IEP development and service delivery and from virtual charter schools' officials about the processes used for IEP development and delivery of services to students with disabilities. We also reviewed a sample of student files to evaluate whether appropriate policies and procedures had been implemented and were operating as intended. We used 2 C.F.R. section 200.303 and the Government Accountability Office's "Standards for Internal Control in The Federal Government" as criteria for evaluating Ohio Education's and the virtual charter schools' processes and controls. Our assessment disclosed a weakness in Ohio Education's internal controls and deficiencies in Ohio Virtual's and TRECA's internal controls that are described in the Findings of this report.

### **State and Virtual Charter School Selection**

We selected Ohio because it was one of the three States with the largest enrollment of students with disabilities in full-time virtual charter schools. For school year 2017–2018, Ohio had a total of 14 virtual charter schools that enrolled over 3,000 students with disabilities. Ohio received a total of \$119 million in IDEA special education grant funding. Over \$4 million of the total IDEA grant funding went to the 14 virtual charter schools during school year 2017–2018.

We judgmentally selected 2 of the 14 virtual charter schools operating in Ohio during the period July 1, 2017, through June 30, 2018, for review. We selected the virtual charter schools based on the number of students with disabilities enrolled, the type of school (general education or dropout prevention and recovery), A-133 report findings, and total amount of IDEA funding. We also considered whether the schools had relationships with charter or education management organizations.

We selected Ohio Virtual because it had the largest number of students with disabilities (1,179),<sup>36</sup> it is a general education school serving K–12 students, and it is managed by an education management organization. Ohio Virtual received about \$1.9 million in IDEA funding. To diversify our coverage of LEAs, we selected TRECA because it had a smaller number of enrolled students with disabilities (294), it is a dropout prevention and recovery school serving K–12 students, and because it had an audit finding related to

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<sup>36</sup> The number of students with disabilities we used to select both virtual charter schools was obtained from Ohio Education's Education Management Information System as of July 2018. Schools are required to report student disability data as part of an annual data submission they send to Ohio Education through the Education Management Information System. The numbers of students are a snapshot in time as of the date submitted and may not be the actual number of students attending a school within a specific period of time, such as our audit period.

tracking student activity and attendance in the A-133 audit report for its fiscal year that ended in June 2016, which related to our audit objectives. TRECA received about \$424,000 in IDEA funding.

## **Sampling Methodology**

We reviewed a stratified random sample of student files to evaluate whether appropriate policies and procedures had been implemented and were operating as intended. We identified the total number of unique students and selected a sample of students who had an active IEP, were enrolled, and attended Ohio Virtual or TRECA for at least 1 day during the period July 1, 2017, through June 30, 2018. We stratified the students by the percentage of time they spent outside of the regular education classroom.<sup>37</sup> The percentage of time spent by the students outside of the regular classroom fell into three strata:

1. less than 21 percent,
2. between 21 and 60 percent, and
3. more than 60 percent.

We used stratified random sampling to select our sample for both virtual charter schools to ensure we selected students from each of the three strata we used. Because students who were out of the classroom more than 60 percent of the time could possibly be receiving more services, or the services could be more complex, we selected 25 students from the more than 60 percent stratum. We then selected 15 students from the middle stratum, and 10 students from the less than 21 percent stratum.<sup>38</sup> Our total sample size for each virtual charter school was 50 students. Tables 1 and 2 show the universe and sample sizes of students for Ohio Virtual and TRECA, respectively. Some students had multiple IEPs during the period, therefore we reviewed all of the IEPs for these students. This resulted in an additional 18 IEPs reviewed at Ohio Virtual and an additional 6 IEPs reviewed at TRECA.

At Ohio Virtual, we found that 25 of the students in our sample, including 35 IEPs, had related services in their IEP. Additionally, all 50 students sampled, including 68 IEPs, had special education in their IEPs. At TRECA, we found that 8 students in our sample, including 10 IEPs, had related services in their IEP. Additionally, all 50 students sampled,

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<sup>37</sup> The least restrictive environment calculation is included in IEPs and is a percentage of time that a student is outside of a classroom with nondisabled peer students.

<sup>38</sup> Ohio Virtual only had 10 students in total in the universe of students in the middle stratum (between 21 and 60 percent), so we selected an additional 5 students from the more than 60 percent stratum.

including 56 IEPs, had special education in their IEP. Because we used auditor judgment to determine sample size, the results from our sample do not have sufficient precision for projecting an estimate. Consequently, the results from our testing cannot be projected to the universe of students who had an active IEP and were enrolled and attended Ohio Virtual and TRECA for at least 1 day during our audit period. Additionally, percentages reported are not weighted to be projections and represent only the sample results.

**Table 1. Ohio Virtual Universe and Sample Sizes**

Strata	Universe Size	Sample Size
Less than 21% outside the regular classroom	2,278	10
Between 21% and 60% outside the regular classroom	10	10
More than 60% outside of the regular classroom	282	30
<b>Total</b>	<b>2,570</b>	<b>50</b>

**Table 2. TRECA Universe and Sample Sizes**

Strata	Universe Size	Sample Size
Less than 21% outside the regular classroom	556	10
Between 21% and 60% outside the regular classroom	98	15
More than 60% outside of the regular classroom	135	25
<b>Total</b>	<b>789</b>	<b>50</b>

### Use of Computer-Processed Data

We determined that computer-processed data were the best available sources of data for our audit objective. We relied, in part, on data that Ohio Virtual and TRECA retained in their information systems. The data for both virtual charter schools included a listing of and the records for students with disabilities who had an active IEP and were enrolled and attended the schools for at least 1 day during the period July 1, 2017, through June 30, 2018. We assessed the accuracy of this data by reviewing the source documents for the students included in our samples. We also assessed the accuracy of the attendance data for the students included in our samples from both virtual charter schools by comparing it to the records, such as teachers' notes and progress reports, and concluded that the data were reliable and accurate.

In addition, we assessed the completeness of the universe of students with disabilities during our audit period by comparing the virtual charter schools' data to the listing of students with disabilities on file with Ohio Education. We verified that there were no material discrepancies between the number of students with disabilities provided by the virtual charter schools and Ohio Education. We further assessed the completeness of the universe of students with disabilities by comparing the students in the universe to students listed as receiving related services from the virtual charter schools during our audit period. We verified that there were no material discrepancies between the students with disabilities in the universe and the students who received related services. Therefore, we concluded that both virtual charter schools' data were sufficiently reliable for the purposes of our audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B. Acronyms and Abbreviations

C.F.R.	Code of Federal Regulations
Department	U.S. Department of Education
FY	fiscal year
IDEA	Part B of the Individuals with Disabilities Education Act
IEP	individualized education program
LEA	local educational agency
Model Policy	Ohio Department of Education Special Education Model Policies and Procedures
OSEP	Office of Special Education Programs
Ohio Education	Ohio Department of Education
Ohio Virtual	Ohio Virtual Academy
TRECA	Tri-Rivers Educational Computer Association Digital Academy

# Ohio Education Comments



Mike DeWine, Governor  
Paolo DeMaria, Superintendent of Public Instruction

January 21, 2021

**VIA ELECTRONIC MAIL ONLY**

Michele Weaver-Dugan  
Regional Inspector General for Audit  
Office of Inspector General  
United States Department of Education  
400 Maryland Avenue, S.W.  
Washington, DC 20202-1510

Reference: Audit Control Number ED-OIG/A03S0006

Dear Mrs. Weaver-Dugan,

On December 22, 2020, the Ohio Department of Education (the "Department") received the draft audit report, "Ohio Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs," Control Number ED-AIG/A03S0006, with the results of your audit. The Department reviewed the draft audit report and has prepared for your review a statement that addresses the Department's response to each individual finding and the Department's plan to address recommendations with targeted completion dates.

Sincerely,

A handwritten signature in black ink that reads "Jo Hannah Ward".

Jo Hannah Ward  
Director, Office for Exceptional Children

Enclosure

25 South Front Street (877) 644-6338  
Columbus, Ohio 43215 For people who are deaf or hard of hearing,  
education.ohio.gov please call Relay Ohio first at 711.

U.S. Department of Education  
Office of Inspector General  
ED-OIG/A03S0006

The Ohio Department of Education's Response to the Draft Audit Report "Ohio Department of Education's and Selected Virtual Charter Schools' Internal Controls Over Individualized Education Programs," Control Number ED-OIG/A03S0006

Finding 1. The Ohio Department of Education Generally Had Sufficient Internal Controls Over LEA IEP Development and Service Delivery for Students with Disabilities But Could Strengthen its Monitoring Process.

The Ohio Department of Education (hereinafter the "Department") agrees with the draft report findings that state the Department generally had sufficient internal controls to ensure that local education agencies (LEAs) developed IEPs in accordance with federal and state requirements for children with disabilities who attend virtual charter schools and that these students were provided with the services described in their Individual Education Programs (IEPs). (Draft Report, pg. 9) The Department agrees that pursuant to IDEA, 34 C.F.R. 300.201, the Department is required to ensure LEAs have in effect policies, procedures, and programs consistent with State policies and procedures. (Draft Report, pg. 9) The Department further agrees that the Ohio Operating Standards for Ohio Educational Agencies Serving Children with Disabilities (Ohio Administrative Code 3301-51-01) require LEAs to adopt written policies and procedures regarding the education of students with disabilities. (Draft Report, pg. 9) Additionally, the Department agrees that the Department has sufficient internal controls that include the Model Policies and Procedures, monitoring LEAs, and providing technical assistance, guidance and training. (Draft Report, pg. 9)

The Department contests the interpretation within the draft report that there is a requirement for the Department to ensure that an LEA has additional specific written processes for the implementation of their adopted written policies and procedures. The draft report stated that, "because all virtual charter schools do not use the same processes to develop IEPs or deliver services, the Model Policy document does not prescribe how a virtual charter school should implement federal and state requirements for IEP development and the delivery of services for students with disabilities." (Draft Report, pg. 9) Also, the draft report indicated that the Department "reviews evidence of an LEA's implementation of special education policies and procedures, it does not ensure that an LEA's specific processes are documented in written procedures." (Draft Report, pg. 15) The draft report stated, "by not having a step in its monitoring protocol to verify that LEAs actually have written procedures for IEP development and the delivery of services to students with disabilities, Ohio Education could not ensure LEAs developed sufficient written procedures for implementing Ohio Education's Model Policy." (Draft Report, pg. 15)

The Department asserts that the Model Policy and Procedures are applicable to virtual charter schools. The Model Policy and Procedures include written statements on the

implementation of IDEA. There is no language within IDEA that exempts virtual charter schools from IDEA requirements. Any processes that the virtual charter school, or any LEA, utilized must adhere to the Model Policies and Procedures (or otherwise approved individual Policies and Procedures), Ohio Administrative Code, and IDEA. The Department ensures that all LEAs follow the Ohio Administrative Code 3301-51 and have written policies and procedures. Any specific processes that support the procedures are going to be specific to each local education agency within the State. The Department asserts that the draft report is applying a stricter standard than what is required in IDEA and the Ohio Administrative Code. The standard that the draft report is applying is that the Department ensures that the LEA has further written processes above and beyond that of the required written policies and procedures.

Additionally, the Department agrees with the draft report that the Department reviews the evidence of a LEA's implementation of special education policies and procedures. (Draft Report, pg. 15) The Department reviews evidence of the LEA's implementation of special education policies and procedures. The Department ensure LEA's implementation with policy and procedures by a Selective and General Review Monitoring Process. The Selective and General Review Monitoring Process document was previously submitted for review by the Department to the Office of the Inspector General. Prior to visiting the LEA, the Department reviews the LEA's policies and procedures. The Selective Review includes a checklist where the State Support Team, along with the LEA, review the LEA's policies and procedures prior to the review, after the review, and during some indicator reviews. The Department then ensures that students with disabilities received special education and related services by reviewing selected evaluation team reports and individualized education programs for compliance, interviewing teachers, classroom observations, stakeholders, school personnel, and conducting parent meetings. Additionally, the district may be asked to provide additional documentation or evidence of policies, procedures and/or practices in response to information gathered during the interviews.

Both the Department's 2017-2018 Selective Review Process and General Review Process included a written description of the process of review of the LEA's policies and procedures and selected IEPs. During this process the personnel at the Department review the policies and procedures adopted by the LEA. If, during the review, the Department staff do not have enough evidence from interviews, meetings and document collection to support the implementation of the policies and procedures and compliance with IDEA, then the process indicates that they may ask the LEA to provide additional documentation or evidence of those policies, procedures and/or practices. This potential request for additional documentation or evidence is written into the Department process guides. The process guides are evidence that the Department does have a sufficient written monitoring process to ensure the LEA is implementing the LEA's own policies and procedures and to show compliance with IDEA in 2017-2018. The Department is not required under federal or state regulations to require an LEA to have specific processes written down and the Review Process

that Department has created and implemented allows for a way to collect evidence on the implementation of IDEA.

**Recommendations:**

- 1.1 Develop a method to ensure that LEAs have written procedures that describe their processes for ensuring that they follow IDEA requirements for developing IEPs and delivering IEP services.

In responding to recommendation 1.1, the draft report is based on information collected and investigated during the 2017-2018 school year. Between the end of the 2017-2018 school year and the current date the Department's Office for Exceptional Children (OEC) has undergone significant leadership and staff changes. Current OEC staff has updated the monitoring practices. OEC's current practice when monitoring a school district is to request any and all applicable written policies, procedures, and processes that relate to special education. Although specific written processes are not prescribed, OEC reviews the LEA documentation provided and determines if it is necessary to implement further processes. Further corrective action may be found necessary and specific written processes may be required if the LEA is exhibiting specific issues that will be resolved by written processes. The revision or documentation of LEA's policy, procedure, or processes may be part of the LEA's potential corrective action.

- 1.2 Develop a method to ensure that sponsors timely report any significant compliance issues found during their monitoring of schools, along with any corrective actions taken, to the Office of Community Schools.

In responding to recommendation 1.2, within 60 days of release of the report, the Office of Community Schools will conduct a training with all sponsors to discuss the impact of any significant compliance issues related to the delivery of special education. The Office of Community Schools will inform sponsors that of significant compliance issues related to the delivery of special education issues that should warrant a school being placed on probationary status. This will require the sponsor to notify the Department pursuant to section 3301-102-05(A)(4) of the Administrative Code:

- (4) Notify the department within one business day of a community school's failure to comply with applicable state or federal laws, rules, or contractual requirements, as well as any financial difficulties, if such failure to comply or financial difficulties occur and may result in the sponsor's determination to declare the community school to be on probationary status, to suspend the operation of the community school, or to terminate the community school contract. In such circumstances, the sponsor shall provide written notice to the

department within thirty days of the community school's noncompliance or financial difficulties specifying the exact nature of the problem and the plan for and status of any resolution.

Finding 2. Ohio Virtual Generally Had Sufficient Internal Controls Over IEP Development and Delivery of Services, But Needs to Ensure its Processes are Followed.

The Department will review the report upon release. The Department cannot admit or deny the draft report's statements without further documentation of the investigation.

Recommendations:

2.1 The Ohio Department of Education to ensure that Ohio Virtual provides training to staff to ensure that its record retention policy and documentation processes for related services are followed and performed consistently.

In responding to recommendation 2.1, the Department will review the report upon release and any supporting documentation provided to determine any required implementation of Department monitoring activities. If the Department monitoring activities are necessary, then the Department will involve the State Support Team and the LEA's sponsor in the monitoring of the LEA.

Finding 3. TRECA Generally Had Sufficient Internal Controls Over IEP Development But Did not Have Sufficient Internal Controls Over the Delivery of Services

The Department will review the report upon release. The Department cannot admit or deny the draft report's statements without further documentation of the investigation.

Recommendations:

3.1 The Ohio Department of Education to ensure TRECA develops a process to ensure that IEPs are maintained that include all required elements of services to be provided.

In responding to recommendation 3.1, the Department will review the report upon release and any supporting documentation provided to determine any required implementation of Department monitoring activities. If Department monitoring activities are necessary, then the Department will involve the State Support Team and the LEA's sponsor to monitor the district.

3.2 The Ohio Department of Education to ensure TRECA develops written policies and procedures that detail its processes for ensuring IDEA requirements related to special education and related services are completed, to include communicating any requirements related to progress reports, teachers' notes, and service provider invoice reviews.

In responding to recommendation 3.2, the Department will review the report upon release and any supporting documentation provided to determine any required implementation of Department monitoring activities. If Department monitoring activities are necessary, then the Department will involve the State Support Team and the LEA's sponsor to monitor the district.