

CITIZENS PETITION REQUEST

# LUTHER PUBLIC SCHOOL DISTRICT

March 13, 2018



*Independently serving the citizens of  
Oklahoma by promoting the  
accountability and fiscal integrity of  
governmental funds.*



Oklahoma State  
Auditor & Inspector  
Gary A. Jones, CPA, CFE

**LUTHER PUBLIC SCHOOL DISTRICT**

**CITIZENS PETITION REQUEST**

**RELEASE DATE MARCH 13, 2018**

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This publication, issued by the Oklahoma State Auditor and Inspector's Office as authorized by **74 O.S. § 212(L)**, has not been printed but is available on our agency's website ([www.sai.ok.gov](http://www.sai.ok.gov)) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Prairie Collection, (<http://digitalprairie.ok.gov/cdm/search/collection/audits/>) pursuant to **65 O.S. § 3-114**.



## Executive Summary

### **EXECUTIVE SUMMARY**

The citizens of the Luther Public School District requested an audit pursuant to **74 O.S. § 212(L)**. The objectives of the audit included, but were not limited to, a review of bond project funds, school activity funds, personnel contracts, and grant funds. The scope of the petition was July 1, 2013 through October 31, 2015.

#### **Bonds (Page 2)**

The District expended \$79,137.53 from bond funds for work or materials not allowed as a bond expenditure. The District also did not bid three construction projects as required by law, and encumbrances for 27 of the 109 vendors reviewed were not reflected as approved in the Board minutes.

The proceeds of the bond issues were comingled into one bank account, blank pre-signed payment-requisition forms were on file in the District's administration office, and some records pertaining to the expenditure of bond proceeds were not maintained by the District.

#### **Activity Funds (Page 11)**

The Home Run Club, a booster club for the District's baseball program, was never officially sanctioned by the Board, maintained an unapproved bank account outside of the District's Activity Fund, and collections received by the Club did not always reconcile with collections received and deposited in the Baseball Activity Fund.

The District did not have required policies in place to provide guidelines for fundraising clubs and organizations that had been sanctioned.

We found no evidence that the FFA Activity Fund and the *GoFundMe* account established for the Design and Fabrication Class had been mismanaged.

#### **Personnel Contracts (Page 16)**

A Spanish teacher and a Design and Fabrication instructor were employed without proper certification, resulting in unallowable compensation of \$32,436.52 and \$50,342.91, respectively.

The Board's hiring of Superintendent Buxton's wife for the position of "Dean of Students" did not appear to violate nepotism laws; however, the position was not properly posted in accordance with District policy.

The position of medical secretary was hired without official approval of the Board. The individual in this position attended college classes during school hours and did not appear to fulfill her 12-month contract.

#### **Grants (Page 22)**

Petitioners concerns involving \$90,000 of questioned costs in grant funds, reported in the FY2014 independent audit, were verified as employee contracts that could not be located. The District's FY2015 independent auditor reported the "Current Status" with no additional concerns.



# Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

March 13, 2018

To the Petitioners and Citizens of the Luther Public School District:

Pursuant to your request and in accordance with the requirements of **74 O.S. § 212(L)**, we performed an audit with respect to the Luther Public School District for the period July 1, 2013 through October 31, 2015.

The objectives of our audit primarily included, but were not limited to, the concerns noted in the citizens petition. The results of this audit, related to these objectives, are presented in the accompanying report.

Because the procedures performed do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Luther Public School District for the period July 1, 2013 through October 31, 2015.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance. We also wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our engagement.

This document is a public document pursuant to the Oklahoma Open Records Act, in accordance with **51 O.S. §§ 24A.1, et seq.**

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones".

GARY A. JONES, CPA, CFE  
OKLAHOMA STATE AUDITOR & INSPECTOR

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**Board of Education**

**July 1, 2013**

Aaron Bachhofer ..... President  
Matt Mohr..... Vice-President  
Patrice Christy ..... Clerk  
Ray Stanfield ..... Member  
Charles DeFuria..... Member

**October 31, 2015**

Aaron Bachhofer ..... President  
Matt Mohr..... Vice-President  
Ray Stanfield ..... Clerk  
Sherri Anderson..... Member  
Charles DeFuria.....Member

**Superintendent**

Dr. Sheldon Buxton

## INTRODUCTION

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The Luther Public School District (hereinafter the “District”) is part of the Oklahoma State System of Public Education as set forth in **70 O.S. §§ 1-101, et seq.**

The governing body of the District is the Board of Education (hereinafter the “Board”). As provided for in **70 O.S. § 5-117**, the Board has the power to maintain and operate a complete public-school system of such character as the Board deems best suited for the needs of the District. The superintendent acts as the executive officer of the District.

In a citizen petition verified by the Lincoln County, Logan County, and Oklahoma County Election Boards of Oklahoma, the electors of the District requested the assistance of the Office of State Auditor & Inspector (hereinafter “SA&I”) in conducting an audit of alleged inappropriate financial activity and misuse of school assets.

The objectives defined in the ‘Citizen Petition Request for Special Audit’ included the following:

- I. Review possible mishandling of the 2012 and 2014 bond project funds, including but not limited to, determining if any bond proceeds were mishandled or expended on non-bond-related projects.
- II. Review board policies, procedures, and custodial recordkeeping for possible irregularities in school activity accounts.
- III. Review personnel contracts and certifications to determine that personnel requiring certification were certified in the areas in which they were employed, and review the creation of the “Dean of Students” position for possible violation of nepotism statutes and District hiring procedures.
- IV. Review expenditures for possible misuse of federal, state, and private grant funds, including nearly \$90,000 in questioned costs identified in the FY2014 financial-statement-audit report.

Petition allegations are reported as ‘Objectives’ in the following pages of this report. This report was prepared for the citizens and registered voters of the District, as well as officials with oversight responsibilities.

**Objective I      Bonds**

***Petition Objective:***    *Review possible mishandling of the 2012 and 2014 bond project funds, including but not limited to, determining if any bond proceeds were mishandled or expended on non-bond-related projects.*

***Summary of Findings:***

- **The District expended \$79,137.53 from bond funds for work or materials not allowed as a bond expenditure under statute.**
- **The District did not bid three construction projects as required by law.**
- **The proceeds of the 2012 general obligation bond and the 2014 general obligation transportation and building bonds were comingled into one bank account, resulting in the expenditures for each bond issue not being accounted for independently.**
- **The approval of encumbrances, for 27 of the 109 vendors reviewed, were not reflected in the Board minutes.**
- **Blank pre-signed payment-requisition forms were on file in the District's administration office.**
- **Some records pertaining to the expenditure of bond proceeds were not maintained by the District.**

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***Background***

***2012 - General Obligation Bond Issue***

On January 12, 2012, the Board of Education approved an election for a vote on the issuance of bonds in the amount of \$13,730,000. The bonds were to be designated for the purpose of constructing, equipping, repairing, and remodeling school buildings; acquiring school furniture, fixtures, and equipment; and acquiring and improving school sites.

On April 3, 2012, voters approved issuance of the bonds, simultaneously approving the levying of a tax to pay for the bonds, as required by the Constitution.<sup>1</sup>

The legal documents pertaining to the bond issue specified that the \$13,730,000 would be issued in annual amounts of \$985,000 over the

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<sup>1</sup> Indebtedness allowed and corresponding tax required by Okla. Const. Article 10 § 26.

subsequent two years, and then \$980,000 over the following subsequent 12 years. The District was required to repay the bonds by making payments of \$985,000 by each July, beginning in 2014.

**2012 - Lease Revenue Bond Issue**

On May 3, 2012, the Oklahoma County Finance Authority (OCFA), a public trust whose beneficiary is Oklahoma County, approved issuing up to \$11,000,000 in revenue bonds on behalf of the District. The Board of County Commissioners of Oklahoma County approved OCFA's issuance of the bonds on May 9, 2012, as required by statute<sup>2</sup>.

OCFA voted to issue the bonds on behalf of the District, which is located mostly in Oklahoma County, in connection with the \$13,730,000 voter-approved general obligation bonds, to provide the District with financing to move forward with bond projects without delay.

The District agreed to repay the lease revenue bonds by making a payment of \$969,900 by September 1, 2013, and payments of \$964,950 for the following subsequent 12 years.

In order to provide financial security for subsequent repayment of the bonds, the Board of Education voted to lease the school property and buildings to OCFA. In order for the District to continue operating the schools, the Board accepted a sublease of the property and buildings back from OCFA.

**2014 - General Obligation Bond Issue**

On December 10, 2013, the Board of Education approved an election for a vote on approval of the issuance of \$270,000 in 'building bonds' and \$730,000 in 'transportation bonds'.

On February 11, 2014, voters approved issuance of the bonds, simultaneously approving taxes to be levied to pay the bonds.

Legal documents pertaining to the bond issue specified that the District would repay the bonds by making equal payments of \$250,000 by each June, from 2016 through 2019.

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<sup>2</sup> 60 O.S. § 176(F)

**2015 - General Obligation Bond Issue**

On April 27, 2015, the Board of Education again approved an election for a vote on approval of the issuance of bonds in the amount of \$33,080,000. The bonds were voted down in an election held October 15, 2015.

**Expenditure of Bond Funds**

The District contracted with CMSWillowbrook, paying them \$534,358.48, to serve as the *construction manager* for the construction projects. CMSWillowbrook oversaw \$8,023,312.17 of construction costs, the District managed an additional \$1,995,721.87 of costs, and the District also paid out \$429,514.65 in bond issuance fees and costs.

Construction management is allowed under **61 O.S. § 220**, which states in part:

Any political subdivision or board of education of a school district may use construction management as a project delivery method for the building, altering, repairing, improving, maintaining or demolishing any structure or appurtenance thereto, or any other improvement to real property owned by that political subdivision or school district.

Under construction management statutes, contracts or subcontracts are to be awarded in accordance with the provisions of the Public Competitive Bidding Act.<sup>3</sup> It appears contracts awarded for the construction projects by CMSWillowbrook were bid in compliance with the Public Competitive Bidding Act.

For construction payments, contractors and vendors submitted invoices to CMSWillowbrook, which forwarded lists of the vendor names and invoice amounts to the District. The District presented payment requisitions to BancFirst<sup>4</sup> who issued payments to the contractors and vendors.

**Expenditure of Bond Issuance Costs and Fees**

The District expended \$429,514.65 from bond funds for related fees and issuance costs. Title **62 O.S. § 359** allows schools to use bond proceeds to pay expenses incident to the issuance of bonds. The statute states in part:

The governing board of any...school district or any other political subdivision of the state is hereby authorized to pay all expenses incident to the issuance of any general obligation

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<sup>3</sup> Public Competitive Bidding Act defined at 61 O.S. §§ 101.

<sup>4</sup> BancFirst in Oklahoma City was the trustee bank that oversaw the proceeds of, and the payments for, the lease revenue bond.

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bonds, including fees for legal or other assistance in the preparation of proceedings therefor, same to be paid from the proceeds of such bonds, or from any other monies legally available.

While not competitively bid by the District, because of the material amount of the expense, competitive bidding of these costs should be considered.

Payments rendered in conjunction with the bond issuance costs and fees were as follows:

<b>Bond Issuance Costs and Fees</b>	
<b>Payee</b>	<b>Amount</b>
Stephen H. McDonald & Associates - Financial Consultant	\$185,280.00
Floyd Law Firm - Bond Legal Counsel	\$112,060.50
J. Kelly Work - OCFA Legal Counsel	\$43,940.15
Oklahoma County Finance Authority - Bond Issuer	\$25,734.00
BancFirst - Trustee Bank	\$24,500.00
Kutak Rock - D.A. Davidson & Co. Legal Counsel	\$15,000.00
Standard & Poor's Rating Service - Analytical Services	\$14,000.00
D.A. Davidson & Co. - Underwriter	\$4,500.00
Okla. State School Board Assn. Legal Services - District Legal Counsel	\$4,500.00
<b>Total</b>	<b>\$429,514.65</b>

***Finding***

**The District expended \$79,137.53 from bond funds for work or materials not allowed as a bond expenditure under statute.**

Title 70 O.S. § 15-101 specifies that a school district may issue bonds

...for the purchase of a school site or sites, or to erect or purchase and equip a suitable school building or buildings, either or both, or for the purpose of making repairs to an existing school building or buildings, or for the purchase of school furniture and fixtures, or for making improvements to any school site or sites, either or both...for the purpose of purchasing transportation equipment...to provide transportation for pupils to and from school.

Title 70 O.S. § 15-106.1 further defines equipment, stating in part:

..."equipment"...was intended to include: library books, textbooks, school-owned uniforms, computer software, electronic media content, perpetual or continuous district

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software license agreements and web-based software subscriptions with a term of more than one (1) year but not more than five (5) years, the acquisition of telecommunications devices and components to be used to enhance classroom instruction and maintenance/service contracts which are included as a part of the equipment purchase price and any associated hardware and software necessary for implementation and training and any maintenance agreements.

The following expenditures from bond proceeds do not appear to be allowed under statutes:

Unallowed Bond Expenditures	
Purpose of Expenditure	Amount
49 Telephones Including Software and Hardware	\$26,855.09
Food Concession Trailer	\$18,200.00
Tractor with Front-End Loader	\$12,750.00
Bus Repairs*	\$9,505.59
Bus Tires*	\$3,457.70
Towels and Linens	\$2,933.00
Mower	\$1,925.00
Body Repair on a School Van	\$1,522.47
Construction Contractor Bonding	\$1,216.00
Warranty on a Power Washer	\$499.99
Tablecloths	\$169.36
Vacuum Cleaner Repair	\$103.33
<b>Total</b>	<b>\$79,137.53</b>

\* addressed in the FY2015 independent audit report.

Although these costs were appropriate *District* expenditures, they did not appear to be a legitimate use of *bond* proceeds.

***Finding***

**The District did not bid three construction projects as required by law.**

The Oklahoma Public Competitive Bidding Act, **61 O.S. § 103**, requires schools to comply with the following:

- All public-construction contracts exceeding \$50,000 must be let and awarded to the lowest responsible bidder by open competitive bidding after solicitation for sealed bids.

- Construction contracts equal to or greater than \$25,000 but less than \$50,000 must be let and awarded to the lowest responsible bidder by receipt of written bids.
- Other construction contracts for less than \$25,000 may be negotiated with a qualified contractor.

The Act defines a public-construction contract as any contract, exceeding \$50,000, awarded for the purpose of making any public improvements, and defined as any beneficial or valuable change or addition, betterment, enhancement, or amelioration of or upon any real property, intended to enhance its value, beauty, or utility or to adapt it to a new or further purpose.

**Project 1**

The District paid a total of \$108,625 to Art Harper for work performed between October 2013 and November 2014. The work included at least \$77,015 for drainage work at the football field house, and field and track surfaces, an amount that would fall under the statutory bidding requirements.

The minutes of the Board's October 7, 2013, meeting reflected that the Board voted to approve dirt work by Art Harper at the elementary and high school.

**Motion made by Aaron Bachhofer and second by Patrice Christy to approve dirt work by Art Harper at the elementary and high school. Aaron Bachhofer yes, Charles DeFuria yes, Ray Stanfield yes, and Patrice Christy yes.**

The Board minutes of the November 4, 2013, meeting reflected a unanimous vote to approve dirt work by Art Harper at the football field house, and drainage on the playing field and track surface.

**Motion made by Aaron Bachhofer and second by Patrice Christy to approve dirt work by Art Harper at the football field house and drainage on playing field and track surface. Aaron Bachhofer yes, Matt Mohr yes, Charles DeFuria yes, Ray Stanfield yes, and Patrice Christy yes.**

District staff could not provide records that reflected that the District bid the work for which Harper was paid.

**Project 2**

According to a November 2014 payment requisition, the District paid \$39,400 to Herring Concrete Construction for a “building slab and foundation”.

District staff could not provide records that reflected that the work for which Herring Concrete Construction was paid had been bid. There was also no discussion found in the Board minutes concerning bidding of this project.

**Project 3**

According to a July 2014 payment requisition, the District paid a total of \$32,237.22 to Indaco Metals for an “ag-shop-building contract”.

District staff could not provide records to support that bids had been obtained for the work performed by Indaco Metals. There was also no discussion found in the Board minutes concerning bidding of this project.

Except for the projects listed above, it appears the District complied with bidding requirements.

***Finding***

**The proceeds of the 2012 general obligation bond and the 2014 general obligation transportation and building bonds were comingled into one bank account, resulting in the expenditures for each bond issue not being accounted for independently.**

On July 12, 2012, the initial \$985,000 from the 2012 general obligation bond was deposited into the District’s Bond Fund bank account at First Bank & Trust, Luther, Oklahoma. On June 19, 2014, the \$1,000,000<sup>5</sup> of 2014 general obligation bond proceeds was also deposited into the First Bank & Trust account. Subsequent proceeds of the 2012 bond issue were also deposited into the same account.

Bond proceeds being comingled could result in the inability to distinguish if the funds were utilized for the intended bond purpose.

Bond expenditures were subsequently categorized as to the specific bond proceeds from which they were paid by the independent audit firms who completed the District’s FY2015 and FY2016 audits, along with assistance from school staff.

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<sup>5</sup> \$730,000 of transportation bond funds and \$270,000 of building bond funds.

***Finding***

**The approval of encumbrances, for 27 of the 109 vendors reviewed, were not reflected in the Board minutes.**

As noted in the example below, the Board approves encumbrances through the use of a 'Consent Agenda'.

Motion made by Patrice Christy and second by Ray Stanfield for **Approval of consent Agenda** items. Aaron Bachhofer yes, Matt Mohr yes, Charles DeFuria yes, Ray Stanfield yes, and Patrice Christy yes.

A August 5, 2013 Regular Board Meeting minutes and August 12, 2013 Special Board Meeting, August 15, 2013 Special Board Meeting and August 22, 2013 Special Board Meeting.

B **Claims and encumbrances**

C Activity Reports

Title **70 O.S. § 5-135(D)** requires that encumbrances be listed in the board minutes, providing in part:

Encumbrances must be submitted to the board of education in the order of their issuance on a monthly basis, subject to a monthly business cycle cut-off date determined by the board of education. ***Approved encumbrances shall be listed in the minutes by the minute clerk.*** [Emphasis added]

In our examination of the Board's minutes, encumbrances for 27 of 109 vendors were not found.

***Finding***

**Blank pre-signed payment-requisition forms were on file in the District's administration office.**

As noted previously in this report, Buxton and his administrative assistant sent payment requisitions to BancFirst for the issuance of payments to construction vendors.

SA&I observed that blank pre-signed payment-requisition forms were on file in the administration office. The signature of the superintendent had been photocopied on the approval lines of these forms.

Purchase documents of any type should not be pre-signed. Pre-signed documents allow transactions to occur that will not be administered through the necessary review and approval processes, increasing the possibility of fraud and mismanagement of funds.

***Finding***

**Some records pertaining to the expenditure of bond proceeds were not maintained by the District.**

The District's Policies & Procedures require that the following documents be maintained for the term of each issue of bonds, plus at least six years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the Issuer at or in connection with closing of the issue of Bonds;
- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds, including a final allocation of Bond proceeds; and
- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, in connection with any investment agreements, and copies of all bidding documents, if any.

The District did not maintain copies of all required bond documents. Although the construction management firm, CMSWillowbrook, did have copies of all documents, District policy and recordkeeping best practices required that the District maintain adequate records of all bond transactions.

**Objective II      Activity Funds**

***Petition Objective:***    *Review board policies, procedures, and custodial recordkeeping for possible irregularities in school activity accounts.*

***Summary of Findings:***

- **The Home Run Club, a booster club for the District’s baseball program, was never officially sanctioned by the Board.**
- **The District did not have required sanctioning policies in place to provide guidelines for fundraising clubs and organizations that had been sanctioned.**
- **The Home Run Club maintained an unapproved bank account outside the District’s Activity Fund.**
- **Collections receipted by the Home Run Club did not reconcile with collections receipted and deposited in the Baseball Activity Fund. It appears that \$354 was collected that was not deposited.**
- **Activity Fund Sponsors and the Activity Fund Custodian did not use best practices in the administration of Activity Funds.**
- **We found no evidence that the FFA Activity Fund Sub-Accounts were mismanaged.**
- **We found no evidence that the *GoFundMe* account established for the benefit of the Design and Fabrication class was mismanaged.**

***Background***

The petitioners expressed concerns that the Baseball and Future Farmers of America (FFA) activity fund sub-accounts had not been properly administered. The accountability for a *GoFundMe*<sup>6</sup> account used to raise funds for the Luther High School Design and Fabrication class was also questioned.

Activity funds are authorized under the provisions of **70 O.S. § 5-129**, and are generally funds raised through student fundraisers, concessions, and gate admissions, along with other revenue-generating sources in support of the school and various extracurricular student activities.

<sup>6</sup> *GoFundMe* is a fundraising platform that allows people to raise money online.

Title 70 O.S. § 5-129.1 addresses sanctioning organizations, organizations that also raise funds for the school and school activities but are exempt from the statutes which govern school activity funds.

Those funds which are collected by programs for student achievement and by parent-teacher associations and organizations that are sanctioned by the school district board of education shall be exempt from the provisions as outlined in Section 5-129 of this title. *Each school district board of education shall adopt policies providing guidelines for the sanctioning of organizations and associations exempted or applying to be exempted pursuant to the provisions of this section. [Emphasis added]*

**Baseball Activity Fund and the Home Run Club**

***Finding***

**The Home Run Club, a booster club for the District’s baseball program, was never officially sanctioned by the Board.**

The Home Run Club was a parent-led booster club for the District’s baseball program. The Club conducted fundraisers and participated in handling the concessions and gate during baseball games, but was never officially sanctioned by the Board to conduct business on behalf of the baseball program.

In the September 14, 2015, board meeting, the Home Run Club was approved as a sub-account of the Activity Fund instead of being officially sanctioned.

Motion made by Matt Mohr and second by Aaron Bachhofer to approve Activity Fund sub-accounts: A. Home Run Club B. Design & Fabrication Aaron Bachhofer yes, Matt Mohr yes, Ray Stanfield yes, Charles DeFuria abstained, and Sherri Anderson yes.
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As a result, the Home Run Club managed funds through a bank account outside of the Activity Fund but was never an officially approved and sanctioned booster club.

***Finding***

**The District did not have required sanctioning policies in place to provide guidelines for fundraising clubs and organizations that had been sanctioned.**

Although organizations and associations were at times “sanctioned” by the District, policies were never established to guide those entities. CODED<sup>7</sup>, a

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<sup>7</sup> “Coding Obstacles Districts Encounter Daily”

reference guide produced by the State Department of Education, states that a board of education should establish guidelines for sanctioning booster clubs or parent organizations and inform the organizations they cannot use the school's tax exemption number, are not covered by the school insurance, and should apply for their own 501(c)(3) nonprofit status.

It further requires that a District provide clear and concise guidelines for the clubs and organizations to follow and apply such guidelines consistently to all organizations.

We found no evidence that a sanctioning policy with written guidelines had been established by the District.

***Finding***

**The Home Run Club maintained an unapproved bank account outside the District's Activity Fund.**

The Home Run Club was never sanctioned and was not authorized to operate a bank account outside the Activity Fund which is regulated by **70 O.S. § 5-129**. Under **70 O.S. § 5-129(A)** all revenues collected for activity funds should be deposited as follows:

A. The board of education of each school district shall exercise control over all funds and revenues on hand or hereafter received or collected, as herein provided, from student or other extracurricular activities or other revenue-generating sources... Such funds shall be deposited to the credit of the account maintained for the benefit of the activity *within the school activity fund*. [Emphasis added]

On January 30, 2015, the Home Run Club opened an unauthorized checking account. A total of nine deposits were made in the account, totaling \$1,764.62, before it was closed on August 29, 2016.

During this period, the Home Run Club deposited two baseball fundraising checks received from a local business totaling \$204.57 and made at least three cash deposits totaling \$496.25.

Two deposits totaling \$748.80 were payments received from the District's Activity Fund payable to the Home Run Club. According to school personnel, these payments were issued to reimburse the Home Run Club for supplies purchased for the concession stand. No documentation or support was provided to support these payments.

All funds deposited into the Home Run Club bank account and all purchases and payments made for the benefit of the baseball program should have been managed through the Baseball activity sub-account.

***Finding***

**Collections received by the Home Run Club did not reconcile with collections receipted and deposited in the Baseball Activity Fund. It appears that \$354 was collected that was not deposited.**

Discrepancies were noted between receipts collected and recorded by Home Run Club sponsors and receipts recorded and deposited by the District's Activity Fund Custodian.

Between March 12, 2015 and April 6, 2015, the Home Run Club worked six home baseball games, collecting gate ticket and concession revenue. The Club's Activity Fund Deposit reports did not agree with the Activity Fund Deposit reports provided by the Activity Fund custodian.

The Club's reports totaled \$3,685.06 while the Activity Fund reports totaled \$3,331.06. It appears the difference of \$354.00 was collected by the Home Run Club but not deposited into the Baseball Activity Fund.

There was insufficient evidence to determine if the \$354.00 was missing before or after it was received by the Activity Fund Custodian. A chain of custody could not be determined.

***Finding***

**Activity Fund Sponsors and the Activity Fund Custodian did not use best practices in the administration of Activity Funds.**

Title **70 O.S. § 5-129** requires the Board to exercise control of all activity funds and defines minimum requirements in the management of the funds. Our review indicated the following weaknesses in the oversight of Activity Fund transactions:

- Funds were not encumbered prior to each purchase.
- At least one purchase order lacked supporting documentation to show goods had been received.
- In FY2015 the baseball fund sponsor did not issue fundraising receipts as required.
- The Board did not maintain an updated list of approved activity groups.
- The District did not approve all fundraisers by August as required by policy.
- Gate admission tickets were not used by all event sponsors.

*No Finding*

**We found no evidence that the FFA Activity Fund Sub-Accounts were mismanaged.**

The FFA Activity Fund included five different sub-accounts; 803 – FFA General Fund, 804 – FFA Fundraiser, 805 – FFA Greenhouse/Shop, 806 – FFA National Convention, and 807 – FFA Barn & Livestock.

In our review of the FFA Activity Funds we compared receipts from the FFA sponsors records to the Custodian Analysis reports. It appeared that postings were recorded properly. We also reviewed purchase orders and supporting expenditure documentation. Expenses appeared related to FFA activities and were properly supported.

Some variances were noted in the reconciliation between receipts and deposits; however, adjustments appeared to have been made to properly correct any errors that occurred.

Overall, it appears that the FFA Activity Fund sub-accounts were managed properly.

*No Finding*

**We found no evidence that the *GoFundMe* account established for the benefit of the Design and Fabrication class was mismanaged.**

A *GoFundMe* account was established in May 2015 to help fund the Design and Fabrication class at Luther. We reviewed the *GoFundMe* online account, the Activity Fund Custodian Analysis reports, along with bank statements and emails between *GoFundMe* and the District.

According to the *GoFundMe* website, the account raised a total of \$36,900. After fees and charge backs were deducted, a total of \$33,658.01 was credited to the Design and Fabrication Activity Fund Account. It appeared that all *GoFundMe* funds were deposited into the Activity Fund bank account. Accountability for the funds appeared proper.

**Objective III      Personnel Contracts**

***Petition Objective:***    *Review personnel contracts and certifications to determine that personnel requiring certification were certified in the areas in which they were employed, and review the creation of the “Dean of Students” position for possible violation of nepotism statutes and District hiring procedures.*

***Summary of Findings:***

- A Spanish teacher was employed for FY2016 without proper certification, and a Design and Fabrication instructor was employed during FY2015 and approximately three weeks of FY2016 without proper certification, resulting in unallowable compensation of \$32,436.52 and \$50,342.91, respectively.
- The Board’s hiring of Superintendent Buxton’s wife for the position of “Dean of Students” did not appear to violate nepotism laws.
- The position of “Dean of Students” was not properly posted in accordance with District policy.
- The hiring of a medical secretary was not officially approved by the Board.
- Amber Starkey, hired as a medical secretary for FY2016, attended college classes during school hours, and did not appear to fulfill her 12-month contract.

***Finding***

A Spanish teacher was employed for FY2016 without proper certification, and a Design and Fabrication instructor was employed during FY2015 and approximately three weeks of FY2016 without proper certification, resulting in unallowable compensation of \$32,436.52 and \$50,342.91, respectively.

***Teacher Certifications - Spanish Teacher***

A Spanish teacher hired by the District for FY2016 was not properly certified at the effective date of her contract, August 10, 2015. The teacher’s application for employment reflected that certification was “pending”. However, an emergency provisional certificate was not issued until October 1, 2015, after the first day of school.

According to **70 O.S. § 6-101(J)**, a teacher may be hired by a board of education as long as they are actively pursuing certification. The statute states:

A board of education shall have authority to enter into written contracts for the ensuing fiscal year prior to the beginning of the year with persons who are not certified to teach by the State Board of Education as long as the person is *actively in the process of securing certification*. [Emphasis added]

Based on the application, which included a statement that the teacher was pursuing certification, it would have been allowable for the Board to hire the Spanish teacher. However, as further defined in the same statute, when certification was not obtained by the *first day of school* the contract should have been terminated. Title **70 O.S. § 6-101(J)** further states:

The person shall not be allowed to teach in a classroom until the person has met or completed all of the requirements for certification as provided for in Section 6-190 of this title. *If the person has not obtained valid certification by the first day of the ensuing school year, the contract shall be terminated*. [Emphasis added]

Based on this statute, the contract with the Spanish teacher, totaling \$32,436.52, should have been terminated.

The teacher was allowed to teach for approximately six weeks<sup>8</sup> without proper certification in place. These six weeks of her contract pay, totaling \$3,247.67, also appear to be a violation of **70 O.S. § 6-101(B)** which restricts the payment of a teacher who is not properly certified by a board of education.

Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required herein, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.

### **Teacher Certifications – Design and Fabrication Instructor**

During the FY2015 and three weeks of the FY2016 school year, an instructor taught a Design and Fabrication class without possessing a valid teaching certificate.

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<sup>8</sup> August 10, 2015 through October 1, 2015

In the Fall of 2015, a complaint was filed with the Oklahoma State Department of Education (OSDE) concerning the instructor's lack of certification. The OSDE confirmed that the instructor was not properly certified to teach during FY2015. As a result, a deficiency was assigned to Luther schools for hiring a teacher to teach a class in the District without proper credentials.

Although a provisional certificate was issued to the instructor, valid September 1, 2015, through June 30, 2016,<sup>9</sup> as noted above, **70 O.S. § 6-101(J)** prohibits employment without certification. Additionally, **70 O.S. § 6-101(B)** further restricts the payment of a teacher who is not properly certified.

The Design and Fabrication instructor was not certified during FY2015 and for approximately three weeks of FY2016, which appears to have resulted in \$50,342.91 of unallowable compensation.

According to Superintendent Buxton, he directed the instructor to renew his certification but did not follow up that the certification had been renewed.

Of the additional teacher contracts reviewed, we found no evidence that any other teachers were employed without proper certification.

#### **Dean of Students**

#### ***Finding***

**The Board's hiring of Superintendent Buxton's wife for the position of "Dean of Students" did not appear to violate nepotism laws.**

On June 29, 2015, the Board voted 4-1 to hire Superintendent Buxton's spouse, Patti Buxton, as a "Dean of Students - High School" for the FY2016 school year, with an annual salary of \$65,000. Ms. Buxton held a Doctorate's Degree in Education and was certified as a Secondary principal, an Elementary principal, a school counselor, and to work with special-needs students.

Title **70 O.S. § 5-113.1** prohibits the employment of persons related to school board members, but does not appear to pertain to family members of District employees. The statute states in part:

Except as otherwise provided in this section, no person may be employed or put under contract by a school district if that person is related to a member of the board of education of that school district within the second degree of consanguinity or affinity.

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<sup>9</sup> The instructor was not rehired for the FY2017 school year.

The employment of Superintendent Buxton's wife would not appear to be an act of nepotism since no familial relationship existed between the Buxtons and the Board.

Ms. Buxton was employed with the District for six months, resigning her position effective December 31, 2015.

***Finding***

**The position of “Dean of Students” was not properly posted in accordance with District policy.**

Notice of the position of “Dean of Students” was not posted as required by the District's Employment Provisions Policy, which requires that vacant positions be posted.

**POSTING OF VACANCIES**

Notice of each vacant position, including vacancies in promotional positions, shall be posted in each school's secretarial office two (2) weeks prior to advertising the opening.

Any teacher currently employed by the district, who is interested in other positions, shall submit in writing to the superintendent, his or her interest in specified positions.

During the months of June, July, and August, vacancies shall be posted in the superintendent's office, and shall be mailed to any teacher who has provided a stamped, self-addressed envelope for that purpose.

Positions that become vacant or available after the school year begins will be filled at the discretion of the building principal.

According to Superintendent Buxton, he did not post the position because he never considered the Dean of Students position a vacancy, but considered the position as “an immediate answer to an immediate need”. Per Buxton, he needed someone to deal with discipline issues at the high school, and he believed that his spouse was the best person for the job.

In a letter from Superintendent Buxton, responding to concerns of Luther teachers<sup>10</sup>, he presented the following explanation as to why he hired the position without posting:

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<sup>10</sup> Response to a complaint letter from the Professional Oklahoma Educators members from Luther Public Schools.

The second concern is the hiring of Patti Buxton as Dean of Students at the High School. This position was created for a specific purpose as would we choose a consultant to assist with a specific assignment with the school. It is a temporary position and does not afford anything more than an attempt to address disciplinary issues in the High School. I would reflect to a situation back in JFK's Presidency when he appointed his brother as AG. He took a lot of heat from the media, but in the end he simply said that he needed someone he could trust. Even though these are separate and distinctly different scenarios, it does reflect why I asked the Board of Education to approve her position and they did. I never considered this a vacancy or a new position, it was simply an immediate answer to an immediate need. I have attached a copy of her resume to justify her qualifications.

The position of Dean of Students should have been posted as required by District policy.

### Medical Secretary

Citizen petitioners presented allegations that Superintendent Buxton hired a medical secretary who was not required to fulfill her contract and who was paid while attending school.

### *Finding*

**The hiring of a medical secretary was not officially approved by the Board.**

On May 11, 2015, the Board approved the *re-hiring* of FY2016 "non-certified personnel", which included Amber Starkey's employment as a custodian.

**Custodians**  
Joanna Hall  
Denelda Hattenhauer  
Nettie Knight  
Mary Peters  
Staci Pickens  
Thelma Smith  
Maria Soto  
Amber Starkey  
Matthew Starkey

Motion was made by Matt Mohr and second by Aaron Bachhofer to hire non-certified personnel, list attached, for the 2015-16 school year. Aaron Bachhofer yes, Matt Mohr yes, Ray Stanfield yes, Charles DeFuria yes, and Sherri Anderson yes.

However, the employment contract signed for Starkey for FY2016 was in the capacity of "Medical Secretary", not as a custodian.

This contract made and entered into this 1<sup>st</sup> day of July 2015, by and between independent School District I003, Oklahoma County, Luther, OK hereafter referred to as the District, and Amber Starkey, hereafter referred to as the Employee, in the capacity of Medical Secretary, the District hereby employs the above individual to work in the school or schools of the District starting July 1, 2015 at an annual salary of \$28,125.00 through June 30, 2016.

Although Starkey's contract as a medical secretary was signed by two board members, her position was not officially approved by the Board in an open meeting.

*Finding*

**Amber Starkey, hired as a medical secretary for FY2016, attended college classes during school hours, and did not appear to fulfill her 12-month contract.**

During the period that Amber Starkey was employed as a medical secretary, she attended class at an area technology center. For the months of July and August 2015, along with two days in September 2015 and five days in October 2015, Starkey did not work at the school, attending a nurse's aide class instead. Starkey was also reimbursed \$499 for tuition paid for the class.

Starkey represented that she had worked out an alternative schedule with her supervisor to work around the time she was in class. No records could be provided to support that any alternative work schedule was employed.

Starkey also appeared to not work in June 2016, the last month of her contract. Per Starkey, secretaries were not required to work after school closed in May, and since she was a secretary during FY2016 she did not believe she was required to work in June.

Although Starkey did not work the months of July 2015, August 2015, and June 2016, she was paid the full 12-month contract amount of \$28,125.

Objective IV Grant Funds

**Petition Objective:** *Review expenditures for possible misuse of federal, state, and private grant funds, including nearly \$90,000 in questioned costs identified in the FY2014 financial statement audit report.<sup>11</sup>*

**Background**

Through interviews and discussions with citizen petitioners, the only concern presented in relation to grant funds was the questioned costs reported in the FY2014 independent audit report.

The school district's FY2014 independent audit reported that three employee contracts could not be located, resulting in \$88,874.23 of unsupported questioned payroll cost from the "Title 1 – CFDA 84.010" and the "IDEA-B Cluster (Flow through & Preschool) – CFDA 84.027 and 84.173" Federal grant programs.

These contracts included three teachers paid \$53,613.03, \$18,806.07, and \$16,455.13. The teacher contracts could not be provided, but the three teachers were included in an OSDE list of School Personnel Records as certified teachers with the Luther Public School District for the FY2014.

Following is the District's statement of corrective action to the finding.

**STEPS IMPLEMENTED:**

*Contracts for all employees will be monitored with sign sheet upon receipt of contract as well as the return of contract within the opening week of school. The signed sheets will document that both the receipt of the contract was delivered and the appropriate signed contract was returned prior to the run of the initial payroll.*

The District's FY2015 independent auditor addressed the prior-year findings and reported the "Current Status" with no additional concerns noted during the "2014-15 audit" regarding the District's federal programs.

Current Status – This was not noted during the 2014-15 audit.

Neither independent auditor had concerns regarding other conditions involving federal programs or grants.

<sup>11</sup> See FY2014 Findings and Questioned Costs reporting at Exhibit 1.

Objective V

Other Issues

*Summary of Findings:*

- **The Board did not to adhere to the Open Meeting Act. Email was used to discuss District business outside of an official meeting and improper items were addressed under “new business”.**

*Finding*

**The Board did not to adhere to the Open Meeting Act. Email was used to discuss District business outside of an official meeting and improper items were addressed under “new business”.**

*Email Communication*

Superintendent Buxton contacted Board members and polled them for votes on upcoming agenda items in violation of the Open Meeting Act.

Title 25 O.S. § 306 states:

No informal gatherings or any electronic or telephonic communications, except teleconferences as authorized by Section 3 of this act, among a majority of the members of a public body shall be used to decide any action or to take any vote on any matter.

Records show that, on at least two occasions, Superintendent Buxton sent emails to all Board members simultaneously, requesting a decision by the Board outside of a public meeting quorum. One example is shown below.

**From:** Sheldon Buxton [<mailto:sbuxton@lutherlions.org>]  
**Sent:** Thursday, August 25, 2016 9:33 AM  
**To:** Matt Mohr; Sherri Anderson; Ray Stanfield; Charles De Furia; Steve Broudy  
**Subject:** Maintenance Issue

Dear Board:

We have an issue with some AC units in the field house. The estimated cost for repairs is \$3000. Also in the field house is another issue involving some insulation issues that are estimated to be an additional \$825. If I wait until board meeting these issues will not get fixed prior to school opening. What is the pleasure of the board regarding these repairs?

Thanks,  
Sheldon

The Board consists of five members. Anytime that three or more members enter into a discussion regarding District business, a quorum is reached. The Open Meeting Act requires that the public receive advance notice of all board meetings and that all decisions be made in an open meeting by a public vote of the Board.

**New Business**

It appears that the Board potentially violated the Open Meeting Act when discussing and voting on items under “new business.”

During each meeting, the Board has the option to discuss last-minute business that was unknown or could not have been reasonably foreseen prior to the posting of the meeting agenda, or “new business”.

Between 2013 and 2016, the District used “new business” 13 times to discuss items that would appear to be issues that could have reasonably been foreseen and included on the Board’s agenda.

Title **25 O.S. § 311(A)(10)** states in relevant part:

The posting or distribution of a notice of a public meeting as described in paragraph 9 of this subsection shall not preclude a public body from considering at its regularly scheduled meeting any new business. "New business," as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of the posting.

Examples of items discussed by the Board under “new business” included:

- Approval of an extra-duty pay scale,
- Rehiring of a library aide,
- Adoption of graduation policy changes, and
- Hiring of at least four other employees.

The Board should attempt to include any and all items on the posted meeting agendas, complying with the Open Meeting Act in all instances.

**Exhibit 1**

LUTHER SCHOOL DISTRICT NO. 1-3 OKLAHOMA COUNTY, OKLAHOMA SCHEDULE OF FINDINGS AND QUESTIONED COSTS FOR THE YEAR ENDED JUNE 30, 2014	
C. FINDINGS AND QUESTIONED COSTS-MAJOR FEDERAL AWARD PROGRAMS AUDIT	
	Questioned Costs
DEPARTMENT OF EDUCATION	
2014-2 Title I Program – CFDA 84.010, Grant period: Year ended June 30, 2014	
<u>Criteria and Condition:</u> OMB Circular A-87 states that costs "be adequately documented". School personnel were unable to locate two employee contracts chosen at random for our payroll/contract test. The two contracts that could not be located were for two employees paid from the Title I Federal program.	
<u>Context:</u> There was no supporting documentation of the payroll costs charged to the Title I program. Total Title I expenditures were \$184,202.10.	
<u>Cause:</u> The District did not have controls in place to ensure that all supporting documentation for Federal program expenditures was properly kept.	
<u>Effect:</u> \$35,261.20 of costs are questioned as a result of failing to maintain all employment contracts of employees paid from Federal programs.	\$35,261.20
<u>Recommendation:</u> The District will implement procedures that will require all supporting documentation of Federal expenditures be maintained	
2014-3 IDEA-B Cluster (Flow Through & Preschool) - CFDA 84.027 & 84.173, Grant period: Year ended June 30, 2014	
<u>Criteria and Condition:</u> OMB Circular A-87 states that costs "be adequately documented". School personnel were unable to locate one employee contract chosen at random for our payroll/contract test. The contract that could not be located were for an employee paid from the Flow Through & Preschool Federal programs.	
<u>Context:</u> There was no supporting documentation of the payroll costs charged to the Flow Through and Preschool program. Total Flow Through and Preschool expenditures were \$176,203.89.	
<u>Cause:</u> The District did not have controls in place to ensure that all supporting documentation for Federal program expenditures was properly kept.	
<u>Effect:</u> \$53,613.03 of costs are questioned as a result of failing to maintain all employment contracts of employees paid from Federal programs.	<u>\$53,613.03</u>
<u>Recommendation:</u> The District will implement procedures that will require all supporting documentation of Federal expenditures be maintained	
<b>Total</b>	<b><u>\$88,874.23</u></b>

**DISCLAIMER**

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In this report, there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues reviewed by this Office. The State Auditor & Inspector has no jurisdiction, authority, purpose, or intent by the issuance of this report to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law-enforcement, and judicial authorities designated by law.



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