

INVESTIGATIVE REPORT

DOVE SCIENCE ACADEMY - OKC DOVE SCIENCE ELEMENTARY - OKC DISCOVERY SCHOOLS OF TULSA

July 1, 2012 through June 30, 2014



*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

**DOVE SCIENCE ACADEMY – OKC
DOVE SCIENCE ELEMENTARY – OKC
DISCOVERY SCHOOLS OF TULSA**

INVESTIGATIVE AUDIT REPORT

JULY 1, 2012 – JUNE 30, 2014



Report Highlights

This audit was performed in response to a State Department of Education request in accordance with 74 O.S. § 213(C).

WHY WE CONDUCTED THIS AUDIT

The Oklahoma State Auditor and Inspector was requested by the Oklahoma State Department of Education to conduct an audit of the Dove Charter Schools concerning allegations that the non-profit entity that operates the charter schools had managed the school in a manner inconsistent with state law.

OBJECTIVE

Determine if the non-profit entity that formed and operated the Dove Charter Schools, the Sky Foundation, charged the schools rent in excess of the original purchase price of the rental property, and if public funds distributed by the State Board of Education have been commingled with private funds belonging to the non-profit entity.

WHAT WE FOUND

- The Sky Foundation does not operate as a school foundation, but is the managing non-profit for the Dove Charter Schools, one and the same with the Schools. Sky's only income was public funds received through lease agreements with their own Schools. We did not find any evidence of Sky soliciting funds on behalf of the schools or donating funds to the schools. It appears the schools were supporting Sky instead of Sky supporting the schools. (Pg. 9)
- The Dove Science Academy-OKC paid the Sky Foundation approximately \$3,182,000 in lease payments in excess of the original purchase price of their property. With the Sky Foundation and the Schools functioning as one and the same, we could find no legitimate purpose for the continued charging of lease payments above and beyond the purchase price of the facility. (Pg. 4)
- For the two year period July 1, 2012 through June 30, 2014, the Sky Foundation collected \$1,192,442.11 more in lease payments from the Dove Charter Schools than was due on the lease agreements. (Pg. 3)
- The Sky Foundation spent \$175,000 of public funds for sponsorship of an out-of-state event in which no Dove Charter School students attended. This was not a legitimate school purpose, an apparent violation of both the school's charter and Article 10 Section 15 of the Oklahoma Constitution. (Pg. 6)
- Dove Charter Schools redirected funds to the Sky Foundation for the purpose of obtaining loans. (Pg. 7)



Oklahoma State Auditor & Inspector

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March 16, 2016

Joy Hofmeister
State Superintendent of Public Instruction
2500 N. Lincoln Blvd
Oklahoma City, Oklahoma 73105

State Superintendent Hofmeister:

Pursuant to the Oklahoma State Department of Education's request and in accordance with the requirements of **74 O.S. § 213(C)**, we performed an investigative audit of the Dove Charter Schools for the period July 1, 2012 through June 30, 2014. Transmitted herewith is our Investigative Report.

The objectives of our investigation primarily included, but were not limited to, the areas noted in the State Department of Education's request. The accompanying report presents our findings and recommendations as related to those objectives.

Because investigative procedures 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 Dove Charter Schools.

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 services to the taxpayers of Oklahoma is of utmost importance.

This report is addressed to and is for the information and use of the State Department of Education as provided by statute. This report is also 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, appearing to read "Gary A. Jones".

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

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DOVE CHARTER SCHOOL OFFICIALS
(At June 30, 2014)

School Board Members

President
Secretary
Treasurer
Member

Dr. Bilal Erturk
Dr. Serkan Ozturk
Sharon Akdeniz
Dr. Bruce Prescott

Superintendent

Umit Alpaslan

School Treasurer

Jack Jenkins

INTRODUCTION

In a letter dated November 20, 2014, Janet Baressi, former State Superintendent of Public Instruction for the State of Oklahoma, requested the assistance of the Oklahoma State Auditor and Inspector in conducting a special audit of the Dove Science Academy-OKC, the Discovery Schools of Tulsa, and the Dove Science Elementary-OKC.

Per the State Department of Education, the financial information submitted by the schools through the Oklahoma Cost Accounting System indicated that the non-profit entity that formed and operates the charter schools had managed the schools in a manner inconsistent with state law.

The audit request letter indicated possible violations by the managing non-profit entity, including the following:

- The managing non-profit entity charged the schools rent in excess of the original purchase price of the rental property, resulting in a significant waste of public funds and extensive financial gains for the non-profit.
- The managing non-profit commingled public funds distributed by the State Board of Education with private funds belonging to the non-profit, with possible inappropriate expenditures of the commingled funds.

The results of our investigation are documented in the following pages of this report.

ORGANIZATIONAL OVERVIEW

The Sky Foundation, Inc. (Sky) is a non-profit corporation organized and operated exclusively for charitable, educational, scientific, and literary purposes. Sky has developed four charter schools, two schools in Tulsa, the Discovery School of Tulsa and Dove Science Academy - Tulsa, and two schools in Oklahoma City, Dove Science Academy - OKC and Dove Science Elementary - OKC.

All four schools were created under **70 O.S. §§ 3-130, et seq.**, known as the Oklahoma Charter Schools Act (the Act). As required in the Act, both schools have ‘sponsors’. The Tulsa schools are sponsored by Langston University, and both Oklahoma City Schools are sponsored by Oklahoma City Public Schools. For the purpose of our reporting, the four schools will be collectively referred to as the Dove Charter Schools.

The Sky Foundation filed three ‘Trade Name Reports’ with the Oklahoma Secretary of State, which stated they are a corporation ‘doing business as’ Dove Science Academy, Discovery School of Tulsa, and Dove Science Academy – Elementary.

Under the charter contract agreements between the Sky Foundation, the Oklahoma City Public Schools, and Langston University, the Sky Foundation and the Charter Schools are referred to jointly as the “School” with Sky, the Developer, noted as the operator of the schools.

The Sky Foundation utilizes the same tax identification number as all four Dove Charter Schools and reports the financial activity of all Dove Charter Schools as their financial information on their tax returns.

All funds received and deposited into the Sky Foundation bank account for the period July 1, 2012 through June 30, 2014, were public funds, lease payments received from the Dove Charter Schools.

The Sky Foundation appears to be the managing entity of the Dove Charter Schools, operating as one and the same with the schools, solely supported by public funds.

LEASE AGREEMENTS

Background The Oklahoma State Department of Education requested a review of the Dove Charter Schools managing non-profit entity, the Sky Foundation, to determine if Sky was charging the schools rent in excess of the original purchase price of the rental property, possibly resulting in significant waste of public funds and extensive financial gains for Sky.

Finding **For the period July 1, 2012 through June 30, 2014, the Sky Foundation collected \$1,192,442.11 more in lease payments from the Dove Charter Schools than was due on the property leases.**

The Dove Charter Schools operate from four different school campuses, two in Oklahoma City and two in Tulsa. The Sky Foundation owns the Dove Science Academy-OKC property and leases the remaining three school properties from outside vendors. Sky then subleased each of the four properties to the Dove Charter Schools.

School Campus	Location
Discovery School of Tulsa	4821 S 72 nd E Ave, Tulsa
Dove Science Academy – Tulsa	280 S Memorial Dr, Tulsa ¹
Dove Science Elementary – OKC	4901 N Lincoln Blvd., OKC
Dove Science Academy – OKC	919 NW 23 rd St., OKC

We reviewed the lease agreements between Sky and the property landlords, and the sub-leases between Sky and the schools. The leases are summarized below:

School	Monthly Lease Amount Paid by School to Sky	Monthly Lease Amount Paid to Landlord by Sky	Monthly Variance Retained by Sky
Discovery School of Tulsa	\$20,000.00	\$15,000.00	\$5,000.00
Dove Science Academy-Tulsa	\$32,000.00	\$30,000.00	\$2,000.00
Dove Science Elementary-OKC	\$25,000.00	\$10,676.43	\$14,323.57
Dove Science Academy-OKC	\$30,000.00	\$0 ²	\$30,000.00
Monthly Total	\$107,000.00	\$55,676.43	\$51,323.57

¹ Sky purchased the Dove Science Academy-Tulsa location after our audit period.

² Property owned by Sky Foundation.

For the period July 1, 2012 through June 30, 2014, the Dove Charter Schools paid Sky \$2,518,000³ to cover lease payments made by Sky of \$1,325,557.89⁴, leaving an excess collected by Sky for the two year period of \$1,192,442.11.

Since Sky and the Schools are essentially the same entity, the lease agreements are in essence the transfer of funds to themselves, a redirection of funds from school bank accounts to the Sky Foundation's bank account.

Finding

The Dove Science Academy-OKC has paid the Sky Foundation approximately \$3,182,000 over the original purchase price of their property.

The Dove Science Academy-OKC property is owned by the Sky Foundation. Per county records, the building was purchased in July 2001 at a cost of \$628,000.

Monthly lease payments to Sky of \$13,500 began in 2001 increasing to \$30,000 in 2008, and continuing at \$30,000 through June 30, 2014. As of June 30, 2014, Dove Science Academy-OKC had paid the Sky Foundation approximately \$3,810,000 in lease payments, \$3,182,000 over the original purchase price of the property.

With the Sky Foundation and the Schools functioning as one and the same, we could find no legitimate purpose for the continued charging of lease payments above and beyond the purchase price of the facility. School officials provided no explanation⁵ as to the purpose of "paying themselves" through lease transactions or any additional benefit provided the Schools through these arrangements.

SKY FOUNDATION EXPENDITURES

Background

The Oklahoma State Department of Education requested a determination as to whether any excess funds collected by the Sky Foundation, had resulted in a "significant waste of public funds or extensive financial gains for the non-profit".

³ 24 months x \$107,000 = \$2,568,000 - \$50,000 = \$2,518,000. The \$50,000 is one lease payment of \$25,000 in February 2013 not made by Dove OKC-Elementary, and one Dove OKC – Elementary \$25,000 payment due in June 2014 not made until September 2014.

⁴ \$55,676.43 x 12 = \$668,117.16 annually; \$668,117.16 x 2 years = \$1,336,234.32 - \$10,676.43 = \$1,325,557.89; the \$10,676.43 is one lease payment not made in FY 2014.

⁵ Outside of using funds for the repayment of loans which is discussed later in this report.

For the two year period of July 1, 2012 through June 30, 2014, the \$2,518,000 collected in lease payments from the Dove Charter Schools were the only funds deposited into Sky’s bank account. The funds were used for various purposes including, but not limited to, lease payments, sponsorships, loan payments, scholarships, payroll, and construction and maintenance on buildings.

Total withdrawals⁶ from the Sky Foundation bank account for the fiscal years ending June 30, 2013 and 2014 were \$1,072,968.12 and \$1,295,001.21, respectively.

Withdrawals from Sky Foundation Bank Account			
Purpose	FYE June 30, 2013	FYE June 30, 2014	Total
Lease Payments	\$681,321.42	\$670,740.73	\$1,352,062.15
Loan Payments	\$278,144.23	\$264,110.48	\$542,254.71
I-SWEEP Sponsorships	\$0	\$175,000.00	\$175,000.00
Construction/Maintenance	\$64,134.86	\$61,314.70	\$125,449.56
Payroll/Taxes/CPA	\$22,224.01	\$70,124.64	\$92,348.65
College Scholarships	\$19,803.60	\$18,519.13	\$38,322.73
STEM* Expo – Tulsa	\$0	\$24,651.46	\$24,651.46
Miscellaneous	\$7,340.00	\$10,540.07	\$17,880.07
Total	\$1,072,968.12	\$1,295,001.21	\$2,367,969.33

*STEM - Science, Technology, Engineering, Math

CONTRACTS AND LAW

The Oklahoma City Schools charter defined the use of school funds in **Section 12(h)** which stated:

All public funds received by School pursuant to this contract shall be used solely for the operation of the School.

Section 1(j) of the same contracts defined the term “School” as “A term jointly referring to Developer and Charter School”, representing the Schools and Sky Foundation as one and the same.

The Tulsa Schools charter identified The Sky Foundation, Inc. and the “Charter School” as one and the same. **Section III.4** of the Tulsa schools contract stated:

⁶ Checks and electronic withdrawals.

The Charter School shall not apply, hold, credit, transfer, or otherwise make use of funds, assets or resources of the Charter School for any purpose other than operation of the Charter School described in the Charter. The Charter School shall abide by the Oklahoma constitutional bans against the loaning of public property for the credit or benefit of an individual or other entity and against the making of gifts of public property.

Article 10 Section 15 of the Oklahoma Constitution states:

Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

SPONSORSHIPS

Finding

The Sky Foundation spent \$175,000 of public funds for sponsorship of an out-of-state event in which no Dove Charter School students attended. This was not a legitimate school purpose, an apparent violation of both the school’s charter and Article 10 Section 15 of the Oklahoma Constitution.

The Sky Foundation made payments of \$100,000 and \$75,000 to Harmony Public Schools, a charter school in Houston, Texas, for sponsorship of I-SWEEEP competitions. I-SWEEEP is a science fair competition open to high school students worldwide.

A “Sponsorship Application” was completed and signed by the School’s Board President February 8, 2013, with payment of \$100,000 made via wire transfer on July 19, 2013. The competition took place May 8-13, 2013, in Houston, TX. School officials could not identify any Dove students who attended the competition.



Again, a “Sponsorship Application” was completed and signed by the School’s Board President on January 21, 2014. The \$75,000 payment was made via check dated May 20, 2014.

The I-SWEEEP competition took place April 30 – May 4, 2014, in Houston, TX. The Sky Foundation was advertised, as shown, as a

corporate sponsor for the competition. School officials could not identify any Dove students who attended the competition.

The expenditure of \$175,000 of public funds to sponsor an out-of-state competition did not appear to have a legitimate school purpose or benefit the Dove Charter School students of Oklahoma.

LOAN PAYMENTS

Finding

A school district cannot do indirectly that which it is prohibited from doing directly.⁷ Given that the Dove Charter Schools could not borrow money directly, or extend the credit of the state beyond a fiscal year,⁸ they should not have redirected funds to the Sky Foundation for the purpose of obtaining loans.

According to school officials, the Sky Foundation, as a primary function, served as a leasing agent, collecting lease payments from each of the Dove Charter Schools, in order to accumulate lease rental income, and to maintain and report that financial information to facilitate the ability to obtain financing.

During the FYE June 30, 2013 and 2014, Sky made loan payments totaling \$542,254.71 on four outstanding loans. At June 30, 2014, Sky had three outstanding loans totaling \$892,204.81.

Original Date of Loan	Balance as of June 30, 2014	School
July 2001*	\$528,946.61	Dove Science Academy - OKC
September 2008	\$320,774.39	Dove Science Elementary-OKC
August 2009	\$42,483.81	Discovery Schools of Tulsa
Total	\$892,204.81	

*Loan has been restructured and/or refinanced since 2001.

School funds should not have been redirected to Sky for the purpose of obtaining financing.

Prior to August 2015 statutes were silent as to the borrowing of funds for charter schools. Effective August 2015, **Title 70 O.S. § 3-142(D)** now provides:

⁷This concept has been addressed in 2007 OK AG 42 and 1984 OK 12.

⁸ As defined in Article 10 Section 26 of the Oklahoma Constitution.

If otherwise allowed by law, the governing body of a charter school may enter into private contracts for the purposes of borrowing money from lenders. If the governing body of the charter school borrows money, the charter school shall be solely responsible for repaying the debt, and the state or the sponsor shall not in any way be responsible or obligated to repay the debt.

COMMINGLING OF FUNDS

The Oklahoma State Department of Education requested a determination as to whether the managing non-profit, the Sky Foundation, comingled public funds distributed by the State Board of Education with private funds belonging to the non-profit.

The Charter between the Oklahoma City Public Schools and the Sky Foundation requires that public funds received by Sky be segregated from and accounted for separate and apart from other funds received.

The \$2,518,000 collected in lease payments from the Dove Charter Schools were the only funds deposited into Sky's bank account for the two year period of July 1, 2012 through June 30, 2014.

There was no commingling of funds since public funds were the only source of revenue for the Sky Foundation.

THE FOUNDATION

Background

Foundations are typically created to financially support an organization, to provide fundraising or other sustenance for the organization, or for the cause in which the organization is related.

Title 70 O.S. § 5-145 'Potential Benefits of Local Foundations' encourages district school boards of education to explore the potential benefits of local foundations as supplements to public funding.

Subsection C(1) of the statute defines a "local foundation", as any company, trust, corporation, or association that solicits money or property in the name of any public school district, public school, or public school organization.

Finding

The Sky Foundation does not operate as a school foundation, but is the managing non-profit for the Dove Charter Schools, one and the same with the Schools. Sky's only income is public funds received through lease agreements with their own Schools. We did not find any evidence of Sky soliciting funds on behalf of the schools or donating funds to the schools. It appears the schools were supporting Sky instead of Sky supporting the schools.

A suitable guide for all school foundations, including charter school foundations can be found in **70 O.S. 5-145(J)** which states,

A public school district shall not directly or indirectly transfer any funds to any local foundation or render services or provide anything of value to any local foundation without receiving documented adequate payment or reimbursement therefor according to written contract. Nothing herein shall be construed as prohibiting payment by the district of claims for expenses of fund-raising for the benefit of the district if such fund-raising activities are approved in advance by the district board of education and made a part of the minutes of the meeting of the board. Nothing herein shall be construed as prohibiting the district from providing space in a school district building or on school district property to the foundation for office or business purposes in exchange for the financial benefits provided to the district by the foundation if approved by the district board of education and made a part of the minutes of the meeting of the board.

We acknowledge the Dove Charter Schools and the Sky Foundation, except as provided for in the Oklahoma Charter Schools Act, are exempt from all statutes and rules relating to schools, boards of education, and school districts.⁹ However, we recommend the Sky Foundation and the school board evaluate the role of the current foundation; considering their role as the managing agent of the School, fully funded by the schools, versus the role of a foundation, working for the financial benefit for the schools, in accordance with Oklahoma Statutes.

⁹ Title 70 O.S. § 3-136(5)

SPONSOR OVERSIGHT

Background

The Dove Charter Schools are sponsored by the Oklahoma City Public Schools¹⁰ and Langston University¹¹ both approved sponsors under **70 O.S. § 3-132**.

Title 70 O.S. § 3-135(A) requires the sponsor of a charter school to enter into a written contract with the governing body of the charter school, and to incorporate the provisions of the charter of the charter school, and all other provisions defined in statute. *The Dove Charter Schools have entered in to approved charters with their sponsors.*

Finding

During the course of our investigation it was noted that the sponsors of the Dove Charter Schools did not appear to be providing adequate oversight of the charter schools as required by law.

Some of the powers and duties required by sponsors under **70 O.S. § 3-134(I)** include:

- Provide oversight of the operations of charter schools in the state through annual performance reviews of charter schools and reauthorization of charter schools for which it is a sponsor.
- Monitor, in accordance with charter contract terms, the performance and legal compliance of charter schools.

Title 70 O.S. 3-134(K) states, “Sponsors shall be required to develop and maintain chartering policies and practices consistent with recognized principles and standards for quality charter authorizing as established by the State Department of Education in all major areas of authorizing responsibility, including organizational capacity and infrastructure, soliciting and evaluating charter applications, performance contracting, ongoing charter school oversight and evaluation and charter renewal decision-making.”

Sponsors could not provide documentation of compliance with these required monitoring practices. The Oklahoma City Public Schools recently hired a Charter School Instruction Leadership Director to assist in their charter school monitoring process. Both sponsors should consider

¹⁰ Dove Science Academy-OKC; Dove Science Elementary-OKC

¹¹ Discovery Schools-Tulsa

developing and maintaining monitoring systems that will aid them in accomplishing their statutorily required duties.

OTHER ISSUES

Issue 1

Two of the Dove Charter School buildings are owned in the name of the Sky Foundation, the Dove Science Academy-OKC located at 919 NW 23rd St in Oklahoma City and the Dove Science Academy-Tulsa located at 280 S Memorial Dr in Tulsa.¹²

Under statute, upon termination of a charter school, the real or personal property purchased with public funds will be retained by the school's sponsor.

Title 70 O.S. § 3-136(F) provides in part:

The charter of a charter school shall include a provision specifying the method or methods to be employed for disposing of real and personal property acquired by the charter school upon expiration or termination of the charter or failure of the charter school to continue operations. Except as otherwise provided, any real or personal property purchased with state or local funds shall be retained by the sponsoring school district.

We suggest management evaluate the legal implications of publically owned school properties being held in the name of the Sky Foundation.

Issue 2

During the course of our investigation we noted a transaction involving the purchase and sale of a building by the Sky Foundation that took place outside of our audit period. We believe the material nature of the transaction could possibly warrant further investigation as to the involvement of public funds.

A building at 4444 N Classen Boulevard in Oklahoma City was purchased in May 2008 by the Sky Foundation for \$780,000. The building was sold in August 2010 for \$1,025,000, a profit of \$245,000. We believe the funds used to purchase this building and the profit received in the sale of the building should be satisfactorily accounted for.

¹² Purchased March 2015, outside of our audit period.

DISCLAIMER

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 and 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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