Utah State Board of Education

Limited Review
For the Year Ended June 30, 2023

Report No. 23-02

Office of the
State Auditor

Audit Leadership:
John Dougall, State Auditor
Doug Seager, CPA, Audit Director
Jordan Kattelman, CPA, Audit Supervisor
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**Entity’s Response**
August 16, 2023

To the Members of the Utah State Board of Education and Audit Committee and Sydnee Dickson, State Superintendent of Public Instruction

We have performed a limited review of the Special Needs Opportunity Scholarship (SNOS) and Carson Smith Scholarship (CSS) programs. This review was conducted in accordance with Utah Code, Section 67-1-3(21), Section 53E-7-402, and Section 53-F-4-302. The procedures performed are detailed below:

- **Special Needs Opportunity Scholarship Program**
  - We reviewed the SNOS Granting Organization’s (SGO) compliance with statutory expense limitations and scholarship disbursement requirements.
  - We reviewed the SGO’s eligibility determination for a selection of students.
  - We reviewed the SGO’s scholarship award amount determination for a selection of students.
  - We reviewed the Utah State Board of Education’s (USBE) determination of schools eligible to enroll SNOS students for a selection of schools.

- **Carson Smith Scholarship Program**
  - We reviewed USBE’s eligibility determination for a selection of CSS students.
  - We reviewed USBE’s scholarship award amount determination for a selection of CSS students.
  - We reviewed USBE’s determination of schools eligible to enroll CSS students for a selection of schools.

These procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, the objectives of which would be the expression of an opinion on USBE’s internal control. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our recommendations resulting from the procedures are found within this report. By its nature, this report focuses on exceptions, weaknesses, or problems. This focus should not be understood to mean there are not also various strengths and accomplishments.
This report is a matter of public record and its distribution is not limited. We appreciate the courtesy and assistance extended to us by the SGO’s and USBE’s personnel during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact me.

Sincerely,

[Signature]

Doug Seager  
Audit Director  
801-808-0507  
dseager@utah.gov
Findings and Recommendations

Finding 1. The SNOS Granting Organization Awarded Scholarships to Home-School Students Who May Be Ineligible but Had Reasonable Controls Over the Expenditures by Those Students

Legislative sponsors indicated that their intent was to allow home-school students to participate in the SNOS program. In line with that intent, state statute’s definition of “eligible student” appears broad enough to include home-school students. But state statute also notes that “a home school is not eligible to enroll scholarship students.” Statute does not define the term “home school,” nor does statute clarify what it means to “enroll.”

Similarly, statute’s definition of “scholarship expense” may cast doubt on whether home-school students are proper recipients of SNOS scholarships. Statute appears to allow for various home-schooling expenses, such as “tutoring services” and “educational software and applications.” But a “scholarship expense” must relate to “goods or a service that a qualifying school provides or facilitates.” State statute defines a “qualifying school” as a private school that meets certain requirements. Thus, one potential interpretation of the statute would limit permissible scholarship expenses to costs incurred by students for goods or services at a qualifying school. This interpretation would appear to exclude home-school students, since they do not attend a qualifying school. On the other hand, it may be possible to read the “qualifying school” limitation as only applying to and restricting “a service” and not “goods.” This interpretation would appear to allow SNOS scholarships to be used by home-school students for goods that are allowed as scholarship expenses, even though those students do not attend a qualifying school.

Relying on verbal indications of legislative intent, the SGO awarded scholarships to home-school students. Table 1 shows these scholarship awards compared to the total scholarships awarded. Since the SGO began awarding scholarships, approximately one quarter of the scholarships have been awarded to home-school students.

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1 UCA 53E-7-401(1)
2 UCA 53E-7-408(3)
3 UCA 53E-7-401(11)
4 UCA 53E-7-401(11)(c)
5 UCA 53E-7-401(11)(f)
6 UCA 53E-7-401(11)
7 UCA 53E-7-401(8)
If statute allows home-school students to receive these scholarships, it appeared that the SGO had suitable controls in place to ensure funds would be spent on allowed educational purposes. The SGO required parents to submit documentation of incurred expenditures, which the SGO reviewed and approved before disbursing funds.

The SGO should work with the legislature to clarify statute to remedy this ambiguity and clarify the legislative intent.

**Recommendations**

We recommend the SGO work with the legislature to clarify statute regarding the eligibility of home-school students to participate in this program and which expenses are allowable to those students.

**Finding 2. Two Sampled Scholarships Exceeded Amount Allowed by Statute**

The SGO awarded scholarships above the amount allowed by statute.\(^8\) Scholarship amounts are determined based on family income, household size, federal poverty levels, and Individualized Education Program status.\(^9\) We reviewed 22 scholarships awarded by the SGO during school year 2022-2023 (approximately 10% of the total scholarships awarded) to ensure the SGO properly calculated the scholarship amounts in accordance with statute. The SGO had incorrectly calculated the scholarship amounts for two scholarships (9.1% of the sample).

In aggregate, the SGO awarded students $4,038 more than what statute allowed. Each of these students was eligible for $8,076 but were improperly awarded $10,095. This amount constituted 2.5% of the total scholarship amount of our sample.

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\(^8\) UCA 53E-7-402(3)
\(^9\) Under current statute, Individualized Education Program status is no longer considered.
Recommendations

We recommend the USBE ensures the SGO awards scholarships in accordance with statute.

We recommend the SGO ensures scholarship award amounts are in accordance with statute.

Finding 3. The SGO Did Not Comply with Statutory Expense Limitations During the First 18 Months of Operation

During the first 18 months of operations, the SGO did not comply with statutory expense restrictions. SNOS is funded by tax deductible donations, and statute establishes restrictions on the use of these funds:\(^{10}\)

- No less than 92% of donation revenue must be spent on scholarships
- No more than 5% of donation revenue can be spent on program administration
- No more than 3% of donation revenue can be spent on marketing and fundraising

Table 2 lists the SGO’s expenditures by category compared to statutory restrictions.

<table>
<thead>
<tr>
<th>Expenditure Category</th>
<th>Required Amount</th>
<th>Required (%)</th>
<th>Actual Amount</th>
<th>Actual (%)</th>
<th>Amount Noncompliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scholarships</td>
<td>$2,795,265</td>
<td>92%</td>
<td>$469,028</td>
<td>15.5%</td>
<td>$0(^{11})</td>
</tr>
<tr>
<td>Administration</td>
<td>$151,917</td>
<td>5%</td>
<td>$227,232</td>
<td>7.5%</td>
<td>($75,315)</td>
</tr>
<tr>
<td>Marketing</td>
<td>$91,150</td>
<td>3%</td>
<td>$128,568</td>
<td>4.2%</td>
<td>($37,418)</td>
</tr>
<tr>
<td>Rebated to State</td>
<td>N/A</td>
<td>N/A</td>
<td>$1,316,758</td>
<td>43.3%</td>
<td>N/A</td>
</tr>
<tr>
<td>Retained for Future Use</td>
<td>N/A</td>
<td>N/A</td>
<td>$896,746</td>
<td>29.5%</td>
<td>N/A</td>
</tr>
</tbody>
</table>

\(^{10}\) UCA 53E-7-405(3)(f)

\(^{11}\) As shown, the SGO overspent on administrative and marketing expenses. Although, the SGO did not issue at least 92% of donations as scholarships, the SGO otherwise sufficiently complied with statute by rebating unused funds to the State and retaining funds for future authorized use.

\(^{12}\) UCA 53E-7-405(3)(g).
Based on unaudited financial statements for fiscal year 2023, it appears that the SGO met the statutory restrictions during the fiscal year. See Table 3. Audited financial data was not yet available at the time of our audit.

Table 3. Expenditures July 1, 2022 – June 30, 2023 (Donations for the period totaled $3,953,282)

<table>
<thead>
<tr>
<th>Expenditure Category</th>
<th>Required Amount</th>
<th>Required (%)</th>
<th>Actual Amount</th>
<th>Actual (%)</th>
<th>Amount Noncompliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carryover</td>
<td>N/A</td>
<td>N/A</td>
<td>$896,746</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Scholarships</td>
<td>$3,637,019</td>
<td>92%</td>
<td>$3,956,516</td>
<td>100.0%</td>
<td>$0</td>
</tr>
<tr>
<td>Administration</td>
<td>$197,664</td>
<td>5%</td>
<td>$168,758</td>
<td>4.3%</td>
<td>$0</td>
</tr>
<tr>
<td>Marketing</td>
<td>$118,598</td>
<td>3%</td>
<td>$118,545</td>
<td>3.0%</td>
<td>$0</td>
</tr>
<tr>
<td>Rebated to State</td>
<td>N/A</td>
<td>N/A</td>
<td>$0</td>
<td>0%</td>
<td>N/A</td>
</tr>
<tr>
<td>Retained for Future Use</td>
<td>N/A</td>
<td>N/A</td>
<td>$606,209</td>
<td>15.3%</td>
<td>$0</td>
</tr>
</tbody>
</table>

Unaudited

Recommendations

We recommend the SGO comply with statutory expenditure limits.

We recommend the USBE ensures the SGO complies with statutory scholarship issuance requirements and expenditure limits.

Finding 4. USBE Initially Approved an Ineligible School to Enroll SNOS Students but Then Withdrew Approval

USBE approved an ineligible private school applicant to enroll SNOS students. Statute states that “[USBE] shall approve a private school’s application to enroll scholarship students, if the private school meets the eligibility requirements.”13 The ineligible applicant appeared to intend to act as a middleman to allow unapproved schools to enroll scholarship students using the middleman’s approval. The applicant did not meet the criteria identified in Table 4.

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13 UCA 53E-7-408
Table 4. Certain Criteria for a Private School to be Eligible to Enroll SNOS Students

<table>
<thead>
<tr>
<th>Statutory Reference</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>UCA 53E-7-408 (1)(a)</td>
<td>Physical location in Utah where scholarship students attend classes and have direct contact with school’s teachers</td>
</tr>
<tr>
<td>UCA 53E-7-408 (1)(b)</td>
<td>Contract with CPA to conduct audit or agreed upon procedures</td>
</tr>
<tr>
<td>UCA 53E-7-408 (1)(d)</td>
<td>Meet state and local health and safety laws and codes</td>
</tr>
<tr>
<td>UCA 53E-7-408 (1)(g)</td>
<td>Employ teachers with appropriate experience and credentials</td>
</tr>
</tbody>
</table>

The applicant provided documentation demonstrating compliance with these criteria, but the documentation provided, such as audit reports or safety reports, applied to other institutions, not the applicant in question. USBE personnel assumed that these institutions were related to the applicant and approved the application. Eventually USBE became aware of the situation and revoked the applicant’s approval. Before the revocation, only one student had been awarded a scholarship to attend an ineligible school through the applicant. The student was eligible for a $10,095 scholarship, but only $900 was actually paid. Because the applicant’s supporting documentation represented varying institutions, USBE should have identified the issues and exercised greater scrutiny.

Recommendations

We recommend the USBE:
- Ensures that all approved schools meet eligibility requirements.
- Exercises greater scrutiny to ensure application documentation is sufficient.

Finding 5. USBE Does Not Ensure Schools Approved to Enroll SNOS Students Maintain Eligibility After Initial Approval

USBE does not perform procedures to ensure that private schools maintain eligibility to enroll SNOS students after approving initial applications. Statute requires that USBE “approve a private school’s application to enroll scholarship students, if the private school meets the eligibility requirements.”14 If changes in ownership of the school occur, statute requires that the school “demonstrate that [it] continues to meet the eligibility requirements.”15 While statute does not explicitly outline procedures for monitoring continued eligibility, clearly the legislative intent is that schools must maintain eligibility. USBE should institute a periodic review or other procedures to ensure that eligible

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14 UCA 53E-7-408(6)(a)
15 UCA 53E-7-408(7)(b)
schools maintain eligibility. Failing to do so could result in previously eligible schools becoming ineligible but still receiving scholarship funds.

**Recommendation**

We recommend the USBE establishes procedures to ensure eligible schools maintain eligibility after their initial application.
August 14, 2023

Doug Seager, Audit Director
Office of the State Auditor
East Office Building, Suite E310
Utah State Capitol Complex
Salt Lake City, UT 84114-310

Mr. Seager:

We appreciate the opportunity to respond to Report 23-02, *Limited Review of the Special Needs Opportunity Scholarship and Carson Smith Scholarship programs For the Year Ended June 30, 2023*. The Utah State Board of Education (USBE) appreciates the recommendations as opportunities for improvement that will benefit the students and citizens of the State of Utah.

The report includes three findings specific to the Special Needs Opportunity Scholarship Granting Organization (SNOS Granting Organization or SGO) and two findings specific to the USBE. The USBE coordinated with the SGO to obtain their responses, which are incorporated in this document with the response from the USBE.

*SGO Response: Findings 1-3 (see pages 3-5)*

**USBE Response**

**Finding 4: Initial Approval of Ineligible School**

We appreciate the recognition in the report that the USBE identified this concern and resolved it prior to this audit. We concur that application documentation submitted must be sufficient to ensure that the USBE will only approve schools that meet eligibility requirements.

The USBE has developed a standard operating procedure (SOP) to describe the private school application process. The SOP describes how we have implemented a two-level review of private school application documents. The first level is a review by the program compliance manager and the second level is a review of the documents by his supervisor.
The SOP also outlines that after a private school passes the document review, the program compliance manager now makes a site visit to ensure the private school is an actual school with a facility and faculty and students.

**Finding 5: Lack of Policy to Consider On-going Eligibility of Schools**

The USBE recognizes the need to monitor the private schools for continued eligibility; and is also cognizant—as has been identified in prior audits—that additional monitoring requires resources that come with a cost.

Currently all private schools eligible for the Carson Smith Scholarship (CSS) are monitored for compliance and continued eligibility every three years. When Special Needs Opportunity Scholarship (SNOpS)-eligible schools are also CSS-eligible schools, eligibility for both programs will be monitored for eligibility during the three-year rotation already scheduled. Any SNOpS-eligible schools which are not also CSS-eligible schools, will be added into the three-year rotation to ensure every private school which receives scholarship funds from either program will be monitored for compliance and continued eligibility. The USBE will develop an SOP to describe the three-year compliance and continued eligible monitoring process that incorporates both programs.

With appreciation,

Sydnee Dickson, Ed.D.
State Superintendent of Public Instruction
Utah State Board of Education

Cc:  Jim Moss, Utah State Board of Education (USBE), Chair
     Molly Hart, USBE, Vice Chair/Audit Committee Chair
     Scott Jones, USBE, Deputy Superintendent of Operations
     Leah Voorhies, USBE, Assistant Superintendent of Student Support
     Debbie Davis, USBE, Chief Audit Executive
Response to the Office of the State Auditor regarding the Special Needs Opportunity Scholarship (SNOS) program audit August 8, 2023

Children First Education Fund (CFEF) is honored to be the administrator of the Special Needs Opportunity Scholarship (SNOS) program. We are grateful for our partnership with the Utah State Board of Education (USBE) in this process. We are grateful to the Office of the State Auditor (OSA) for their thoughtful and extensive audit of the SNOS program. The findings outlined in their audit report are appreciated and have highlighted areas that CFEF can and will develop policies and procedures to correct and ensure full compliance with the statutes governing the SNOS program. We look forward to continued success in awarding scholarships to children with disabilities and working in partnership with USBE in this great work.

Below are responses to the findings related to the SNOS program:

Finding 1
CFEF acting in good faith as the scholarship granting organization (SGO) and in collaboration with the sponsors of the legislation governing the SNOS program and with input from the Office of the Attorney General did grant scholarships to homeschooled students.

We accept the OSA’s recommendation to work with the legislature to clarify the statute regarding the eligibility of homeschooled students.

Finding 2
In regards to the two scholarships that exceeded the allowable amount, one of the scholarships was awarded in the previous year, and based upon the family’s income and size for that year compared to the Federal Poverty Level criteria, the higher award was justified. As the student rolled over to the subsequent year, the Federal Poverty Level criteria adjusted, and given the family's financial situation, the family should have received the lower amount. This information was reported to the OSA upon discovery.

The second award was a clerical error in reviewing the pay stubs from the family. The pay stubs reported weekly salary, and the clerk thought that the stubs were bi-monthly. This error resulted in the higher amount being awarded.

In discovering these discrepancies, we have instituted new policies requiring families to update their financial information and family size annually, so that it can be verified by the current Federal Poverty Level criteria. We will also require families to indicate their adjusted gross income and verify this through their 1040 tax statement. Both these adjustments will be enforced through our newly implemented CRM. This will ensure accuracy and reduce human error.
Finding 3
In regards to the requirement to be complicit with the statutory expense limitations, the OSA used CFEF’s audited financial statements to make their determination. As CFEF reviewed the information in their audited financial statements and compared these statements with the actual financial statements from the SGO’s accountant, discrepancies were discovered in what was reported by the independent auditor.

The attached report highlights the actual income and expenditures as shown in the unaudited financial statements from June 30, 2021 and June 30, 2022, as well as the combined 18-months covered by the audited financials. While this report shows that CFEF was still out of compliance in the amount of $18,932, this is much less than the amount indicated in the audited financial statement.

CFEF takes seriously our obligation to remain within the statutory expense limitations, and our need to accurately report our financial accounting. Our recently concluded fiscal year was in line with these limitations as reported by the OSA, and we will ensure continued compliance with this requirement. We have already taken corrective action to ensure our audited financial statements reflect the correct information moving forward, and monthly financial reporting to USBE will continue to serve as a checkpoint in this regard.
<table>
<thead>
<tr>
<th>Allowed</th>
<th>Donations</th>
<th>Document</th>
<th>Page</th>
<th>Column</th>
<th>Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin</td>
<td>5%</td>
<td>2021 143,037</td>
<td>6/30/2021 Statements</td>
<td>4/</td>
<td>Actual</td>
</tr>
<tr>
<td>Marketing</td>
<td>3%</td>
<td>2022 2,895,294</td>
<td>6/30/2022 Statements</td>
<td>5/</td>
<td>Scholarships</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2021 Allowed</th>
<th>Actual</th>
<th>Unallowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin</td>
<td>7,152</td>
<td>11,958 (4,806)</td>
</tr>
<tr>
<td>Marketing</td>
<td>4,291</td>
<td>17,292 (13,001)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2022 Allowed</th>
<th>Actual</th>
<th>Unallowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin</td>
<td>144,765</td>
<td>174,328 (29,563)</td>
</tr>
<tr>
<td>Marketing</td>
<td>86,859</td>
<td>58,420</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Administration</th>
<th>Document</th>
<th>Page</th>
<th>Column</th>
<th>Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021 11,958</td>
<td>6/30/2021 Statements</td>
<td>4/</td>
<td>Actual</td>
<td>See classification below</td>
</tr>
<tr>
<td>2022 174,328</td>
<td>6/30/2022 Statements</td>
<td>5/</td>
<td>Administration</td>
<td>Total Operating Expenses</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Marketing</th>
<th>Document</th>
<th>Page</th>
<th>Column</th>
<th>Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021 17,292</td>
<td>6/30/2021 Statements</td>
<td>4/</td>
<td>Actual</td>
<td>See classification below</td>
</tr>
<tr>
<td>2022 58,420</td>
<td>6/30/2022 Statements</td>
<td>5/</td>
<td>Marketing</td>
<td>Total Operating Expenses</td>
</tr>
</tbody>
</table>

**2021 Expense Classification**

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Classification</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>8038</td>
<td>Advertising</td>
<td>12,916.50</td>
<td>Marketing</td>
<td>Listed as marketing in 2022 statements</td>
</tr>
<tr>
<td>8042</td>
<td>Bank Fees</td>
<td>68.94</td>
<td>Administration</td>
<td>Listed as administration in 2022 statements</td>
</tr>
<tr>
<td>8080</td>
<td>Office Expense</td>
<td>3,610.13</td>
<td>Administration</td>
<td>Listed as administration in 2022 statements</td>
</tr>
<tr>
<td>8081</td>
<td>Computer Equipment</td>
<td>1,499.03</td>
<td>Administration</td>
<td>Listed as administration in 2022 statements</td>
</tr>
<tr>
<td>8094</td>
<td>Salaries and Wages</td>
<td>6,563.41</td>
<td>Administration</td>
<td>CFEF indicated that salaries and wages should be split between administration (60%) and marketing (40%)</td>
</tr>
<tr>
<td>8094</td>
<td>Salaries and Wages</td>
<td>4,375.60</td>
<td>Marketing</td>
<td>CFEF indicated that salaries and wages should be split between administration (60%) and marketing (40%)</td>
</tr>
<tr>
<td>8107</td>
<td>Utilities</td>
<td>216.82</td>
<td>Administration</td>
<td>Listed as administration in 2022 statements</td>
</tr>
</tbody>
</table>