



OKLAHOMA

STATE DEPARTMENT *of* EDUCATION

INVESTIGATIVE REPORT OF EPIC CHARTER SCHOOLS

JUNE 2022



JOY HOFMEISTER
 STATE SUPERINTENDENT *of* PUBLIC INSTRUCTION
 OKLAHOMA STATE DEPARTMENT *of* EDUCATION

Dr. Kathren Stehno
 PO Box 6881
 Moore, OK 73153
 katstehno@gmail.com

Epic Charter Schools
 c/o Bart Banfield, Superintendent
 1900 NW Expressway, Floor R3
 Oklahoma City, OK 73118
 Bart.banfield@epiccharterschools.org

Dear Dr. Stehno and Mr. Banfield,

Presented herein and pursuant to 70 O.S. § 3-104.3 and Oklahoma Administrative Code ("OAC") 210:35-3-201, is the Oklahoma State Department of Education (the "OSDE") investigative report of Community Strategies and Epic, relating to the allegations in the complaint (the "Complaint") filed by Dr. Kathren Stehno with the OSDE on December 1, 2021. As set forth in the report, there are a number of corrective actions that must be taken by Community Strategies and Epic. Some of these actions are specific and require immediate action to comply with applicable state and federal laws, and others are matters left to the judgment of Epic and Community Strategies. Based on the findings contained herein, the OSDE recommends that Epic Charter Schools be placed on probation for the 2022-23 school year. As such, the OSDE will be recommending the State Board of Education adjust Epic's accreditation status to "Accredited with Probation" at its July 28, 2022, meeting. This meeting is scheduled to commence at 9:30 a.m. and will be held at the Oliver Hodge Building, State Board Room, 2500 North Lincoln Boulevard, 1st Floor, Oklahoma City, OK 73105. Furthermore, as a result of the findings relating to a misappropriation of funds, the OSDE is recommending that the State Board consider further action, including but not limited to possibly sanctioning Epic's superintendent.

This report should not be interpreted to address Community Strategies and Epic's compliance with any other regulatory provision or to address any issues other than those addressed in this report. This report sets forth the OSDE's determination in an individual case. Please be advised that neither Epic nor Community Strategies may harass, coerce, intimidate, discriminate against or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by the OSDE or files a complaint, testifies, assists or participates in a proceeding under a law enforced by the OSDE. If this happens, the individual may file a retaliation complaint with the OSDE and other appropriate authorities.

Under the Oklahoma Open Records Act, it may be necessary to release this document and related correspondence and records upon request. If the OSDE receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Sincerely,

A handwritten signature in blue ink that reads "Joy Hofmeister".

Joy Hofmeister
 State Superintendent of Public Instruction

2500 NORTH LINCOLN BOULEVARD, OKLAHOMA CITY, OK 73105-4599
 PHONE: (405) 521-3301 • FAX: (405) 521-6205 • SDE.OK.GOV • JOY.HOFMEISTER@SDE.OK.GOV



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EXECUTIVE SUMMARY

Pursuant to state and federal law, the Oklahoma State Department of Education (the “OSDE”) conducted a review of a [complaint](#) (the “Complaint”) submitted by Dr. Kathren Stehno on December 1, 2021. Dr. Stehno is a former member of Community Strategies Inc., the governing board of education for Epic One-on-One (“One-on-One”) and Epic Blended (“Blended”) Charter Schools (collectively, One-on-One and Blended may be referred to as “Epic”), and the Complaint concerns matters that arose during her service to Epic. Community Strategies is hereinafter referred to as the “board.” More specifically, the Complaint sets forth allegations surrounding Epic’s governance and operations, student enrollment and attendance, and payment of compensation to employees.

Presented herein is the report of the OSDE’s review and conclusions regarding the allegations in the Complaint. The goal of the OSDE is to promote accountability, fiscal integrity and transparency in its work and oversight of accredited Oklahoma schools. We wish to take this opportunity to express our appreciation for the cooperation and expertise lent to our office by the many agencies and individuals who assisted in this investigation. This includes the Complainant, all current Epic board members, former Epic board members, current and former Epic employees and the sponsors of Epic One-on-One and Epic Blended (the Statewide Virtual Charter School Board and Rose State College).

Further, the OSDE extends its gratitude to the Oklahoma State Legislature for additional funding to ensure the OSDE has the resources and capacity to complete its oversight responsibilities.



KEY FINDINGS

Chapter	Key Findings
<p>Governance (Chapter 1)</p>	<p>Education Board Partners (EBP) Contract and Performance</p> <ul style="list-style-type: none"> • The EBP contract was properly approved by the Community Strategies board on February 25, 2021, and the funds were properly encumbered; • There is no evidence to demonstrate that Community Strategies solicited bids. According to the board’s “Management and Accounting of Funds” policy approved on December 7, 2020, Community Strategies was not required to solicit competitive bids for any purchase, regardless of expenditure amount. Note: Subsequent revisions to this policy do require solicitation of competitive bids so that the school obtains the lowest and best price for services; • The contract appears to violate the provisions of Article 10, Section 26 of the Oklahoma Constitution prohibiting a public body from expending funds allocated for one year in a subsequent and different year. The contract approved expenditures of \$75,000 in fiscal year 2020-21 and \$50,000 in fiscal year 2021-22; • EBP Contract Performance <ul style="list-style-type: none"> ○ To date, EBP’s recruitment efforts have led to nine board member appointments; ○ Community Strategies and EBP’s objective to transition the governing board from one comprised of “friends and family” to a board of, diverse and “independent” members has not been reached yet. The board has a diverse mix of people in terms of race, ethnicity and other characteristics. Its membership, however, is highly connected by personal and professional relationships. This “friends” connection resulted from EBP’s initial board member recruitment process. Its CEO alone chose a small group of individuals to recommend potential candidates. Two of these individuals, friends prior to working with EBP, then became officers of the Community Strategies board. Current board members were recommended by other current board members; ○ Sufficient evidence exists to show that EBP may not have disclosed relevant information about board candidates to all members of the Community Strategies board for their consideration prior to voting on those nominations; and ○ Neither Oklahoma law nor the EBP contract expressly requires background checks to be conducted for members of a public school board of education. However, following the installment of a new slate of board members on May 26, 2021, Community Strategies adopted policies and practices to require each board member to pass a background check prior to being appointed and every four years thereafter. Despite adopting the policy in December 2021, no background checks on board members have been performed;



**Governance
(Chapter 1)**

Violations of Open Meeting Act (OMA)

- There is insufficient evidence to substantiate the allegation that Community Strategies discussed topics in executive session that were not listed on the agenda. Community Strategies agendas are often too vague to know what identified items pertain to, and current board members denied the allegations in interviews;
- From June 2021 to May 2022, six Community Strategies meeting agendas were noncompliant with the Open Meeting Act (OMA). Consistently, language on agendas relating to proposed executive sessions was overly vague;
- On May 11, 2022, the Community Strategies board was noncompliant with the OMA by failing to post its agenda at least 24 hours in advance. According to those interviewed, there were two agendas for this meeting. One agenda was posted at least 24 hours before the meeting (in compliance with statutory requirements) and contained an executive session to discuss a specific employee or position. However, the agenda was changed less than 24 hours before the meeting to noncompliant agenda language that failed to name an individual or specific position. The noncompliant agenda was then posted to the website in place of the compliant agenda. This action violated the Open Meeting Act and came shortly after the OSDE had provided notice of noncompliance on the same language for an earlier board meeting agenda;
- There is insufficient evidence to substantiate the allegation that Community Strategies engaged in “walking quorums”;
- Evidence substantiates the allegation of an individual being present in an executive session without a legitimate purpose. The individual's presence is not alone a violation of the Open Meeting Act, but because confidential matters were discussed, it was likely a breach of confidentiality;
- Since the current board chair was elected on May 26, 2021, every regular monthly board meeting except one was cancelled and rescheduled. Community Strategies frequently cancels or changes dates of meetings. Most recently, after not scheduling a regular meeting to occur on June 8, 2022, the board posted a notice of a special meeting on June 8; then, less than a week prior to the meeting, adjusted this meeting time. The board also appears to run much of its governance functions and decisions through committees, such committees being declared to not be subject to the Open Meeting Act. These practices, at a minimum, make it difficult to fulfill duties in a transparent way that is in keeping with an informed citizenry and school community;
- The actions included here, taken by those charged with a responsibility of knowing and understanding the requirements of the Open Meeting Act and having been provided with training on the Act's requirements, likely constitute willful violations;

**Governance
(Chapter 1)**

Improper Contract with HoganTaylor

- Evidence substantiates the allegation that the award of a contract to a third-party audit firm violated, at a minimum, Community Strategies' policy on procurement and purchasing;
 - Community Strategies did not obtain competitive pricing bids from three different firms; and
 - Potential conflicts of interest due to a board member having personal relationships or prior work experience at the audit firm were not disclosed prior to entering the contract;



<p>Governance (Chapter 1)</p>	<p>Improper Terminations through Reductions in Force (RIF)</p> <ul style="list-style-type: none"> • While Epic representatives informed employees they were being terminated under a RIF, evidence suggests this was incorrect. Even though Community Strategies did not have a RIF policy in place, for purposes of this report and the OSDE's jurisdictional review, termination under a RIF is irrelevant because charter schools are exempt from any requirement to have a RIF policy. Employees of Community Strategies are “at-will” employees, subject to termination at any time, and such determinations are matters of local control – between employer and employee;
<p>Governance (Chapter 1)</p>	<p>Improper Involvement in School Operations</p> <ul style="list-style-type: none"> • Serious deficiencies continue to exist in Epic's bylaws, governance manual, board training, processes and procedures. These deficiencies include noncompliance with requirements in the Oklahoma Charter Schools Act relating to governance and administrative regulations. 70 O.S. §§, 1-116, 3-134 – 3-136; Oklahoma Administrative Code (OAC) 210:35-3-48; 210:35-3-1; 210:35-3-41; 210-35-3-81; 210:10-1-7; <ul style="list-style-type: none"> ○ Whereas Oklahoma law and administrative regulation provide for the superintendent of a school system to be the “chief executive officer” and “administrative head,” Community Strategies policy assigns this role to the board chair; ○ Community Strategies' governance manual provides the board chair shall serve as the superintendent of the school(s) should there be a vacancy in the superintendent position; ○ Bylaws grant board officers responsibilities they statutorily cannot hold, such as having a board member hold the position of district treasurer; ○ Board members have grossly exceeded their roles, interfered with the administrative function of the schools, engaged in transactions for the school district without prior authorization of the entire board and engaged in directing business with employees of the schools outside of a public board meeting; and ○ Board members have been asked by the board chair to investigate matters pertaining to personnel. At a minimum, this creates potential conflicts of interest if and when the personnel matter comes to the board for action; • Several factors have contributed to an absence of leadership and problems with clarity in providing direction to employees: 1) board members exceeding their roles and authority; 2) heavy reliance on outside consultants to perform functions of administrative leadership; and 3) a historical and ongoing lack of steady governance;
<p>Governance (Chapter 1)</p>	<p>Negative Culture and Climate</p> <ul style="list-style-type: none"> • The OSDE concludes that Community Strategies has been procedurally noncompliant with Title IX; • The OSDE is not able to substantiate any claim of a substantive Title IX violation, including sex-based discrimination or harassment; • Actions of the board chair have created confusion, fear and stress among staff, including some who referred to the workplace as a “hostile work environment.” Though no formal complaint had been filed as of December 1, 2021 (the date of the Complaint), numerous senior staff members shared with the OSDE personal accounts of encounters with the board chair that, if true, would constitute inappropriate and unprofessional behavior;



Enrollment and Attendance (Chapter 2)

Improper Enrollment, Attendance and Truancy

- The OSDE is unable to substantiate the allegation that the board chair or superintendent kept the truancy audit from the board. In fact, evidence provided refutes this allegation;
- Epic certified incorrect student enrollment and attendance data. Many of the inaccuracies appear to be caused by an algorithm designed as a result of new requirements in law and regulations relating to student attendance and truancy. The OSDE repeatedly requested the coding or script for the algorithm, but was told that this information belonged to a third party and would not be made available. Given the vast number of apparent inaccuracies and the consistency in which the algorithm marks a student as present, it is conceivable that the algorithm was written to allow Epic to continue having students enrolled who, by law, should not have been. The OSDE does not have the authority to subpoena the coding and additional information relating to the algorithm. As such, the OSDE intends to discuss this information with appropriate authorities with additional jurisdiction and means to review this matter. Some of the patterns and trends in the data include:
 - Epic enrolled 4,569 students in school year 2020-21 who were marked absent on their first date enrolled. For these students, there were on average 8.5 days between the first day of enrollment and when the students were first marked as completing an instructional activity. Oklahoma laws and regulations prohibit this and instead require that a student be counted present and on membership rosters upon the first day of completing an instructional activity. The impact of this alone could have erroneously added approximately 39,000 days of student enrollment and membership, which in financial terms amounts to approximately \$780,000;
 - Oklahoma law requires a virtual charter school to withdraw a student (and no longer count in membership for funding) who is absent from school for 15 consecutive days and is not on pace. For the 2020-21 school year, there were 6,720 instances among 4,819 unique students where a student had a demonstrated pattern of being absent for 14 consecutive school days, was marked present on the next (15th) day, then was absent for 14 more consecutive days;
 - From the 2018-19 school year through the 2020-21 school year, all absences were reported and certified as unexcused; however, in the 2021-22 school year, all absences were reported as excused;
 - From the 2019-20 school year to the 2020-21 school year, absences increased from 18,275 to 647,624 (a 3,443.8% increase); and
 - For the 2020-21 school year, 6,436 students (nearly 9% of all students enrolled at Epic during the 2020-21 school year) were absent more than 50% of the time they were enrolled, and 3,399 students were absent more than 75% of the time they were enrolled. Of the greater than 50% group, 931 students were enrolled in Epic the following school year, and approximately 43% of them were promoted to the next grade level;
- The bonus compensation structure for Epic employees paradoxically incentivizes employees to both *not withdraw* students for truancy (to increase regularly monthly compensation, which is based on enrollment counts) and *to withdraw* students for truancy at certain times of the school year (to increase their bonus payout and for student performance measures);

**Compensation
to Employees
(Chapter 3)****Improper Bonus Payments**

- Administrative staff (superintendent, deputy superintendents and others) received bonuses totaling \$8,598,184.50 in June 2021. These bonus payments were never approved by Community Strategies, exceeded employment agreements by at least \$800,000 and resulted in one employee receiving 600% (six times) more than the amount in her employment contract despite being employed for only 35% of the school year; and
- Epic's lack of internal controls and oversight by a governing board has created an environment that facilitated improper actions, which, even if done with good intentions to reward employee loyalty and extra effort, appears to have caused financial mismanagement and the misappropriation of funds. The OSDE deems the deficiencies in internal control over compliance described in the schedule of findings and executive summary to be significant deficiencies and material weaknesses.

INTRODUCTION

On December 1, 2021, Dr. Kathren Stehno (the “Complainant”) filed a complaint (the “Complaint”) with the Oklahoma State Department of Education (the “OSDE”). The Complaint was also filed with the Statewide Virtual Charter School Board and Rose State College.¹ Dr. Stehno is a former member of Community Strategies Inc., the governing board of education for Epic One-on-One (“One-on-One”) and Epic Blended (“Blended”) Charter Schools (collectively, One-on-One and Blended may be referred to as “Epic”), and the Complaint concerns matters that arose during her service to Epic. Community Strategies is hereinafter referred to as the “board.” Allegations in the Complaint relate to the following:

1. Governance – Failure of the board to fulfill governance and operational duties and responsibilities in applicable laws and regulations
 - a. Improprieties related to the contract between Community Strategies and Education Board Partners;
 - b. Violations of the Open Meeting Act;
 - c. Failure to follow requirements for procurements and purchasing;
 - d. Improper termination of employees through a Reduction in Force; and
 - e. A culture and climate that includes intimidation and harassment by those in leadership and governance positions and that which has become a hostile work environment for employees.
2. Enrollment and Attendance – Noncompliance with requirements relating to student enrollment, attendance and truancy
 - a. Suppression of a report from the internal auditor; and
 - b. Inappropriate withdrawal of students for truancy.
3. Improper Award and Reporting of Compensation to Employees – Instances of impropriety relating to payment of compensation and bonuses to employees

JURISDICTION AND PROCEDURE

The State Board of Education (State Board) and the OSDE are the agencies created and authorized by the Oklahoma Constitution and Legislature with the responsibility to govern, direct, administer and supervise the public schools in the State. Okla. Const. Art. XIII, § 5; [70 O.S. § 1-105](#), [70 O.S. § 3-104](#). Consistent with its duties to maintain a system of free public schools, the Legislature has plenary power with respect to how this is accomplished and may delegate the exercise of that authority. While the Legislature may not abdicate its responsibility to make laws and resolve fundamental policymaking, it may delegate the power to implement statutorily mandated policies (*City of Oklahoma City v. State ex rel.*

¹ The Statewide Virtual Charter School Board serves as the sponsor of Epic One-on-One. Rose State College currently serves as the sponsor of Epic Blended.

Dep't of Labor, 1995 OK 107, ¶ 12, 918 P.2d 26, 29; *Tulsa Cty Deputy Sheriff's Fraternal Order of Police, Lodge No. 188 v. Bd. Of Cty Comm'rs*, 2000 OK 2, ¶ 9, 995 P.2d 1124, 1128) and has done so with respect to the OSDE and State Board. To prevent the Legislature's role from being usurped, its ability to delegate is subject to the condition that the statutes "must establish [the legislative] policies and set out definite standards for the exercise of any agency's rulemaking power." *Id.* The power to make rules to carry out legislatively determined policies and *apply those policies to varying factual conditions* is an administrative duty which may be delegated properly to an administrative body (emphasis added). *City of Sand Springs v. Dep't of Pub. Welfare*, 1980 OK 36, ¶ 7, 608 P.2d 1139, 1144 .

At the opening of the Education Code (Title 70 of the Oklahoma Statutes), the Legislature unequivocally established that the OSDE and State Board, including positions established by their action, are vested with the power and authority to supervise and direct the public schools, including their operations and actions. [70 O.S. § 1-105](#). The Legislature has also expressly provided that the State Board is the governing board of the public school system in the state. *Id.*, subsection (B). To carry out its duties, the State Board is provided with 1) authority in matters pertaining to licensure, certification of persons for instructional, supervisory and administrative positions; 2) authority to require persons with administrative control to make regular and special reports to the State Board, including how such reports are made; 3) authority to adopt standards for accreditation of public schools and assign accreditation status tiers to include warning, probation or nonaccredited; 4) authority to adopt policies and make rules for the operation of the public school system; 5) authority to provide for the health and safety of schoolchildren and school personnel while under the jurisdiction of school authorities; and 6) perform all duties necessary to the administration of the public school system in Oklahoma, including those duties not specifically mentioned herein if not delegated by law to any other agency or official. [70 O.S. § 3-104](#)(A)(1), (6), (7), (13), (17), (20).

Furthermore, the Legislature has established policies and set out standards for the exercise of the OSDE and State Board's authority for oversight, supervision, direction and governance of the public schools. First, however, the Legislature identified its purpose in doing so as 1) ensuring the obligation that children in the public schools receive an excellent education and 2) ensuring the obligation to taxpayers that schooling is accomplished in an efficient manner. [70 O.S. § 3-104.3](#). To carry out this policy, the Legislature required the State Board to adopt requirements for compliance with standards for accreditation that the public schools must meet. [70 O.S. § 3-104.3](#); [70 O.S. § 3-104.4](#). The Legislature then established policies and set out standards for the exercise of oversight, supervision, direction and governance of the public schools.

More specifically, minimum guardrails and a general framework were put in place to require the State Board to establish accrediting tiers and the standards and conditions to be met for continued accreditation. First, the system of accreditation standards must provide for warnings, probation and loss of accreditation for schools that fail to comply. *Id.* Second, the accreditation system requires the OSDE to review complaints received and, within 90 days of determining that a school district has failed to comply with the accreditation standards, to report the recommended warning, probation or nonaccredited status to the State Board. [70 O.S. § 3-104.4](#)(C). If the standards are not met, accreditation is to be withdrawn. Additionally, should a district be recommended for accreditation with warning or probation,

representatives of the district must meet with the OSDE to review its accreditation status. Oklahoma Administrative Code (OAC) [210:35-3-201](#).

The State Board has adopted more than 300 pages of accreditation standards through administrative rulemaking so that it can apply legislative policies. These accreditation standards pertain to curriculum and instruction, school finance, staff relations, requirements for personnel and standards for relations and communication by and among a governing board, school administration, staff and the school community. These standards must be maintained in order to receive state funding. Relating to the accord among school staff, administrative regulations provide:

Lack of harmony in the teaching staff, school board or community, when such conditions affect the quality and effectiveness of instruction and spirit of the school, shall be considered sufficient cause for not accrediting a school. [OAC 210-35-3-48](#).

In addition, the OSDE and State Board enforce federal laws through accreditation. One example includes Title IX of the Education Amendments of 1972 (Title IX, 20 U.S.C. Section 1681 *et seq.*) and its implementing regulation at 34 C.F.R. Title IX prohibits discrimination on the basis of sex in any program or activity receiving federal financial assistance from the United States Department of Education. Sex-based harassment or intimidation is within the prohibitions of Title IX.

Based on the State Board and the OSDE’s state and federal duties and authorities, the OSDE has determined that jurisdiction exists to investigate the allegations in the Complaint. All charter schools are Oklahoma public schools, and the OSDE’s oversight responsibilities apply equally to each to ensure a high-quality public education for every student and taxpayer funds appropriately spent and accounted for. Public charter schools have been in existence in Oklahoma since the passage of the Oklahoma Charter Schools Act in 1999. Debates about the role and/or support of public charter schools are irrelevant to the determination that jurisdiction exists and as to the scope of this investigation. Such matters are not included or factored into this report.

Upon making this determination, the OSDE delivered written correspondence to Epic on December 7, 2021, notifying it that the OSDE was in receipt of the Complaint, that Epic and/or its representative(s) should preserve all records relating to the allegations and that the OSDE would soon request records and seek discussions with individuals who may have knowledge or information relevant to the allegations. Subsequently, on January 12, 2022, the OSDE sent Epic a request for records, seeking to obtain all responsive information no later than January 27, 2022. On January 26, 2022, Epic requested a 30-day extension to produce responsive documents. The OSDE responded to Epic’s request for an extension by proposing an additional seven days to produce certain categories of the requested information and an additional 14 days for all other documents. On February 3, 2022, Epic provided the OSDE with documents. However, after reviewing the material, the OSDE followed up on April 3, 2022, to request that Epic make clear whether its search for certain categories of documents did not yield any responsive information or, if not the case, to respectfully request that the information be provided within one week. Epic then provided additional documents on April 8, 2022.

In addition to the documents provided by Epic, the OSDE received correspondence from additional sources, including the OSDE and Epic data systems, information provided by the Complainant and documents sent to the OSDE by an anonymous source. Further, during the planning, development and reporting phases, the OSDE conducted interviews and had discussions with current and former representatives of Epic, including the Complainant and employees of other state agencies.

HISTORY

For years, Epic has had recurring issues with its policies and procedures – in form and implementation – concerning finances, student enrollment, attendance and governance. Beginning in 2016, the OSDE described Epic’s attendance reporting practices as “[alarming](#).”² Subsequently, Senate Bill 244 (2018) required statewide virtual charter schools to adopt specific policies for student attendance. In 2019, the Legislature enacted House Bill 1395, requiring statewide virtual charter schools (i.e., Epic) to report details associated with taxpayer funds sent by the school to charter management organizations. In the first year of House Bill 1395’s implementation, the OSDE assessed more than \$10 million in penalties against Epic for certifying misleading and inaccurate financial data. In October 2020, the Oklahoma State Auditor and Inspector released a comprehensive [report](#) concerning Epic’s operations. Following the State Auditor’s report, the State Board of Education made demand that Community Strategies return more than \$11.2 million in taxpayer funds. The next month, citing misleading financial practices and poor oversight of taxpayer funds, the OSDE recommended that Epic’s accreditation status be adjusted to “Accredited with Probation.” While the State Board of Education ultimately did not accept that recommendation, the OSDE sent written correspondence to Community Strategies, demanding corrective action be taken on a range of compliance matters, including but not limited to:

1. Failure to comply with the requirements for operating pursuant to the Oklahoma Cost Accounting System (OCAS) for purposes of receiving and expending taxpayer funds, and the reporting of those payments and expenditures;
2. Community Strategies not approving all financial transactions, including purchase orders. Per statute, funds of each charter school shall not be expended except through regularly issued warrants issued against properly approved encumbrances in the manner provided by law. [70 O.S. § 18-116](#). Further, all encumbrances shall be approved by Community Strategies at a regular or special meeting;
3. Not accurately reporting actual costs and expenditures of public funds;
4. Employees without a written contract that complied with the requirements of Oklahoma law, including at [70 O.S. §§ 3-135\(B\)](#), [5-106A](#) and [6-101.6](#);
5. Employee salary and benefit information being reported as though all, or substantially all, employees were working for Epic One-on-One 60% of their time and 40% at Epic Blended, and all employee payroll run as though employees worked 100% of the time for Epic One-on-One;

² <https://oklahomawatch.org/2016/09/28/five-virtual-charter-schools-five-different-ways-to-track-attendance/>



6. Failure to comply with the requirements of the Individuals with Disabilities Education Act (IDEA), including failure to implement an Individualized Education Program (IEP) for each student receiving special education services and failure to appropriately consider the concerns of the parent or guardian. In Fiscal Years 2020 and 2021, Epic received a Level 3 (Needs Intervention) determination for special education programs;³
7. Lack of compliance with requirements for student enrollment, particularly as related to enrollment and verification of students certified as Economically Disadvantaged;
8. Provision of instruction at facilities that were not approved as instructional sites;
9. Lack of compliance with requirements in federal laws and regulations covering programs identified in an OSDE report dated November 12, 2020;
10. Lack of documented procurement procedures reflecting applicable state and local laws and regulations. 2 CFR §200.318; 2 CFR 200.319 and 2 CFR § 200.320; and
11. The need of Epic’s governing board, Community Strategies, to conduct an independent review of its capacity and expertise and take appropriate action to ensure its ability to fulfill duties and obligations for governance and oversight of Epic. The OSDE advised Epic that members of the governing board should receive and complete trainings in the following areas: 1) school finance; 2) the Open Meeting Act; 3) the Open Records Act; 4) ethics; 5) legal issues, including employment law; and 6) other areas and in such time allotments as may be required by [70 O.S. § 5-110](#) and [5-110.1](#).

The OSDE demanded corrective action on these items. In response, Epic agreed to come into compliance. Included with its response, Epic stated:

Response: The School Board of Epic Charter Schools agrees to comply with this item as set forth in 70 O.S. §§ 18-116. Attached hereto as Exhibit “A” is Corrective Resolution 02, whereby the School Board directs Epic Charter Schools and EYS to comply. The School Board also directed Epic Charter Schools and EYS to ensure that all financial transactions are approved by the School Board in Corrective Resolution 01, attached hereto as Exhibit “F;” *see also* Minutes of Epic Charter Schools Board Meetings, 10/21/20, attached as Exhibit “O.” The School Board has also adopted financial policies that address this concern. *See* Exhibit “C.”

Concerning federal programs, Epic prepared a corrective action plan and presented it to Community Strategies on December 7, 2020. In the corrective action plan, Epic and Community Strategies assured the OSDE that the “Superintendent or Board Chairman will sign all contracts, and the Board will approve all contracts. This is customary procedure but will ensure continued compliance.”

³ For FY 22, Epic will receive a Level 4 (Needs Substantial Intervention) determination for its special education programs.



To remedy the lack of oversight by the governing board, Community Strategies entered into an agreement with a nationally recognized charter school board support organization, Education Board Partners (EBP), to assist Community Strategies in fulfilling its governance duties.

CHAPTER 1 – GOVERNANCE

In the Complaint, it is alleged that Community Strategies' governance has failed to comply with applicable requirements in laws, regulations and policies. Specifically, the Complaint alleges wrongdoing associated with the following: 1) contracts and services related to two vendors, Education Board Partners and HoganTaylor LLP; 2) culture and climate among those charged with governance of the school; 3) personnel actions; and 4) the Oklahoma Open Meeting Act.

STATUTORY AND REGULATORY DUTIES OF EPIC AND COMMUNITY STRATEGIES

In each school system, Oklahoma has legislatively embedded the principle of local control, meaning the local school board – elected in all public schools except charter schools – is responsible for maintaining and operating a complete public school system as the board deems best suited to the needs of the school district. [70 O.S. § 5-117](#). Local boards of education have the authority to make rules and policies consistent with laws or rules of the State Board governing the school board and the school system it operates and oversees. *Id.* Further, boards of education are authorized to contract with attorneys, superintendents, principals, teachers and other necessary employees of the local educational agency (LEA).

For charter schools, similar responsibilities and authorizations exist. In seeking to establish a charter school, an application must be submitted to the proposed sponsor that includes information addressing 35 statutorily enumerated topics. [70 O.S. § 3-134](#). Within these categories are requirements relating to identifying governing bylaws; leadership and employment policies for the school; the organizational structure of the school; a clear description of the roles and responsibilities of the governing board, leadership and management team; and the financial policies for the school. *Id.* If an application to establish a charter school is granted by the proposed sponsor, the sponsor and applicant must enter into a contract incorporating the application and its 35 identified categories of information and requiring the charter school to adhere to state and federal laws and regulations. [70 O.S. § 3-135](#).

Charter schools are exempt from some state and federal laws and obligations. For example, charter schools are exempt from Oklahoma's Teacher Due Process Act, may have at-will employees, are not required to meet the minimum salary schedule for educators and can hire non-certified individuals to provide instruction. While charter schools are also exempt from several requirements relating to the employment and compensation of personnel, they are required to have employment contracts with each staff member as is the case for non-charter school districts. [70 O.S. § 3-135](#). These employment contracts must specifically set forth the personnel policies of the charter school; any certification requirements, evaluation provisions and policies relating to dismissal; leave afforded to staff; and salary, benefits and work conditions. Furthermore, as is the case with non-charter schools, the administration, operation, supervision and oversight of a charter school system is done through the governing board of education.

To carry out this responsibility, the Charter Schools Act requires charter schools to have a governing body responsible for the policies and operational decisions of the charter school. [70 O.S. § 3-136\(A\)\(8\)](#). Although the board of education has the ultimate responsibility to make



these decisions for the charter school, board members act in such capacity only when the governing board is in a meeting conducted in compliance with the Open Meeting Act. [OAC 210:10-1-7](#). In fact, the State Board has a longstanding administrative rule regarding the role and function of a board member, which provides in part:

(c) A person serving on a board of education should remember that he/she is only another citizen in the school district except when the governing board of the school district is in a regular or special meeting for the purpose of transacting business for the school district. Again, he/she should remember that as a member of the board of education while it is in a meeting transacting the district’s business, he/she participates in determining the board’s judgment, but when the board as such adjourns, he/she reverts to his/her status as a citizen of the school district, and all acts of the board should be referred to by him/her as “the board of education in its meeting made this decision” without reference to persons or individuals who happen to be members of such board.

[OAC 210:10-1-7](#)

To assist the governing board in implementing its decisions, Oklahoma law and regulations provide that the superintendent of schools appointed and employed by the governing board of education is the executive officer of the governing board and shall perform the duties as may be directed by the board. *Id.* The superintendent is the “administrative head of the school system of a district maintaining an accredited school.” [70 O.S. § 1-116\(2\)](#). As such, according to the administrative code, the first and most important responsibility of a board of education is to adopt a complete and comprehensive set of written policies, which should include a framework of the superintendent’s authority. [OAC 210:10-1-7](#). As a statement of its standards for quality and benchmarks for accreditation, the State Board requires:

1. The local board shall have the responsibility for the operation of the school and for performance of its powers and duties as specified in statute;
2. The local board shall be responsible for developing and adopting effective policies for the operation of the school(s), which must include those policies required by statute. The staff, students and community shall be involved in the development of the policies which relate to them;
3. The governing local board shall be responsible for the selection and evaluation of its chief executive officer, who shall be the superintendent or other designated head of the school system;
4. *The local board and its individual members shall refrain from involvement in or interference with the administrative functions of the school;*
5. *Individual board members shall not engage in transactions for the school or the district without prior and specific authorization of the entire board; and*

6. *The local board shall transact official business with professional staff members and other school employees only through the superintendent. The board shall adopt procedures which permit hearing viewpoints of the staff, students and community during board meetings.* (emphasis added). [OAC 210:35-3-48](#).

In other words, the governing board should address and provide clear lines of administrative and supervisory authority between the board and the superintendent. In basic terms, a governing board decides the “what” for a school through policy and assignment of annual superintendent goals. The superintendent is responsible for determining the “how” for academics, administration and operations, and also determines the “who” – the staff who will help implement board policies and reach goals. The board is responsible for providing oversight and evaluating how well the superintendent accomplishes the “what.” As such, outside of a board meeting, all activities of board members should be directed and coordinated through the superintendent of the charter school.

The mission of the charter school and a statement of the standards through which the school system will meet the needs of students, staff and community members also must be identified within adopted policies. [70 O.S. § 3-134](#), [3-135](#) and [3-136](#). According to administrative regulations, requirements that must be met as a part of accreditation include:

- The school’s philosophy and goals must reflect consensus among the school community, the local board and the school staff;
- Administrators and staff work in a collegial, cooperative school environment. The staff participates in decision-making affecting the school program and teaches under conditions favorable to effective performance; and
- The school is organized to ensure the achievement of its goals. The working relationships among the local board, superintendent, principal and staff facilitate the successful functioning of all phases of the school’s program. The principal of the school has the autonomy and authority to provide the leadership needed to accomplish the goals of the school.

[OAC 210:35-3-1](#); [210:35-3-41](#); [210-35-3-81](#).

The governing board is the ultimate authority for decisions on funds allocated and appropriated to the school system it oversees and maintains. As part of ensuring accountability of taxpayer funds, Oklahoma charter schools are required to comply with the same reporting requirements, financial audits, audit procedures, audit requirements and compliance with OCAS as a non-charter school district. [70 O.S. § 3-135](#), [5-135.2](#). Recipients of federal funds (charter and non-charter) must also use documented procurement procedures reflecting applicable state and local laws and regulations, including but not limited to those identified in OCAS; 2 CFR §200.318; 2 CFR 200.319 and 2 CFR § 200.320. State law clearly states that OCAS is the system each governing board of education is required to use for:

...initiating, recording and paying for all purchases, salaries, wages or contractual obligations due from any of the funds under the control of such board of education (emphasis added). [70 O.S. § 5-135](#).

Again, to implement these requirements, it is the “duty and responsibility” of each governing board of education to establish adequate procedures and controls for purchases and obligations. Policies and procedures should include mechanisms to comply with the requirement in state law that a purchase order or encumbrance issued by the governing board be approved prior to any purchase being made and be supported by an itemized invoice clearly describing the items purchased, the quantity of each item, its unit price, its total cost and proof of receipt of such goods or services. Further, OCAS requires encumbrances to be submitted to the board of education on a monthly basis. *Id.* In all cases, state law requires:

- D. School districts receiving State Aid shall not spend any of these funds except by regularly issued warrants issued against properly approved encumbrances in the manner provided by law. All encumbrances shall be approved by the board of education of the school district at a regular meeting or a special meeting called for that purpose. All original copies of encumbrances as represented by purchase orders shall be filed in either numerical or alphabetical order, with the original paid invoice or invoices attached, accompanied by a signed and dated receiving copy verifying receipt of goods or services. It shall be unlawful to register or pay the warrant unless such warrant conforms to the statutes regulating the allowance and issuance thereof. Said treasurer shall purchase, by treasurer’s check, all warrants issued.
- E. All board of education members, employees or other officials of school districts required to make reports to the State Board of Education or other agencies under the provisions of this article, and all persons lawfully charged with the duty of making records of original entry such as teachers’ registers, transportation records and financial records, which form the basis, in whole or in part, of said reports, shall exercise the highest degree of diligence, accuracy and good faith in making said records and reports reflect the truth. Teachers’ registers shall be marked daily in ink by the teacher or principal in charge of rooms or groups of pupils. Provided, the State Board of Education may authorize alternate systems of accounting for pupils’ attendance in districts using data processing methods.
- F. The State Board of Education shall revoke the certificate of any teacher, principal or superintendent who knowingly or willfully violates any of the provisions of this article.
- H. Any person or firm who shall knowingly or willfully violate any of the provisions of this article shall be guilty of a misdemeanor. Any public official or public employee violating any of the provisions of this article shall be subject to the penalties for a misdemeanor and in addition thereto shall forfeit his position or office. Any officer or employee of the State Board of Education who knowingly or willfully apports or disburses any monies appropriated by this article contrary to the provisions of this article shall be subject to the penalties for a misdemeanor and in addition shall forfeit his office or position. Excerpts from [70 O.S. § 18-116](#).

To summarize, Community Strategies, as the governing board for both Epic One-on-One and Epic Blended, has oversight, management and control of the property and affairs of the school. This responsibility includes the proper management of public funds for the

schools, including compensation paid to employees and properly utilizing procedures and internal controls for expenditures of public funds. This responsibility cannot be delegated or reassigned.

COMMUNITY STRATEGIES GOVERNANCE AND OPERATIONAL HISTORY

The Complainant alleges numerous issues relating to the daily operations of Epic, including a hostile workplace, lack of appropriate communications between governance and leadership, violations of school policies, inappropriate awarding of contracts and more. As such, to determine the root cause of these breakdowns in function, the OSDE examined Epic's operational framework and implementation.

As noted previously, charter schools receive greater flexibilities and exemptions from laws and regulations than non-charter schools. In exchange for additional flexibilities, Oklahoma charter schools are to be held to a greater level of accountability. This accountability should start with additional choices for parents and families, increased learning opportunities for students, innovation in teaching and new opportunities for teachers and administrators in the school. [70 O.S. § 3-131](#). Consistent with these purposes, Oklahoma law requires charter schools to be accredited and to satisfactorily demonstrate compliance with adopted accreditation standards. For the purpose of ensuring each student enrolled receives an excellent education and school is accomplished in a responsible and efficient manner, the adopted quality standards and laws require, in part, the establishment of a local governing board of education responsible for the operations and policy decisions of the charter school. [70 O.S. § 3-136\(A\)\(8\)](#).

As a top priority, the governing board should adopt a complete and comprehensive set of written policies, which should include a framework of the superintendent's authority. By law and regulations, the superintendent is to be the chief executive officer of the school system. [OAC 210:10-1-7](#); [70 O.S. § 1-116\(2\)](#). Whereas the board decides the "what" for a school through policy and assignment of annual superintendent goals, the superintendent determines the "how" for academics, administration and operations. Annually, at a minimum, the board is responsible for providing oversight and evaluating how well the superintendent accomplishes the "what." Regarding daily operations, the board is to *"refrain from involvement in or interference with the administrative functions," "not engage in transactions for the school or the district without specific authorization of the entire board" and transact official business with staff only through the superintendent* (emphasis added). [OAC 210:35-3-48](#). The board must ensure that the school's philosophy and goals reflect consensus among the school community, the local board and the school staff. [OAC 210:35-3-1](#); [210:35-3-41](#); [210-35-3-81](#).

In the application to the Statewide Virtual Charter School Board and Rose State College for sponsorship of Epic, Community Strategies submitted an organizational plan that specifically identified matters of governance. The governance plan and bylaws for the school's operations indicated that Community Strategies "may delegate authority to the Superintendent or Head of School" provided that "the affairs of the School are carried out under the Board's ultimate jurisdiction." The governance plan also provided that Community Strategies would adopt effective policies which include statutory requirements that provide direction for the operation of the school. To that end, Community Strategies stated that it

would 1) hire administrators to carry out school policies; 2) employ high-quality staff to carry out the instructional program; 3) establish compensation and conditions of employment; and 4) exercise control over the finances of the school to ensure proper expenditures and accounting.

Notably, Community Strategies unequivocally stated that it would exercise these duties and functions *only* when convened in a legally constituted meeting. *On paper*, Community Strategies aligned its framework for governance and operations in a manner consistent with applicable law and regulations. As detailed in the Oklahoma State Auditor and Inspector's [116-page investigative audit report](#), what was on paper relative to governance and operations was not occurring in practice. For example, the audit report noted that provisions in independent financial audit reports incorrectly claimed that members of Community Strategies were nominated by the public. Rather, board members were “handpicked” by owners of Epic’s charter management organization, Epic Youth Services (EYS). Additionally, the audit identified no evidence of a proper segregation of authority and duty between Community Strategies and EYS,⁴ a lack of regular meetings among the governing body, financial transactions not approved by the board and a lack of transparency with respect to at least some operations of Community Strategies and Epic. In identifying these patterns and lack of oversight, the audit report recommended the establishment of a strong and independent governing board, both in policy and in practice.

As noted above, when recommending a change in Epic’s accreditation status to probation in 2020, the OSDE identified a history of similar inaction. As part of the identified noncompliance, Community Strategies urged that it be given a chance to take swift corrective action on items of noncompliance. The OSDE required Community Strategies to present a plan to conduct an independent review and assessment of their capacity and expertise, taking into consideration current term limits for board members and adding members as needed to allow the board to fulfill its duties.

Epic responded to the demand for corrective action by providing the information illustrated below in a letter, “Response to OSDE Notice of Noncompliance Dated November 16, 2020” from Epic’s attorney dated December 10, 2020, and emailed to the OSDE’s general counsel.

⁴ In spring 2021, Community Strategies voted to sever its relationship with EYS, which since the inception of Epic had operated as Epic’s charter management organization.

shall present a plan for the conducting of an independent review and assessment of their capacity and expertise, taking into consideration current term limits for existing board members, and add membership as needed to allow the board to fulfill its governance duties. Further, Community Strategies shall conduct a review and report on employee and contractor segregation of duties. Additionally, members of the school board should receive, and complete trainings required by 70 O.S. §§ 5-110, 5-110.1 and 5-200. Plan to be submitted by December 17, 2020.

Response: On December 7, 2020, the School Board discussed board member terms, appointment processes, and bylaw changes. *See* Community Strategies, Inc. School Board Agendas, Exhibit “G.” The School Board publicly published a board member application, and on December 7, 2020, voted to appoint a new board member, Kathren Stehno. *See* Epic Charter Schools’ website with board member application form, attached as Exhibit “J;” *see also* Resume of Dr. Kathren Stehno, Exhibit “K.” The School Board believes it may be one of few, if not the only, charter school that has publicly published a board meeting application and that accepts at-large applicants for consideration. The School Board accepted the recommendation of the Superintendent to appoint Dr. Stehno. Additionally, the School Board also voted on December 7, 2020 to enter into an agreement with Education Board Partners to prepare a plan for the conducting of an independent review and assessment of the School Board’s capacity and expertise, taking into consideration current term limits for existing board members, and adding membership as needed to allow the School Board to fulfill its governance duties. *See* Community Strategies, Inc. School Board Agendas, 12/07/20, attached as Exhibit “G;” *see also* Education Board Partners, Board Effectiveness Diagnostic Overview and Board Effectiveness Diagnostic, attached as Exhibit “L.” In conjunction with its engagement with Education Board Partners, the School Board will conduct a review and report on the segregation of duties of employees and contractors. Furthermore, the School Board took action to ensure that the Superintendent reports directly to the School Board. The action also included the hiring, firing, review, etc. of the Superintendent, and that such authority was not with EYS, which further distinguished the segregation of duties between the school and EYS. *See* Corrective Resolution 02, attached as Exhibit “A.” And, the School Board has taken action to ensure that the Treasurer’s Report (and financials) are presented to the School Board. *See* Corrective Resolution 01, attached as Exhibit “F;” *see also* Minutes of Epic Charter Schools Board Meetings, 10/21/20, attached as Exhibit “O.” This action is important as the Treasurer, Mr. David Harp, is independent of both Epic Charter Schools and EYS, and is a professional with decades of public-school finance experience. Finally, the members of the School Board agree to receive and complete the trainings required by 70 O.S. §§ 5-110, 5-110.1 and 5-200. The School Board will submit the plan prepared by Education Board Partners as soon as it is completed.

Exhibit 1: Excerpt from Community Strategies correspondence dated December 10, 2020



TRANSITION IN GOVERNANCE AND OPERATIONS

Timeline of Significant Epic Events in the Last 18 months	
Date	Event
12/07/2020	New board member (Dr. Stehno) appointed
01/25/2021	“Old” board member resigned New board member appointed
02/25/2021	“Old” board member resigned New board member appointed Education Board Partners contract approved
04/21/2021	Settlement with Statewide Virtual Charter School Board approved
05/06/2021	The State’s Multi-County Grand Jury released an Interim Report #13 relating to Epic
05/26/2021	Four new board members appointed New officers, including new board chair, elected Three “old” board members, including “old” board chair, resigned Epic Youth Services agreement terminated
07/14/2021	New board member appointed
08/18/2021	New board member resigned New board member appointed
08/19/2021	Board training and planning retreat
10/10/21	Epic parent who is a candidate for a board seat, described by EBP and Epic’s superintendent as “well qualified” and as having “incredibly relevant skills and experiences” withdrew her name from further consideration. In her letter, the individual cites “values” not aligning with the board chair.
11/17/2021	Loss of 23,000 students, budget cuts, staff reductions announced
12/10/2021	EYS filed lawsuit against Community Strategies for \$6.4 million
12/16/2021	State Board of Education voted to withhold \$9.1 million in state aid
01/11/2022	Epic filed countersuit against EYS for \$9.1 million
01/14/2022	IRS notified Epic of an inquiry
01/28/2022	New board member resigned
03/09/2022	Community Strategies voted to merge Epic One-on-One and Epic Blended into one local education agency (LEA) Two new board members appointed
05/11/2022	New board member’s one-year term ended and member left board New board member appointed

Note: “New” refers to appointments to the board after December 2020. “Old” refers to those appointed prior to that date.

Eighteen months have passed since Community Strategies agreed to assess its governance structure and get support through Education Board Partners (EBP) to fulfill its governance duties. During this time, governance has evolved from the “old” board, which failed to provide proper oversight of vendors and services, to the “new” board (May 2021 to present). As seen herein, in some ways, governance has changed. For example, whereas the “old” board was seen as lax and engaged in “rubber-stamping” actions, the board chair for the “new” board is said to persistently overstep and intervene in the school’s daily affairs. In contrast to these differences, one thing appears to remain: actual control and decision-making by only a few.

To begin its turnover, the first new board member without ties to EYS or the “old” board was the Complainant, appointed in December 2020. Six weeks later, another board member resigned. At the January 2021 meeting, another applicant was appointed; however, his tenure was short lived as the new appointee brought negative attention to Epic, including from certain controversial social media posts and activity. In late February 2021, a five-year board member resigned, citing the need to spend more time on his business affairs and with his family. He was replaced by another applicant who was an Epic parent and is now its longest-tenured member, having been appointed during the February 25, 2021, board meeting.

Two of the four board members appointed on May 26, 2021, are no longer on the “new” board. One attended only a single meeting. The other stopped attending meetings six months after his appointment. Three have been board members fewer than 90 days. The Community Strategies board currently has seven members, including a CEO/business owner, a retired private school superintendent, two attorneys, a former chief communications officer and public policy expert for a large state agency, and an IT executive. All have experience volunteering and serving on nonprofit boards or committees. Only one has experience serving on a traditional school board or charter school governing board, and only one has completed more than three of the 12 hours of board training required in [70 O.S. § 3-145.3](#) and in Epic’s charter contract with the Statewide Virtual Charter School Board (SVCSB).

Over the past 18 months, the Community Strategies board has been plagued by leadership change, member turnover, lower enrollment, employee layoffs, lawsuits, investigations, rescheduled meetings and unrelenting media coverage. It has also appointed new board members who have no personal or professional ties to Epic Youth Services or its owners, severed its charter management contract with EYS, countersued EYS and announced plans for merging Epic One-on-One with Epic Blended.

EDUCATION BOARD PARTNERS

As part of the Complaint, the Complainant alleges that a “lucrative contract awarded to Education Board Partners (EBP) to recruit and vet potential new board members should be reviewed by our regulators.” Furthermore, the Complainant questions the motive of EBP to ask the “old” governing board to vote on new board members prior to updating the bylaws, including terms of service, code of conduct and the mechanisms to remove a seated member on the board. As a result, the OSDE reviewed the [contract](#) between Community Strategies and EBP, including the circumstances surrounding the award, terms of the agreement, deliverables and outflow from the services provided.

EDUCATION BOARD PARTNERS CONTRACT TERMS

In its [proposal](#) to Community Strategies, EBP expressed a shared interest to recruit an independent governing board. Historically, this approach to identifying and appointing board members was in Community Strategies’ governance plan. However, as has been well documented, it was not implemented. EBP recommended shifting away from a “friends and family” board, noting that it “has created an untenable level of concern about the ability of the board to exercise strong oversight.”

I know the Community Strategies board has invested tremendous time and energy in governing this rapidly growing organization. We respect the board’s commitment to strengthening its governance, exercising tighter oversight of the organization’s financial health, ensuring strong oversight of the school operator, including regularly evaluating the chief executive, monitoring student performance, ensuring a fair and reasonable management contract is in place at all times, and insisting on sound operational oversight. As we discussed, it is now time for this organization to put in place an independently recruited governing board to ensure that the interests of students, families, and the public are front and center in all decisions. While many nonprofit organizations begin with a “friends and family” board, that construct is no longer relevant for this organization, and has created an untenable level of concern about the ability of the board to exercise strong oversight.

Exhibit 2: Excerpt from Education Board Partners Contract and Scope of Work

Community Strategies approved a contract with EBP on February 25, 2021, incorporating the terms of the proposed scope of work, including a process to recraft the board. The term of the contract was from March 1, 2021, through February 28, 2023, with a total sum payable in the amount of \$115,000.

EBP was to begin by assessing the current board composition and developing a strategic board composition matrix to guide the recruiting of new board members. EBP established a statewide “Recruiting Advisory Council” to nominate potential board members with relevant skills and experience during the time of board transition and rebuilding. Further, according to the contract, the recruiting council would have its members appointed by EBP after consulting with charter sponsors, state education officials, charter support organizations, the Community Strategies board chair and other key stakeholders. Notably, the council was to “have sole authority to nominate board members,” and Community Strategies would then vote on nominations.

Upon review, the OSDE determined that the contract was approved by Community Strategies and the funds properly encumbered. There is no evidence to demonstrate that Community Strategies solicited bids. According to the board’s “Management and Accounting of Funds” policy approved on December 7, 2020, Community Strategies was not required to solicit competitive bids for any purchase, regardless of expenditure amount. (Note: Subsequent revisions to this policy do require solicitation of competitive bids so that the school obtains the lowest and best price for services.) Further, the contract appears to violate the provisions of Article X, Section 26 of the Oklahoma Constitution. The language of Section 26 prohibits a public body from expending funds allocated for one fiscal year in a subsequent and different fiscal year. The contract approved expenditures of \$75,000 in fiscal year 2020-21 and \$50,000 in fiscal year 2021-22. Additionally, because Epic’s sponsorship contracts with the Statewide Virtual Charter School Board and Rose State College require

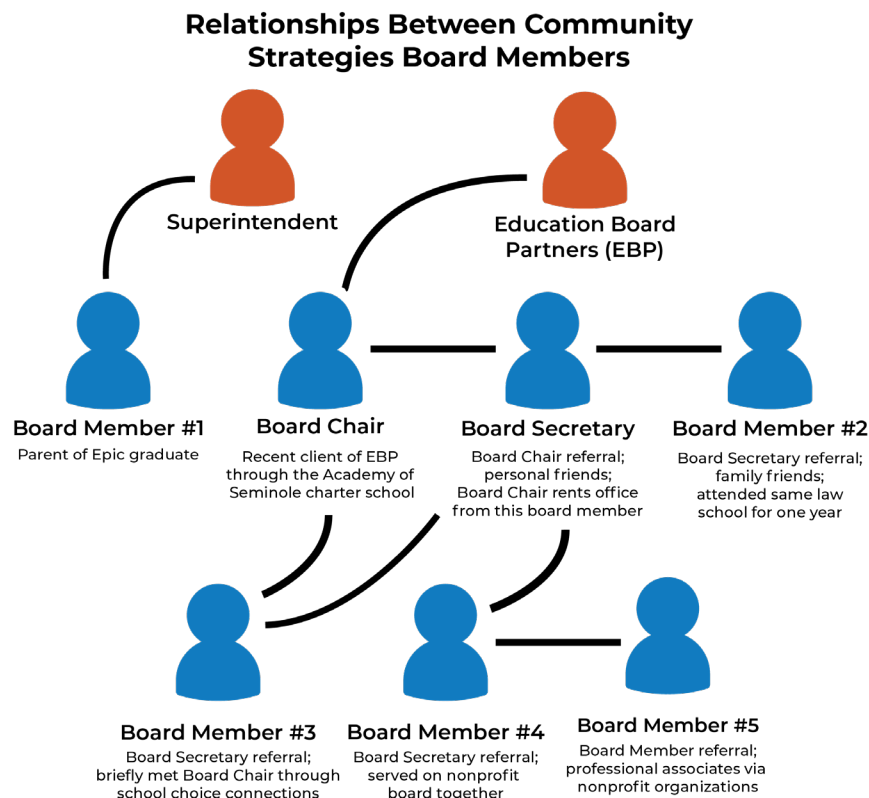
compliance with Article X, Section 26, it appears that Community Strategies is in violation of these agreements as well. The OSDE recommends action to correct the noncompliance with this provision of the Oklahoma Constitution and its sponsorship contract. In addition, the OSDE finds Community Strategies should take corrective action to amend current agreements to come into compliance and ensure appropriate safeguards are in place to have proper contract renewal language in future contracts.

EDUCATION BOARD PARTNERS PERFORMANCE ON DELIVERABLES

According to the Complaint, EBP allegedly did not perform according to the deliverables required in its contract with Community Strategies. First, the Complainant alleges that EBP did not recruit independent board members. In addition, the Complaint states that EBP was required to conduct meaningful background checks or disclose information on candidates to Community Strategies but did not do so.

Community Strategies and EBP agreed that one of the most important outcomes of the work was to no longer have a “friends and family” board handpicked by just a few individuals. The OSDE has reviewed the allegations in the Complaint and concludes that the identified mission to have a board that is not “handpicked” or one of “friends” is not what resulted.

As to how potential candidates were nominated, EBP advised that everyone the council contacted was a “first-degree contact” of a council member or referred by a prominent community figure. It is evident that the process was flawed from the beginning, as it was dependent upon personal familiarity and connections with potential nominees. Ultimately, two of the four members of the recruiting council became the first of Community Strategies’ new board members. Further evidence of personal connections is apparent in the current composition of Community Strategies board members.



Following the appointment of four members on May 26, 2021, the process for recruiting and appointing members changed. With two of its four members now on the Community Strategies board, the recruiting council was disbanded. From that point forward, the process has been as follows:

- Potential candidates are identified, primarily by current board members;
- EBP screens candidates;
- Epic’s superintendent, the Community Strategies board chair and another member conduct candidate interviews; and
- The full board votes on candidates who have not received an objection.

According to an email from EBP, the Community Strategies board chair alone has “veto power” to keep nominees from being considered by the entire board. Epic denies that one person has veto power. Whether it be the board chair alone or with another individual, it is clear that at Epic, only a small group of individuals are making decisions for the entire board and Epic’s school community.

A review of the EBP/Community Strategies contract shows that conducting criminal history background checks was not expressly part of the contract terms. The contract provides that EBP’s services will include oversight of “outreach to board candidates who match strategic board needs, *providing the board with background information (including candidate bio and resume)* and pitching this board opportunity to each candidate” (emphasis added). In emails provided to the OSDE, Epic’s superintendent informs individuals who inquired about a potential seat on the Community Strategies board that EBP was “vetting” potential candidates. Uncertain what was to be included as “background” and “vetting,” the OSDE asked those involved in the negotiations of the EBP contract. The former Community Strategies board chair told the OSDE that EBP’s vetting should have been responsible for conducting background checks, including but not limited to reviews of social media and prior public statements. Epic’s superintendent disagreed and believed the vetting was more background information such as general information and professional associations. Similarly, EBP denied having responsibility for conducting criminal history background checks. According to EBP, it was to look at an individual’s professional network and resume. Based on available evidence, the OSDE is unable to substantiate the allegation that EBP was required in its contract with Community Strategies to conduct criminal history background checks.

On December 17, 2021, the board adopted a governance [manual](#) that included a requirement for “background screening” to include a national criminal history record check.

SECTION 8

Background Screening

Effective Date: <<<<>>>>
 Revision Date:

The School requires each Director to satisfactorily complete a background check upon election to the Board and every four (4) years thereafter, as applicable. The School conducts the following record checks:

- Social security number verification.
- Criminal records from the court jurisdiction in which the applicant or employee resides and works.
- State criminal records.
- FBI or other national criminal database.
- National sex offender registry.
- Child abuse registry or child protective services check where permissible by law.

Directors must complete a background screening authorization form provided by the School. Failure to timely complete an authorization and/or falsification or omission of information may result in removal from the Board.

The School shall keep adequate records showing that background checks are completed in accordance with this Policy. All information obtained as a result of the background check will be used solely for purposes of Board service and will be kept confidential. The School complies with all applicable federal, state, and local laws regarding background checks.

Exhibit 3: Excerpt from Community Strategies Governance Manual

As of May 18, 2022, background checks had yet to be conducted on any board members; however, all current board members were sent a Criminal History Record Information Request to complete and submit to the Oklahoma State Bureau of Investigation. The OSDE does not have information on the timeframe in which background screenings were to be completed, but the fact that none have been completed in the five months since the board approved this requirement is concerning.

While it appears EBP did conduct a general review of new board nominees' professional background information, the OSDE has determined that EBP likely did not disclose all known information found to all members of the Community Strategies board for their consideration prior to voting on nominations. The OSDE was unable to verify that all Community Strategies board members were aware of the following prior to their vote on May 25, 2021:

- Board chair was a client of EBP's, and in late 2020, his company paid EBP's fee for consulting work done on behalf of The Academy of Seminole (an Oklahoma charter school whose governing board is chaired by the Community Strategies chair);
- Board chair and board secretary were both members of the recruiting council that controlled the process of bringing prospective candidates to Community Strategies;
- Board secretary was referred to the recruiting council by board chair, and they have been friends for years prior; and
- Prospective board members were not required to fill out a comprehensive Annual Conflict of Interest Disclosure Questionnaire found in the board-approved governance manual (see pages 45-47).

POST-TRANSITION GOVERNANCE POLICIES AND OPERATIONS BETWEEN THE BOARD AND STAFF

During this investigation, the OSDE found countless examples indicating a lack of effective processes and negative impact on staff morale and working environment. First, despite administrative rules and regulations requiring the board to adopt policies with clearly defined roles and responsibilities, the board does not appear to have written guidance for how and when it is appropriate for board members to interact with the superintendent or Epic staff outside a board meeting. As a result, the OSDE learned of numerous examples of board members operating on their own, frequently exceeding their role – which is effectively to be like any other school community patron or citizen – outside a board meeting.

In several instances, the OSDE was informed that board members were acting on their own, conducting investigations of employees and leading organizational redesigns and reviews of the superintendent. During an organization redesign meeting with employees, the board chair drew a potential reorganization of Epic’s executive leadership team that resembles a corporate management structure (see Exhibit 4). The OSDE was advised that this information and organizational framework had never been discussed with the board. Rather, it appears to be the board chair’s personal vision. Further, according to staff at this meeting, some of the employees at this meeting were told they could not be trusted, resulting in them not being included on the whiteboard so as to appear that their future employment was in doubt.

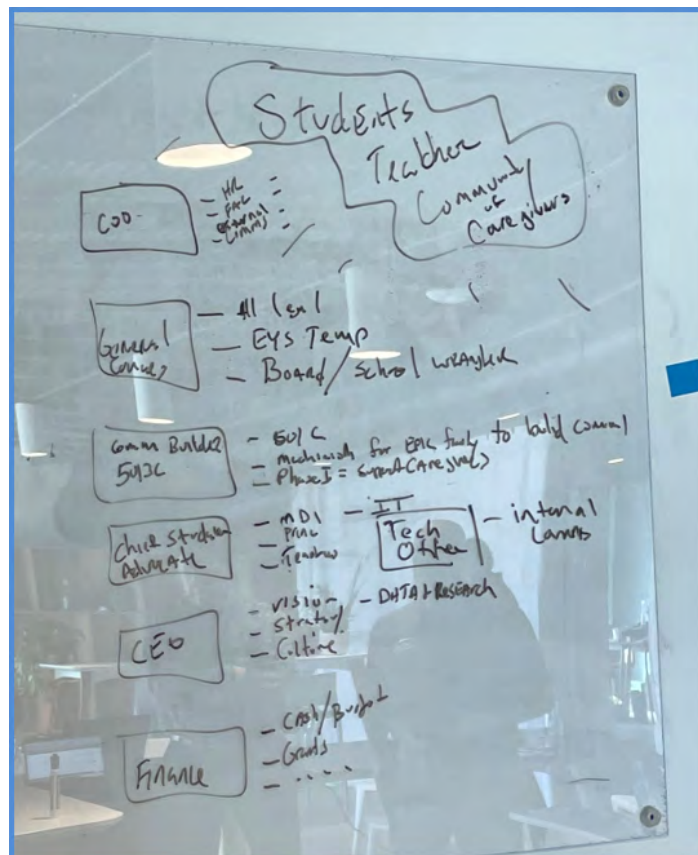


Exhibit 4: Image provided to the OSDE reflecting the board chair’s organization structure, as presented to some Epic staff during a meeting

Additionally, confusion exists as to who is in charge of the school. Employees do not understand whether they are to take directives from board members, including the board chair, and/or the superintendent. Specific instances include the following:

- An employee made a report with human resources (HR) asking if employees were required to act upon directives of individual board members after two board members attended a staff meeting. The employee discussed the following with HR:
 - The legality of the board’s ability to give directives to employees rather than the superintendent;
 - The board chair directly telling other departments what to do;
 - Feeling intimidated by the board chair, not feeling that the board chair should decide who should be fired and fearing they will be fired soon. [The employee] wakes up trembling in the mornings out of fear of losing their job;
 - The employee does not feel that the board should be telling anyone how to do their job except the superintendent; and
 - The employee would like these concerns officially placed in their file.
- Epic’s chief financial officer (CFO) – responsible for administering and processing Epic’s entire financial system – was not included in discussions about hiring a firm to conduct a “turnover audit.” In fact, when Community Strategies voted to hire a third-party audit firm, Epic’s CFO was already working with a new audit firm, apart from the one hired by Community Strategies. The CFO learned of the hiring a few minutes before the start of the board meeting in which the board approved the turnover audit contract for HoganTaylor LLP.
- Comments were made by the board chair about potential changes to Epic’s executive leadership structure in a department team meeting with lower-level Epic employees. These comments, combined with a section in the governance manual that states the board chair is to become the superintendent in the event of a vacancy, led two Epic staff members to call the OSDE’s legal services office to ask whether the board chair was planning to take over as superintendent at the May 11, 2022, board meeting.
- The hiring and evaluation of a superintendent is not mentioned in Community Strategies’ bylaws. The board chair is “the Principal Officer of the School, subject to control by the board.”
- Consultants and attorneys with prior relationships to board members are being hired without consulting the Epic staff with whom they will be working. The OSDE received several reports of incidents in which consultants overstepped their authority in directing an employee outside the scope of their contract.

Lastly, operating procedures for the board itself are not defined and/or are inconsistent with requirements in law. Since the current board chair was elected on May 26, 2021, 14 board meetings have officially been cancelled with the Oklahoma County Clerk. Some were rescheduled as special meetings to start at a different time. Several were rescheduled because not enough board members could attend to reach quorum. Further, the bylaws grant responsibilities to the board treasurer to “keep and maintain adequate and correct accounts of the properties and business transactions of the School.” By Oklahoma law these duties cannot be performed by a board member but must be done by a treasurer who is bonded. Whereas board members are required to operate only in open meetings that have been properly noticed to the public, it appears this is not consistently occurring



and that there is no standardized process for communication to ensure all board members receive the same information. The OSDE requested all communications to board members but received very few documents in response. From interviews, the OSDE learned that board members most often share information in one-on-one or small group interactions via telephone and text. The OSDE found evidence that some board members receive significantly more information about board and school issues than others. As such, it is apparent small groups of board members are making plans and decisions or are having discussions about official business in manners inconsistent with the spirit of the Open Meeting Act.

To address perceived organizational weaknesses, the board has either retained or hired several outside consultants and law firms. Despite state law and Epic policy requiring the board to approve all financial transactions, only two of the five vendors have been approved by the board. Note: Vendor 1 was approved by Community Strategies, but that contractual arrangement occurred prior to the complete turnover of the board in May 2021. With the exception of one, all of these vendors have relationships with current Community Strategies board members that predate the members' appointments to the board.

Vendor 1 is providing governance consulting services and has recruited more than seven Epic board members. Prior to contracting with Epic, Vendor 1 worked for six months on a governance consulting project for The Academy of Seminole (TAOS) paid for by Spartan Energy Services, whose CEO is board chair of both Community Strategies and TAOS.

Vendor 2 is providing the board support on its strategic plan and development of a performance dashboard.

Vendor 3 was retained to provide communications support, media relations and branding expertise. These services are provided in addition to the communications team at Epic. The principal of this firm has worked previously with a Community Strategies board member and was referred to the Epic Communications Department by that member.

Vendor 4 is assisting Epic with litigation and employment matters. The lead attorney currently working with Community Strategies also recently served on a three-person board of a nonprofit founded by a current Epic board member's father and the Epic board member.

Vendor 5 is currently serving as Epic's outside legal counsel and providing legal advice across many areas of district operations, including governance, operations and personnel. The principal attorney worked with the current Epic board chair to set up his nonprofit, Advance Rural Education (ARE), which was the developer/applicant for TAOS.

From an external viewpoint, Epic's operational structure and implementation of roles and responsibilities reveals a school system that has a vacuum of defined leadership and a system without organized or well-implemented roles and responsibilities for its governance and leadership. To try and set its new path, the school system has returned to heavy reliance on outside management and consulting in ways akin to the charter school's management under the "old" manner of governance.

CONCLUSION AND FINDINGS

The OSDE has concluded that serious deficiencies continue to exist in Epic's bylaws, governance manual, board training, processes and procedures, and leadership boundaries. These deficiencies include noncompliance with requirements in the Oklahoma Charter Schools Act relating to governance and administrative regulations. [70 O.S. §§, 1-116, 3-134 – 3-136](#); [OAC 210:35-3-48](#); [210:35-3-1](#); [210:35-3-41](#); [210-35-3-81](#); [210:10-1-7](#). Community Strategies should adopt – and implement – a complete and comprehensive set of written policies, which includes a framework of the superintendent's authority. [OAC 210:10-1-7](#). At a minimum, this framework should establish the board's roles and responsibilities and recognize the superintendent as the school system's chief executive officer. These are not mutually exclusive; they can and must coexist. Further, with its responsibility to select and evaluate its chief executive officer (the superintendent of schools), Community Strategies should allow that person to lead and abstain from interference with the administrative functions of the school. The local board should, and is required to, transact official business with professional staff members and other school employees only through the superintendent. [OAC 210:35-3-48](#). Further, board members should immediately cease asking other board members to investigate matters pertaining to personnel. Notwithstanding that these requests are being done outside of a public meeting, such conduct, at a minimum, creates potential conflicts of interest if and when the personnel matter comes to the board for action.

The OSDE finds that at a minimum, employees and members of the board are uncertain of their roles and responsibilities, and who is making decisions for the schools. The OSDE believes these deficiencies are a cause of significant disharmony in the school community and recommends immediate action to define the roles and responsibilities of the board chair, board members, superintendent and administrative staff.

The OSDE finds that board members lack the basic understanding of school finance, operations, ethics and legal compliance needed to effectively govern Epic. As such, the Community Strategies' board members should immediately undertake efforts to comply with state law, which requires a minimum of 12 hours of board training within the first 15 months of appointment, and as is stated in Epic's charter contract with the Statewide Virtual Charter School Board (SVCSB). [70 O.S. § 3-145.3\(F\)](#).

The OSDE commends Epic for its efforts to appoint new board members. The OSDE previously recommended Community Strategies assess its composition and determine its capacity to fulfill governance duties. In response, Community Strategies contracted with EBP. The OSDE recommends Community Strategies continuously engage in these reviews and garner support to ensure it fulfills duties and responsibilities to state and federal agencies. Most importantly, a focus should be placed on parent and family engagement. Parents are deeply invested in their children's education and bring a welcomed perspective to the governance body. The OSDE is cognizant that Community Strategies has a board member who is a parent of a student. However, as the largest statewide school with students in all 77 Oklahoma counties, the board must ensure engagement with community stakeholders, including tribal nations, and could easily attract additional input from a parent in a governance role. Community Strategies should demonstrate leadership in these commitments through the board's governance composition. Regardless, the OSDE

recommends Community Strategies adopt a board policy for nominating and appointing new members and require that it follow the adopted policy.

The OSDE recommends Community Strategies take immediate action to correct potential violations of Article X, Section 26 of the Oklahoma Constitution, which prohibits contracts which cross fiscal years, with regard to its contract with EBP. Additionally, the OSDE recommends Community Strategies undergo a full review of all contracts to ensure each complies with the aforementioned constitutional requirement and that appropriate safeguards are in place to have proper contract renewal language in future contracts.

The OSDE finds that Community Strategies continues to be noncompliant with its own background check policy. The board should either follow through on its board policy to require national criminal history record checks of board members, including existing members, or eliminate this policy.

The OSDE recommends prospective board members complete the conflict of interest form prior to joining the board and that the information disclosed be shared with all members before the board votes on the prospective board member.

It is apparent to the OSDE that there is existing strife between senior leadership and the board chair as to how Epic moves forward under a relatively new governance body. It is evident that this strife is causing some to lose sight of the school's mission, philosophy and goals. In interviews, the OSDE was informed by Epic staff that they do not believe the current board chair and governance under his chairmanship provide the school with what it needs to effectively and properly perform its mission and function for students, families and staff. The OSDE implores those in charge of leadership and governance to right the ship, starting with focusing on the schools' philosophy and goals to reflect an alignment between parents and students, the school staff and leadership. [70 O.S. §§ 3-131; 3-134 and 3-136](#); [OAC 210:35-3-1](#); [210:35-3-41](#); [210-35-3-81](#). Additionally, individual board members should refrain from engaging in transactions for the school or the district without prior and specific authorization of the entire board. [OAC 210:35-3-48](#).

Educated and engaged boards are key components of compliance with school laws and regulations. Training, especially for those who may not have experience or knowledge relating to public school operations and requirements, is critical. As such, the OSDE strongly encourages mandatory training take place, including but not limited to what is already required in law for members of statewide virtual charter school boards.

OPEN MEETING ACT

In the Complaint, it is alleged that Epic's board members violated the Open Meeting Act by discussing matters and individuals not properly cited on the board agenda and by allowing individuals in executive session who had no legitimate purpose for attending. Further, the Complainant believes that the board has engaged in "walking quorums," which is a series of gatherings (in-person, call, text or online) among board members, each less than quorum size, who agree tacitly or explicitly to act uniformly in sufficient number to reach majority consensus on potential board action(s).

For purposes of the allegation in the Complaint, answers to the following questions must be provided:

- Is there evidence to suggest that board members discussed non-agenda items in executive session in violation of the Open Meeting Act?
- Is there evidence to suggest that Community Strategies has violated the Open Meeting Act by failing to provide proper notice to the public and/or failing to use sufficient language in the agenda?
- Is there evidence to support the allegation that confidentiality of executive session was breached by having an individual present with no legitimate purpose to attend?

The OSDE found sufficient evidence to substantiate the allegation that Epic’s meeting agendas are noncompliant with the Open Meeting Act. The OSDE was not able to substantiate the allegation that the board violates the Open Meeting Act by discussing items in executive session that are not identified on agendas. Because Community Strategies has had a practice of using language on agendas that is overly vague, it is not possible to determine if matters and individuals discussed in executive session were not on the agenda. All current board members were questioned about Open Meeting Act compliance and the Complainant’s specific allegations. None had any recollection of non-agenda business being discussed in executive session, nor any recollection of Epic business being discussed outside of a board meeting in which quorum was present.

The Oklahoma Charter School Act states that “A charter school shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.” [70 O.S. § 3-136](#). The Open Meeting Act states that “All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.” [25 O.S. § 311\(B\)](#).

As a rule, executive sessions are not allowed during board meetings unless specifically authorized by law. Limited permissible purposes that are relevant to this report include:

- Personnel matters, provided that the agenda must cite either an individual or unique position. [25 O.S. § 307\(B\)\(1\)](#), 1997 OK AG 61;
- Confidential communications with attorney concerning pending investigation, claim or action. [25 O.S. § 307\(B\)\(4\)](#); and
- Any matter where disclosure of information would violate confidentiality requirements of state or federal law. [25 O.S. § 307\(B\)\(7\)](#).

Moreover, any proposed executive session must be noted on the meeting agenda. [25 O.S. § 311\(B\)](#) and 82 OK AG 114. The agenda item must include specific citation to which provision of § 307 authorizes the executive session. [25 O.S. § 311\(B\)\(2\)\(C\)](#). The board must take a vote at the meeting to go into executive session and have a majority of quorum to convene executive session. [25 O.S. § 307\(E\)\(2\)](#).

The OSDE reviewed board agendas and minutes from June 15, 2021, through Epic’s board meeting on May 11, 2022. Six meetings included executive session. In all six board meeting agendas, the OSDE found insufficient language regarding the executive session agenda

item. Below are excerpts from the April 20, 2022, Epic One-on-One meeting [agenda](#). Other meeting agendas had similarly insufficient language.

- 5. Executive Session:**
- a. Consideration and possible vote to convene in executive session pursuant to Okla. Stat. tit. 25 § 307 (B)(4) and (B)(7) (The Oklahoma Open Meeting Act) to discuss confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest and any matter where disclosure of information would violate confidentiality requirements of state or federal law, concerning (1.) Compliance with the Statewide Virtual Charter School Board settlement agreement, (2.) Epic Youth Services lawsuits, pending investigations, claims, or actions, (3.) Ron Sharp lawsuits, pending investigations, claims, or actions. (4.) pending investigations, claims, or actions concerning employment matters, and (5.) pending investigations, claims, or actions concerning State and Federal Agencies, and (6.) Community Strategies, Inc., California lawsuits, pending investigations, claims, or actions.
 - b. Vote to acknowledge the board’s return to open session.
 - c. Statement of executive session minutes.
 - d. Consideration and possible action(s) on matters discussed in executive session.

Exhibit 5: Excerpt from April 20, 2022, board meeting agenda

In the above example, the agenda should have identified the specific employment matters and would be required to pertain to a current employee or unique position of the employee. See 2006 OK AG 17 and 1997 OK AG 61.

On April 20, 2022, the OSDE general counsel emailed Epic regarding insufficient language for executive session on the agendas for board meetings scheduled that evening. The agenda was not changed in time for the meeting, and Community Strategies proceeded in executive session that evening. In a response provided the following week, Epic advised that Community Strategies did not discuss the employment, hiring, promotion, demotion, discipline or resignation of a public employee. Because the agenda does not identify the specific employment matter or the subject of any pending claim or action, neither the OSDE nor a member of the public is able to ascertain what the item is or whether the basis for the executive session is proper.

Below is the executive session as listed on the [agenda](#) for Epic One-on-One’s board meeting on May 11, 2022. The language “Discussing the employment, hiring, appointment, appraisal, promotion of any individual salaried public officer or employee” is not sufficient to meet the requirements of the Open Meeting Act. The OSDE was concerned to find such an error after its previous correspondence.

5. Executive Session:

- a. Consideration and possible vote to convene in executive session pursuant to Okla. Stat. tit. 25 § 307 (B)(1) Discussing the employment, hiring, appointment, appraisal, promotion of any individual salaried public officer or employee. And pursuant to Okla. Stat. tit. 25 § 307 (B)(4) and (B)(7) to discuss confidential communications between a public body and its attorney concerning a pending investigation, claim, or action of the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest and any matter where disclosure of the information would violate confidentiality requirements of state or federal law, concerning Compliance with the Statewide Virtual Charter School Board settlement agreement; Epic Youth Services lawsuit; and the Ron Sharp lawsuit.
- b. Vote to acknowledge the board’s return to open session.
- c. Statement of executive session minutes.
- d. Consideration and possible action(s) on matters discussed in executive session.

Exhibit 6: Excerpt from May 11, 2022, board meeting agenda

To determine whether this Open Meeting Act noncompliance was willful or a good-faith error, the OSDE interviewed Epic representatives and learned of more troubling actions. According to those interviewed, there were two agendas for this meeting. First, an agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. This posted agenda also properly referenced the specific individual or unique employment position to be discussed in executive session. This also complied with the Open Meeting Act. This posted agenda was changed, however, less than 24 hours before the meeting so that the agenda no longer identified the individual or position of employment. This change, said to be requested by a board member, resulted in noncompliance with the Open Meeting Act. The noncompliant agenda was then posted to the website in place of the compliant agenda.

This individual either did not know or failed to consider the legal ramifications on Open Meeting Act compliance, especially considering the April 20 email from the OSDE warning of noncompliance with the Open Meeting Act. This interloper activity by an individual who claimed to represent the board is an Open Meeting Act violation. It is also yet another example of disharmony and chaos in the work environment created by individual board members and/or their representatives who give staff members tasks to complete or provide direction on their work product outside of a board meeting.

The Complainant also alleged that the Open Meeting Act was violated when individuals without a legitimate purpose attended executive session. The OSDE found one occurrence of an individual attending executive session without a legitimate purpose during board meetings Community Strategies held on [November 17, 2021](#), for Epic One-on-One and Epic Blended when the board chair’s executive assistant/business partner attended executive session. Below is an excerpt of the official meeting minutes for Epic One-on-One. The individual’s name is redacted.

5. Executive Session:

a. Consideration and possible vote to convene in executive session to discuss pending, claims, or action with the Board's attorney and where disclosure of information would violate confidentiality requirements concerning (1.) Epic Youth Services and (2.) compliance with the Statewide Virtual Charter School Board settlement agreement pursuant to Okla. Stat. tit. 25 § 307 (B)(4) and (B)(7). (The Oklahoma Open Meeting Act)

*Board Member Casper moved to convene into Executive Session.
Board Member Stehno, seconded the motion.
Campbell-Y; Beltran-Dominguez-Y; Casper-Y; Montgomery-Y; Stehno;Y; Tatum-Y*

b. Vote to acknowledge the board's return to open session.

*Board Member Campbell moved to return to Open Session.
Board Member Casper, seconded the motion.
Campbell-Y; Beltran-Dominguez-Y; Casper-Y; Montgomery-Y; Stehno;Y; Tatum-Y*

c. Statement of executive session minutes.

Board Members Paul Campbell, Kathren Stehno, Ginger Casper, Catalina Beltran-Dominguez, Wyjuana Montgomery, Jon Tatum, Superintendent Bart Banfield, Jeanise Wynn, ██████████ ██████████ Brandon Webb, Sam Fulkerson, and Lori Winland were the only ones present in Executive Session for the purpose of discussing pending investigations, claims, and actions with the board's attorney and where disclosure of information would violate confidentiality requirements pursuant to 25 O.S. §307 (B4) and (B7). No action was taken.

Exhibit 7: Excerpt from Epic One-on-One board meeting minutes, November 17, 2021

While this individual's attendance is not an Open Meeting Act violation, it is a concern. Executive session is for the sharing of confidential information. Having an individual with no legitimate purpose attend is a breach of confidentiality. Additionally, this individual has a close family member who works for Epic, making the situation even more problematic. Epic has assured the OSDE that this individual's executive session attendance was a unique occurrence.

This individual's involvement with Epic business in any manner other than official volunteer functions presents additional breaches of confidentiality. The OSDE received several emails stating that this individual coordinated meetings on behalf of both the board chair and other individual board members, including committee meetings, small group meetings between the superintendent and several board members, meetings with EBP and others. This individual also communicated with Epic staff on behalf of the board chair. This individual should not be involved in any Epic business, even if done with the best of intentions. Epic employs a board clerk, and the superintendent, at the direction of the board, can arrange for other administrative support as needed for the board.

CONCLUSION AND FINDINGS

The OSDE finds violations of the Open Meeting Act have occurred. The OSDE recommends immediate corrective action to ensure that all board meetings comply with the Open Meeting Act, including having agendas with sufficient and correct language, proper citations for Executive Session and personnel matters listed by individual name or specific position.

The OSDE recommends Community Strategies adopt a board policy that delineates who may attend executive sessions and do so with the understanding that discussions had in executive sessions are confidential and any breach in confidentiality is a violation of state law.

The OSDE advises that Community Strategies should take steps to ensure all meeting agendas are posted 24 hours before regular board meetings and 48 hours in advance for special meetings as required by the Open Meeting Act.

The OSDE is unable to substantiate the Complainant’s claim that Community Strategies has engaged in a “walking quorum.” Oklahoma law does not expressly address “walking quorums,” and if it did, no evidence was found to substantiate its occurrence. The OSDE recommends Community Strategies attend multiple trainings on the Open Meeting Act. Related, Community Strategies is recommended to receive the board member trainings required by [70 O.S. § 3-145.3](#) and requirements of its sponsor.

PURCHASING AND PROCUREMENT

In the Complaint, it is alleged that the board did not follow its own [Contracting and Purchasing Policy approved June 15, 2021](#) by not soliciting competitive bids for the contract (i.e., letter of engagement and scope of work) for consulting services Epic’s board chair referred to as a “turnover audit.” The Complainant alleges Epic failed to solicit bids in order to ensure that a sole-source contract was awarded to HoganTaylor LLP. Further, the Complaint alleges that board members’ relationships with the firm were not disclosed. For purposes of the allegation in the Complaint, answers to the following questions must be provided:

- Did one or more board members have relationships with HoganTaylor which should have been disclosed to all board members before the board voted to approve the contract?
- Did the HoganTaylor contract violate the board’s Contracting and Purchasing Policy? If so, how?
- If so, was there a deliberate attempt to ensure the work was sole-sourced to HoganTaylor?

Information provided by Epic demonstrates that the HoganTaylor contract was approved by the board on September 15, 2021. The action is problematic for the following reasons: 1) It violated board policy on contracting and purchasing; 2) Epic should have obtained three competitive bids; and 3) Potentially, it was not subject to bidding because of personal relationships and previous experience that one or more board members had with the firm.

According to its website, HoganTaylor is “one of the largest business advisory and public accounting firms in Oklahoma and Arkansas. The firm has more than 300 employees and provides tax, assurance, risk, business advisory, accounting, technology and many specialty and industry-focused services.” The firm has a nonprofit division that has experience working with colleges, universities and private schools.

Below is an excerpt from the approved agreement which lists the general terms and fee structure but does not provide an overall estimated cost for the work.

Exhibit A

Scope of Services:

- Client seeks to have an independent public accounting firm perform certain procedures for the purpose of providing a report detailing the results of those procedures which may include, but not be limited to:
 - Adherence to key control processes
 - Review of documentation for certain accounting transactions
 - Review or prepare detailed schedules, balance roll forwards and/or reconciliations for key financial statement accounts
- Specific SOW procedures will be developed collaboratively by HT and client personnel or representatives
- Key assumptions:
 - Client board of directors and management will take full responsibility for the adequacy of the procedures to accomplish its objectives
 - The deliverable report will be explicitly limited to use by the client and only for its specific purposes which will be detailed in the report

Deliverables:

- Consulting report detailing procedures performed and results of and findings from those procedures
- Verbal and/or written communication of all matters that come to our attention which, in our professional judgement, could be considered material to a user of our report.

Timing/Target Delivery:

- Field work is anticipated to begin on or near October 15, 2021 with a draft deliverable presented on or near November 15, 2021.

Fees:

- Fees will be billed on a time and materials basis at rates ranging from \$110 to \$398 per hour based on the level of the professional assigned to the task.
- Out of pocket expenses will be billed at cost
- Travel – all travel outside the Oklahoma City metropolitan area is outside the scope of our monthly fee
 - Travel time will be billed at \$150/hour
 - Mileage will be billed at \$0.60/mile
 - All other travel expenses will be billed at cost

Payment Terms:

- Retainer of \$5,000 will be due upon executing of this engagement letter.
- Professional fees associated with the engagement will be billed as progress payments no less than monthly with a final invoice upon completion of the project.
- All invoices are due within 30 days of invoice date.

Exhibit 8: HoganTaylor Agreement, September 14, 2021

When this agenda item was presented to the board for approval, the board chair said that the engagement was for a “turnover audit,” a common business practice when one business “turns over” assets to another one, such as in the case of a change of ownership. In this case, EYS had been terminated as the management company and was required to provide Epic with all assets, documents, records, etc. The board chair did not disclose that any board member, including himself, had a previous or current relationship with HoganTaylor. The board minutes reflect unanimous approval by the five board members present at the meeting. Notes in the minutes state:

Board Chair ... presented the [Letter of Engagement](#) with HoganTaylor. He explained it was recommended by the State Auditor and Inspector and her team along with other governmental agencies that it is a best practice to have a turnover audit. We have a completely new board with a new direction and leadership. We want to make sure that we haven’t missed anything. The auditors will review tax status, tax filings, major contracts, etc. Voting on this item will give [Board Member] the ability to work with HoganTaylor along with [deputy superintendent of finance] and [internal auditor].

During interviews and follow-up questioning, the OSDE learned that the board chair put the turnover audit in motion, but it is unclear who formally requested the letter of engagement and scope of work from HoganTaylor. This project was started without significant involvement from the superintendent or deputy superintendent of finance, the latter of whom first learned about the turnover audit approximately 30 minutes before the board meeting. She told the OSDE that initially she was surprised by the board request for another audit, given three years of nonstop auditing of Epic’s financial processes, records, internal controls and financial reporting practices by the State Auditor, the OSDE, Epic’s charter sponsor and Epic’s new audit firm that was working on Epic’s first annual financial audit since the EYS/Epic split.

Because the board-approved scope of work and engagement letter had multiple issues and mistakes, it was revised by the deputy superintendent of finance after discussions with the board chair, board secretary and board finance chair. Purchase orders were issued to HoganTaylor in the amount of \$15,000 for each district (One-on-One and Blended).

After Dr. Stehno’s letter became public, the turnover audit was cancelled despite being in progress. The deputy superintendent of finance said that her department uploaded thousands of documents to a secured portal and attended a few meetings with a board member and representatives from HoganTaylor. The board chair told the OSDE that HoganTaylor withdrew from the audit because of negative publicity stemming from Dr. Stehno’s letter. According to both Epic’s internal counsel and the deputy superintendent of finance, the audit was never completed, no written report was received, HoganTaylor never billed Epic and Epic did not pay any money to HoganTaylor.

EXISTING BOARD RELATIONSHIPS WITH HOGANTAYLOR

Based on the results of the investigation, the OSDE believes that rather than request proposals to obtain the best and lowest price for services, pre-existing board member relationships may have influenced Community Strategies’ decision to award this audit work.

The LinkedIn profile (accessed May 17, 2022) of one board member shows significant professional experience in auditing, financial reporting, forensic investigations and turnaround consulting. The OSDE did not interview this board member, but his work experience lists his ownership of his own firm since 2004 and employment by HoganTaylor as a consulting manager from October 2013 to July 2020. It is unknown what relationship, if any, he had with HoganTaylor at the time the letter of engagement was presented to the board. He did not attend the board meeting at which it was approved.

HoganTaylor also has a pre-existing relationship with the board chair through Advance Rural Education (ARE), the nonprofit founded by the board chair to open charter schools in rural Oklahoma. ARE’s 2019 tax return was signed by the board chair, and the paid preparer was HoganTaylor.

A review of the board meeting video from September 15, 2021, does not show any disclosure of these board member relationships. A records request from the OSDE to Epic produced only the engagement letter and the scope of work.

VIOLATIONS OF CONTRACTING AND PURCHASING POLICY

Below are three relevant excerpts from the board’s Contract and Purchasing Policy approved on June 15, 2021, for Epic One-on-One and Epic Blended.

CONTRACTING AND PURCHASING POLICY

Community Strategies, Inc. as the Board of Education (the “Board”) for Epic One On One Charter School (the “School”) recognizes that the employees of the School are often required to make purchases or enter into agreements on behalf of the School and/or the Board. The Board authorizes the Superintendent or his/her designee to purchase materials, supplies, equipment and services for the School. The following policies will be followed by all employees of the School in purchasing services, supplies, or materials for day-to-day operations of the School. No debt or financial obligation against the School shall be incurred except through properly authorized policies and procedures. All purchases shall be made pursuant to a purchase order system, following established procedures and regulations, and will comply with applicable state and federal laws and regulations of the Oklahoma State Department of Education. This policy applies to purchases made with local, state, and federal funds.

Exhibit 9: Excerpt from Epic Contracting and Purchasing Policy, approved June 15, 2021

C. Quotations and Competitive Pricing

1. Purchases of items with a cost of \$5,000 or more should be based upon three (3) competitive price quotes, where possible, to obtain the best price possible.
2. Purchases of less than \$5,000 may be made without documented price quotes. When pricing is comparable, such purchase will be distributed equitably among qualified suppliers where practicable.
3. Requisitions and orders cannot be split to avoid quotation requirements.
4. Purchases made from vendors with pricing obtained through the cooperative bidding of the State or another governmental unit or purchasing cooperative as allowed under state law shall be deemed to have been made in conformance with the requirements for quotes or bids and may be utilized when determined to be in the best interest of the School.
5. Every effort should be made to obtain the best quality of goods and services at the lowest possible price. Due to the unique nature of some goods and services, the following are exempt from quotation requirements:
 - a) Expenditures for items which are peculiar to a single vendor and that could not be supplied by other vendors. A completed “Sole Source” affidavit shall accompany all such expenditures and must be approved by the Finance Office.
 - b) Procurement made necessary because of unforeseen emergency, disaster, or act of God that requires immediate acquisition to preserve School property or to protect public health or safety, upon declaration of such emergency by the Superintendent or his/her designee. Ratification of such emergency expenditures shall be required by the Board of Education at the next regularly scheduled Board meeting.
 - c) Expenditures for professional services provided by uniquely qualified or talented persons including but not limited to speakers, performing artists, audit services, legal services, employment services, medical services, consulting services, travel services and specialty repair or service contracts.
 - d) Utility services and postage.
 - e) Software licenses, related maintenance agreements, and specialized software; books, films, manuscripts, research references, publication subscriptions, and library materials; and testing and assessment materials that are available only from the sources holding exclusive distribution rights to the materials.
 - f) Items purchased with grant funding where the item was specifically approved in the grant.

Exhibit 10: Excerpt from Epic Contracting and Purchasing Policy, approved June 15, 2021

CONTRACTING AND PURCHASING POLICY (CONTINUED)

IV. Conflict of Interest

No employee, officer, or agent of the School shall participate in selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. Employees who interact socially with School business partners outside of the work relationship should use good judgment or avoid any situation which could create a perceived conflict of interest or preference.

Exhibit 11: Excerpt from Epic Contracting and Purchasing Policy, approved June 15, 2021

Based on the policy, Epic should have obtained three price quotes for the turnover audit. Although the project cost was not included in the letter of engagement, the hourly fee structure and scope of work would presumably exceed \$5,000. Additionally, Epic issued two purchase orders for a combined \$30,000 after board approval, an action that shows Epic personnel believed the audit would cost more than \$5,000.

A governing board has the power to change or waive its own policy depending upon the requirements set forth in its bylaws. If allowable, the board should take a vote to do so before taking action to violate its policy. Epic could make an argument that the individual at HoganTaylor who would be overseeing the audit would qualify for an exception as an expenditure for professional services provided by uniquely qualified or talented persons. The board chair, however, did not inform other board members before the vote that this policy exception would be necessary.

CONCLUSION AND FINDINGS

The OSDE finds that Community Strategies did not follow its own Contracting and Purchasing Policy with regard to securing HoganTaylor for the turnover audit. There is a lack of evidence to show bids were received such that it appears the contract was pursued as a sole source. Given that there are dozens of accounting firms that perform work on behalf of Oklahoma schools, the OSDE is skeptical that this qualifies as a sole-source award. ([70 O.S. § 22-101](#); [61 O.S. §101 - 137](#); Community Strategies Contracting and Purchasing Policy). Further, the board should have voted to provide a professional services exception with regard to HoganTaylor and a sole-source affidavit should have accompanied the agreement.

Of all documentation submitted to the OSDE regarding contracts, it does not appear that any were competitively bid. The OSDE recommends Community Strategies adhere to requirements in state law and its policies requiring competitive bids to ensure the best quality and lowest price for the expenditure of taxpayer funds.

Community Strategies should adopt a board policy to ensure any relationships with future vendors are disclosed to all board members prior to the awarding of a contract and that its policies on conflicts of interest are adhered to.

PERSONNEL – REDUCTION IN FORCE

The Complainant alleges that Epic terminated employees under a claim of a reduction in force (RIF) but without having a policy in place to do so and without informing the governing board of dire budget conditions that would have laid a foundation for a RIF to occur. On November 16, 2021, Epic’s superintendent emailed all staff regarding an “important update.” In the message, he informed the staff that Epic had seen an *expected* decline in enrollment following the COVID-19 global pandemic, during which three of every five students who enrolled at Epic had chosen to return to school in their resident district that school year (emphasis added). As a result, the superintendent advised that Epic did not need and could not afford to be staffed for the prior year’s enrollment of 61,000 students; instead, now with 38,000 students, Epic began “the process of right-sizing our operations through a reduction in force (RIF).”

For purposes of the allegation in the Complaint, answers to the following questions must be provided:

- Did Epic claim to terminate employees pursuant to a RIF?
- If so, does Epic have a RIF policy, and if not, is it required to?

As has been publicly reported and confirmed in interviews with Epic leadership, beginning in fall 2021, some employees at Epic were notified that their employment was being terminated pursuant to a RIF. Oklahoma charter schools often have “at-will” employees, a situation in which the employee or employer is able to terminate the employment relationship “at-will.” Terminations through a RIF are not at-will severances of the employment relationship. Rather, RIFs are executed through adopted board policies containing criteria for terminating employees. These factors often include: 1) needs of the students; 2) job assignment; 3) professional training; 4) certification; 5) evaluations; 6) experience in the position; and 7) length of service.

As part of its investigation into this allegation, the OSDE obtained emails, employee handbooks, Community Strategies policies and “plans” pertaining to the claimed RIF. As reflected in Epic’s employee handbook, there are three grounds for separation of employment: 1) resignation; 2) job abandonment; and 3) termination. Relating to termination, the employee handbook states that employees “are employed on an at-will basis, and the organization retains the right to terminate an employee at any time.” Epic does not have a RIF policy and is not required by law to do so. It is unclear why Epic enacted the terminations of employees through a mechanism it does not have and which has resulted in at least four employment law claims against it. Despite those facts, there is no finding here. Community Strategies is strongly encouraged, at minimum, to immediately refrain from taking personnel actions that are inconsistent with or in disregard of its established policies and, where there are no policies in place, the OSDE encourages Community Strategies to consider adoption.

CULTURE AND CLIMATE

In the Complaint, it is alleged that “several women, both former and current employees” approached the Complainant with complaints of intimidation and harassment by the board chair. In particular, the Complainant alleged that these women were “yelled at,



berated, subject to profane comments and implied threats to their employment resulting in a hostile work environment.” Further, the Complaint alleged that Epic’s superintendent is aware of these complaints and the workplace environment and potentially complicit in the ongoing problems with the workplace climate. The OSDE reviewed these allegations in the Complaint under Title IX, which prohibits discrimination on the basis of sex. As part of its investigation into these allegations, the OSDE conducted interviews with current and former Epic employees, members of Community Strategies (including the board chair) and representatives of EBP.

For purposes of the allegation in the Complaint, answers to the following questions must be provided:

- Does Community Strategies have adopted policies and procedures that comply with requirements of Title IX to prohibit discrimination on the basis of sex?
- Is there evidence to substantiate the claim that individuals have been subjected to discrimination on the basis of sex, including through a hostile work environment and/or sex-based harassment?

TITLE IX OVERVIEW

Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the U.S. Department of Education. These recipients include approximately 17,600 local school districts, more than 5,000 postsecondary institutions and charter schools, for-profit schools, libraries and museums. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia and territories of the United States.

The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), states as follows:

Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any academic, extracurricular, research, occupational training or other education program or activity operated by a recipient which receives Federal financial assistance.

The Title IX regulation contains a number of procedural requirements, including a requirement under 34 C.F.R. § 106.8(b) for recipients to adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any actions prohibited by Title IX and its implementing regulation. There is no fixed timeframe to determine whether a resolution has been prompt; rather, the OSDE evaluates a recipient’s efforts under the circumstances. An equitable response requires a trained investigator to analyze and document the available evidence to support decisions, and any rights or opportunities that a recipient makes available to one party during an investigation should be made available to the other party on equal terms.

The Title IX regulation also requires each recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX and to notify all students and employees of the name, office address and telephone number of the employee(s) designated as the recipient’s coordinator of its Title IX responsibilities. See

former 34 C.F.R. § 106.8(a). When a school has received notice of possible sexual harassment, Title IX requires that it respond appropriately. This could include taking appropriate steps to investigate or otherwise determine what occurred and taking immediate and effective action to end the harassment, prevent its recurrence and, as appropriate, remedy its effects. It may be appropriate for a school to take interim measures prior to or during the investigation of a complaint. Interim measures are individualized services offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct. Interim measures include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus and other similar accommodations. The following factors are considered in determining whether an employee has engaged in sex-based harassment in the context of the employee's provision of aid, benefits or services to the employee: 1) the type and degree of responsibility given to the employee, including both formal and informal authority, to provide aid, benefits or services to the employee, to direct and control conduct or to discipline an employee generally; 2) the degree of influence the employee has over the particular employee involved, including the circumstances in which the harassment took place; 3) where and when the conduct in question occurred; and 4) as applicable, whether, in light of the circumstances and the way the school is run, it would be reasonable to believe that the employee was in a position of responsibility over the employee.

Through its investigation, the OSDE observed a number of procedural defects with regard to Epic's implementation of Title IX. Despite a statement of compliance, Epic's website revealed: 1) The individual reported by Epic to the OSDE as the current Title IX Coordinator contact did not appear to be a current employee; 2) It was impossible to make an anonymous Title IX report; 3) Links for information regarding Title IX Coordinator information were not present; and 4) It was not possible to locate how to file a formal grievance based on sexual discrimination or harassment. Despite these procedural defects, the OSDE is unable to substantiate an allegation in the Complaint that sex-based discrimination or any other form of prohibited discrimination under Title IX exists. The OSDE was able to listen to an audio recording of a meeting between senior staff, including the HR director, where the phrase "hostile work environment" was used to describe the actions of the board chair. During our investigation, the OSDE was told by Epic that no one had filed a *formal complaint* of harassment (sexual or otherwise), intimidation or retaliation against the board chair, and no evidence was found to the contrary (emphasis added). Interviews did uncover matters relevant to the findings in this report and that, if true, would constitute inappropriate and unprofessional behavior.

ISSUES RAISED BY INTERNAL AUDIT

The former internal auditor was interviewed and recalled that tension in the Epic offices increased after the board chair was placed on the Community Strategies board. In summer 2021, the internal audit department began researching bonuses recently paid to several deputy superintendents. One bonus stood out – a \$50,000 bonus paid to a deputy superintendent who had been employed for only a few months. The internal auditor was aware of provisions about payment of bonuses in Epic Charter Schools' employee handbook (effective July 2020), which states:

“As additional compensation for services to be rendered employees may be entitled to a bonus. Bonuses are paid out based on the fiscal year. The fiscal year runs from July 1 – June 30.” (*Example: If employment began January 1, the bonus would be prorated, and the employee would receive 6/12 of the amount.*)

The internal auditor spoke with several Epic senior staff members, including the deputy superintendent of human resources (who told the internal auditor the proration policy was still in effect and should be adhered to) and the superintendent before meeting with the board chair and superintendent. During the meeting, the internal auditor explained her concerns, but the board chair allegedly replied with hostility, telling the internal auditor never to mention the matter again. The board chair accused the internal auditor of raising this issue because she “has a problem with the deputy superintendent” whose bonus was not prorated and of “lacking objectivity.”

The following week, the internal auditor met with the superintendent to “clear the air” from the previous week’s meeting. The OSDE was able to listen to an audio recording of the meeting. During the meeting, the internal auditor attempted to provide reassurance that her concerns were not based on dislike but on a sincere belief that school policy had not been followed when the deputy superintendent’s bonus was not prorated. In response, the superintendent told the internal auditor,

“I think what we’re figuring out is where does it fit, and obviously we went through a reorganization and the former management company that hired you is no longer with us. And so, I think, there is a very natural transition period that we all need to kind of embrace. And I think it’s pretty clear from what [the board chair] said last week that I think we all see value in your role and the potential to improve our organization. I really do. *The challenge is, from an organizational standpoint, if it ever gets viewed as punitive, people around you will just shut down around you, and they’ll be obstinate, and they’ll set up roadblocks and things like that, that will make it difficult to do your job*” (emphasis added).

A short time later, the internal auditor voluntarily resigned because of the atmosphere and culture and stated she did so because she did not feel she had support from the board chair and superintendent to effectively discharge her duties.

In November 2021, the remaining members of the internal audit department were involuntarily released during a reduction in force (discussed herein).

RECENT CONCERNS RAISED BY SUPERINTENDENT

Epic’s superintendent disclosed in an interview that in early April 2022 he contacted the cofounder and CEO of Education Board Partners and requested she schedule a meeting with the board chair. The superintendent requested the meeting to share his concerns that the board chair was over-involved with day-to-day operations of Epic schools. A Zoom conference call later that day included Epic’s board chair, superintendent and director of operations, and EBP’s CEO. Two messages the superintendent said he delivered to the board chair during this call were:

- The board chair needed to “get out of the weeds” and let Epic staff run the schools and take a step back because he was creating a harmful instability and volatility; and
- Several employees, male and female, told the superintendent they did not feel safe in their jobs because of the board chair and had been asking who was running the school – the superintendent or board chair? The superintendent also told the board chair he was part of the problem.

During the OSDE’s meeting with the board chair, he was asked about this Zoom conference call. His initial comments about the call were:

[The superintendent] was triggered,” followed by his opinion that [the superintendent] was out of control, all over the map and not making sense. The board chair repeated several times, “[The superintendent] was triggered.

Asked what “triggered” the Epic superintendent, the board chair thought it was that a consultant had mentioned bringing in a CEO, a position in addition to the superintendent. The board chair advised the OSDE that this was not his intention. However, the photo in the image excerpted above (see Exhibit 4, page 29) appears to reflect the board chair’s organizational design laid out at a meeting he held with some Epic staff. Following the meeting, actions were taken that are of concern.

First, the board chair advised the OSDE that he asked another board member (a newly appointed member and head of the Community Strategies governance committee) to conduct an investigation into the superintendent’s claims and behavior. As a matter of practice, it is inappropriate for a board member to ask another board member to investigate an employee. As a reminder, outside of a board meeting, members of a board of education are citizens and have no authority to take action for or on behalf of the school. Moreover, having a board member investigate a personnel matter is problematic in that the governing board may later be asked to act upon the matter; however, if the board chair and another board member are already involved and potentially biased, they would then have a conflict of interest that could require recusal. The OSDE interviewed the board member asked to look into the concerns raised by the superintendent during the Zoom conference call. The board member said he requested a number of items from Epic HR, including all documentation of any complaints lodged against the board chair. However, the board member stated the only material he had received was one page of notes prepared by an HR employee following a recent telephone conversation.

Second, the board chair stated to the OSDE that after the Zoom call, he phoned an OSBI agent to tell the agent that the superintendent had made new allegations about him. When the OSDE asked the board chair if he believed any of the superintendent’s allegations to be a matter for law enforcement, he said he did not; however, he thought he should keep the OSBI informed because to the best of his knowledge the OSBI had an open investigation into matters involving Epic’s former management.

The OSDE then asked the board chair if it was possible that his reporting of the superintendent’s concerns to the OSBI could be viewed as retaliatory. The board chair hesitated, then said he did not know. He then said he was mistaken when he said he had

called the OSBI; rather, an OSBI agent called him and during that conversation, he told the agent about the superintendent's recent allegations.

When asked to describe the superintendent's demeanor during the Zoom conference call, the other board member who attended the Zoom call (not the board chair) replied, "[The superintendent] was calm and fair."

CONCLUSION AND FINDINGS

The OSDE recommends Epic take immediate action to come into compliance with requirements of Title IX, including, but not limited to, designating a *current* employee to serve as Title IX Coordinator and reporting that information to the OSDE, adopting a policy and process to allow for anonymous Title IX complaints and adding information to Epic's website in an easy-to-find location as to the process for filing a formal grievance based on sexual discrimination or harassment.

The OSDE believes it is inappropriate for a member of Community Strategies to request, outside a public meeting, that another board member investigate the superintendent.

Epic school leadership, with input from the Governance Committee of the board, should develop processes for receiving, logging, investigating and reporting the results of internal investigations. These processes should set forth required notifications when a complaint or report that could lead to an investigation is received, reporting the results of investigations, identifying who has authority to decide an investigation can be closed and requiring record-keeping of internal investigation files.

Community Strategies board members and all Epic employees should annually certify they have received training on Epic's Anti-Harassment and Complaint Procedure and understand that timely reporting of perceived violations is important.

All educational organizations, particularly those like Epic with a prior history of poor board and executive leadership, should make it a priority to demonstrate they have an effective governance and compliance program and can demonstrate the ability to self-police their own conduct with that program. This is far from what is happening at Epic. While the OSDE acknowledges the daunting tasks facing Epic, adherence to the law, accurate record-keeping, maintaining compliance with agreements previously reached with regulators and good school governance oversight cannot continue to be disregarded. Epic has known it is under the careful watch of multiple authorities for some time, yet the problems identified in this report persist. The OSDE concludes that one likely impediment to effective governance and compliance are the multiple, sustained distractions and strife between the board chair and Epic school employees, particularly those in senior-level positions and not limited to the superintendent. This must change. Statutory guidance exists and should be followed for clearly establishing lanes of responsibility for the board and school leaders.

CHAPTER 2 – ENROLLMENT AND ATTENDANCE

The Complaint states that Epic had a practice of withdrawing students for truancy that is inconsistent with requirements in state law. According to the Complainant, when this was brought to the attention of the board chair, superintendent and other staff, no corrective action was taken. Moreover, the Complainant alleges that the superintendent “instructed the internal auditor that this information should not be presented at a public board meeting or individually shared with board members, despite her reporting directly to the board herself, because of how damaging the findings could be viewed.” Therefore, the Complaint alleges that the truancy audit report was never placed on a board meeting agenda or shared with board members.

For purposes of the allegation in the Complaint, answers to the following questions must be provided:

- Was there a truancy audit conducted by the internal auditor, and if so, was Community Strategies precluded from receiving it?
- Has Community Strategies adopted a policy relating to student enrollment and attendance?
- Does Epic’s policy, if adopted, and its implementation of requirements relating to student enrollment and attendance comply with applicable laws and regulations?

STATUTORY AND REGULATORY OVERVIEW OF ENROLLMENT AND ATTENDANCE

Prior to 2018, Oklahoma did not have a statutory or regulatory mechanism in place defining how statewide virtual charter schools should collect and report accurate attendance data. As a result, Epic was a statewide virtual charter school that was reporting 100% of its students as in attendance each day. This practice was described by the OSDE as “[alarming](#).”⁵ Subsequently, the OSDE worked with the Legislature and other stakeholders, including statewide virtual charter schools, to create attendance requirements for these schools. See [Senate Bill 244](#) (2017). Shortly thereafter, the Legislature clarified requirements for fiscal reporting, in specific to educational management organizations (EMOs), as it pertains to the Oklahoma Cost Accounting System (OCAS), the training requirements referenced earlier in this report for governing board members and conflict of interest requirements to improve transparency and accuracy for statewide virtual charter schools. See [House Bill 1395](#) (2019). More recently, due to high mobility observed of students in statewide virtual schools – enrolling and un-enrolling students as many as six times per year – the Virtual Charter School Reform and Transparency Act of 2020 was enacted to put in place statutory requirements pertaining to enrollment and truancy. See [House Bill 2905](#) (2021).

Relating to enrollment, administrative regulations historically required schools to enroll the student (i.e., count the student as enrolled at the school and receive funding based on the average daily membership count) on the first day the student attended classes. [OAC 210:10-1-5](#). For statewide virtual charter schools, these regulations were amended in recent years

⁵ <https://oklahomawatch.org/2016/09/28/five-virtual-charter-schools-five-different-ways-to-track-attendance/>

to require the charter school to not enroll the student until the first day an instructional activity was completed. Once enrolled, regular attendance requirements would follow. For attendance requirements, Oklahoma law requires statewide virtual charter schools to adopt a policy to measure student attendance, at a minimum, each quarter. For the quarter, a student will be deemed to be in attendance if the student:

- a. Completes instructional activities on no less than 90% of the *days* within the quarter;
- b. Is *on pace* for on-time completion of the course as defined by the governing board of the virtual charter school; or
- c. Completes no less than 72 instructional activities within the quarter of the academic year (emphasis added). [70 O.S. § 3-145.8](#).

Then, as a measure of truancy, if a student does not complete an instructional activity for 15 school days in a row and is not on pace, the school must withdraw the student on the 16th day. *Id.*

TRUANCY AUDIT

The OSDE obtained a copy of the truancy audit and relevant emails. Email correspondence produced by Epic reveals that the truancy audit was provided to the Complainant (then a member of the board), and the Complainant agreed that the audit should “*stay within the confines of our organization due to the multiple reasons listed by leadership*” (emphasis added). The Complaint alleges that Epic’s superintendent alone is responsible for the truancy audit never being transparently reported at a Community Strategies meeting, but the Complainant is equally culpable. [Email correspondence](#) demonstrates that Epic’s former internal auditor presented her findings to the superintendent, deputy superintendent of instruction and members of the instructional department before she sent it to the Complainant on July 27, 2021. Further, the internal auditor states in correspondence to the Complainant that she “had originally planned on presenting the audit findings to the board at the August Board meeting.” With her *original intention* of presenting this at a public meeting and the Complainant’s agreement with reasons not to do so “listed by leadership,” it does appear that the internal auditor received some direction to not make a public presentation on her audit findings.

The superintendent told the OSDE he had not instructed the former internal auditor not to disclose her audit findings to Community Strategies. Rather, he said he shared his thoughts with the internal auditor that her audit was more of a “training of staff” action item and not an item for the governing board. Emails and training materials show that the internal auditor provided training to instructional staff on August 10, 2021. The OSDE notes that the internal auditor was a direct report to Community Strategies, and therefore it was proper for her to report the information to them. Moreover, as set forth below, one of the internal auditor’s recommendations was to request the governing board develop training for staff on the board’s approved attendance and truancy policy. Given these conflicting accounts, the OSDE is therefore unable to substantiate the claims in the Complaint regarding the purported directive to keep this truancy audit secret.

From: Kathren Stehno <kathren.stehno@epiccharterschools.org>
 Sent: Tuesday, July 27, 2021 4:57 PM
 To: Linda Ladd <linda.ladd@epiccharterschools.org>
 Cc: hickman@hickmanlawgroup.com; paul.campbell@epiccharterschools.org
 Subject: Re: Truancy Audit Report

Thank you Linda for your thorough audit on Epic's performance on adhering to the truancy policy as approved by the board and presented in state statute. I certainly agree that such internal audit reports should stay within the confines of our organization due to the multiple reasons listed by the leadership. Although, such school performance reviews that were conducted by OEQA were published and still linger on the state's website, those posed no threat of survival. Most notably those schools that volunteered for such reviews did not have four state agencies and a plethora of media outlets waiting for one more news story.

Thank you for the recommendations needed and the commendations for our three MDIs. It is imperative that we as a board make a motion for Epic to utilize either internal (most preferred) or external experts to train all appropriate staff in understanding as well as implementing the truancy policy/state statute.

Lastly, you have proven, again, that the value of an excellent internal auditor is immeasurable.

Exhibit 12: Email from Complainant to Epic internal auditor, July 27, 2021

The truancy audit itself was prepared at the request of Epic's instructional department with the following directives:

- Confirm the truancy policy approved by Community Strategies Inc., the governing board of Epic One-on-One Charter School and Epic Blended Learning Charter, in the student and parent handbook complies with the attendance policy according to state law. [70 O.S. § 3-145.8](#);
- Determine if the process of withdrawing students for truancy is operating effectively per the board-approved truancy policy;
- Ensure students withdrawn as a result of truancy were appropriate; and
- Confirm adequate review and oversight exists for the process of withdrawing students for truancy.

In the conclusion section of the report, Epic's former internal auditor stated that the Community Strategies policy complied with requirements in state law but was not being implemented effectively. For example, the report notes that 12 of 16 managing directors of instruction (MDIs) and 21 of 28 principals had at least one student withdrawn for truancy who should not have been. In addition, the audit report states that Epic administration provided approvals for student withdrawals that neither complied with Oklahoma law nor Epic's own truancy policy. As such, the report recommends Epic ensure adequate processes are implemented to safeguard students from being withdrawn for truancy that do not comply with board policy or statute. To accomplish this, the former internal auditor recommended:

- Requiring the teacher to include documented evidence that each step in the teacher truancy certification process was completed to ensure the student meets the requirements to be withdrawn for truancy by statute and to provide documentation to the principal for review;
- Updating the teacher truancy certification process to comply with the truancy policy and state statute;
- Defining the steps taken by the principal to complete the review process for a request



for a student to be withdrawn for truancy to ensure the review and approval are thorough and sufficient;

- Requiring MDIs to sample the documentation of at least one withdrawn student per principal within the MDI’s reporting line to ensure the process is operating effectively;
- Developing a board-requested training to comply with attendance requirements in state law, [70 O.S. § 3-145.8](#), and the board-approved policy, with mandatory attendance for all teachers, principals, MDIs and deputy superintendents of instruction. The superintendent should also attend the training to set the expectation and demonstrate the leadership team’s commitment to honesty, integrity, ethical behavior and compliance;
- Updating each student’s Individual Learning Plan (ILP) to be consistent with the truancy policy and statute; and
- Ensuring leadership evaluates the pay structure to determine if employees may be incentivized to withdraw students for truancy.

EPIC’S DATA SYSTEM AND PROCESS FOR RECORDING AND REPORTING DATA

After reviewing the allegations in the Complaint and the report completed by the former internal auditor, the OSDE agrees with some of the findings and recommendations, disagrees with others and has identified troubling patterns in Epic’s certified data. The OSDE agrees with the recommendation that Community Strategies evaluate the pay structure to determine if employees are incentivized to withdraw students for truancy. Though it was not within the internal auditor’s report, it appears to the OSDE that the current compensation structure also incentivizes staff *not to* withdraw students for truancy. According to representatives at Epic, teacher bonus compensation is dependent, among other things, on the total numbers of students on the teacher roster and student success measures including test scores, benchmarks and attendance. If correct, an individual may be incentivized to keep students on the roster but also to drop students at certain times so that the student does not factor into a teacher’s bonus calculations and Epic’s School Report Card indicators. For example, students who are withdrawn at certain times of the year do not factor into the state’s assessment performance data for a school. If a low-performing student is withdrawn by a given date or for a given amount of time, that teacher would not be penalized in bonus compensation potential, which is determined in part on student assessment scores. Conversely, if bonus compensation is determined at least in part on how many students are enrolled, a teacher may be incentivized to keep a high number of students in order to receive a higher bonus payout.

This structure is not only for instructional staff at Epic. The OSDE reviewed one administrator’s contract which expressly provided that the bonus potential was 100% dependent on how many students were enrolled at Epic. The OSDE is unaware if Epic has considered or implemented an evaluation to determine whether the current teacher bonus compensation structure inappropriately incentivizes manipulation of student enrollment and attendance data. If this has not occurred, the OSDE strongly encourages Epic to implement this review immediately.

Further, the OSDE agrees with the former internal auditor’s recommendation to require teachers to include documentation of each step in the truancy certification to ensure the

student meets the requirements to be withdrawn for the sake of transparency. Currently, Epic’s attendance policy provides:

The first date of attendance and membership shall be the first date the student completes an instructional activity. Students are required to complete a minimum of 72 instructional activities within the quarter of the academic year. For the purposes of determining compliance with this truancy and attendance policy, instructional activities shall include instructional meetings with a teacher, completed assignments that are used to record a grade for a student that is factored into the student’s grade for the semester during which the assignment is completed, testing, school-sanctioned trips and orientation. Students shall be required to participate in the student orientation offered by the school prior to completing any other instructional activity. Any student that is behind pace and does not complete an instructional activity for a fifteen school day period shall be withdrawn for truancy. The school will notify the parent or legal guardian of the student who has been withdrawn for truancy or is approaching truancy. Students enrolling in the school after the beginning of the quarter will have their minimum number of assignments reduced on a pro-rata basis based upon the date their enrollment is approved.

...

A student who is reported for truancy two times in the same school year shall be withdrawn and prohibited from enrolling in Epic for the remainder of the school year.

Note: It is the OSDE’s understanding that in school year 2020-21, Epic used a system called “Epicenter” as its local Student Information System (SIS). The data stored in Epicenter was never sent to the WAVE, the OSDE’s statewide student information system. Rather, the data from Epicenter was manually pushed to Wengage (another SIS) before the data was subsequently uploaded to the WAVE. Some data elements, including attendance data, ran through a customized algorithm before being uploaded to Wengage. In other words, the OSDE only received the scrubbed data that was uploaded into Wengage; it did not receive the original attendance data reported by Epic teachers.

According to Epic representatives, once an enrollment application is submitted to Epic, the student enrollment team enters the student into Epic’s SIS for purposes of assigning a teacher. That assigned teacher then connects with the student and family to schedule a meeting to create an Individualized Learning Plan (ILP) for the student. It is the OSDE’s understanding that, while not expressly identified in the attendance policy, the ILP meeting satisfies the completion of an instructional activity requirement. This is true even though the student is not necessarily required to attend the ILP meeting. Stated otherwise, a meeting between a parent and a teacher may count as an instructional activity. It is reasonable to question whether this *should* count as a student completing an instructional activity, but Epic’s implementation means that the student *is* counted as in attendance and as enrolled on this day. Once the ILP process is complete, future attendance is collected

and reported into Epicenter by the student’s teacher selecting a number from a dropdown menu to reflect how many instructional activities the student completed in a given time period. While teachers are asked to record student instructional activities on a weekly basis, Epic only *requires* this to be done – according to its policy – at the end of each instructional quarter. At the end of that quarter, an algorithm created under the prior administration is purportedly tasked by an authorized user to distribute instructional activities across instructional days.

CONCERNING DATA PATTERNS

As part of the investigation, the OSDE identified troubling patterns in Epic’s data. In reviewing data submitted by Epic’s SIS (i.e., Wengage, after the teacher-provided data had been submitted to Epicenter and then converted into Wengage’s system) to the OSDE for the 2020-21 school year, there were 6,720 instances among 4,819 unique students where a student has a demonstrated pattern of being absent for 14 consecutive school days, is marked present on the next (15th) day, then is absent for 14 more consecutive days. For reference, during the 2018-19 and 2019-20 school years, there were zero instances of this 14-1-14 pattern.

Importantly, state law changed July 1, 2020, with the passage of [H.B. 2905](#), which created the 14-day truancy provision – a special provision for statewide virtual charter schools – and made significant changes to the attendance requirements for statewide virtual charter schools. Regarding the importance of 14 days, statute requires:

- b.** A pupil enrolled in a statewide virtual charter school who is behind pace and has not completed instructional activity as defined by Section 3-145.8 of this title for a fifteen-school-day-period, without excuse as authorized by Section 10-105 of this title, shall be taken off the roll beginning the sixteenth day and thereafter shall not be considered in the virtual charter school’s average daily membership calculation until the pupil is placed on the roll in the virtual charter school. [70 O.S. § 18-107](#).

While the same provision exists for non-virtual charter schools, the time period differs; non-virtual charter schools must drop a student from enrollment after missing 10 consecutive days, and the student is not counted for funding purposes after that time unless the student re-enrolls. While the 14-1-14 pattern did not appear prior to July 1, 2020, that is likely because the 15-day requirement did not exist at that time. In other words, it appears Epic intentionally changed its algorithm to adapt to the new law in such a way that a large number of students were never absent on the 15th day, were not dropped from enrollment and Epic continued to receive funding for these students.

Exhibit 13 below reflects a student’s enrollment and attendance information at Epic transmitted to the OSDE by Epic’s SIS. In the image, the days in red indicate a student absence, while the remaining days reflect the student being in attendance. The days shown in gray are noninstructional days for Epic. Throughout this school year, the data indicated six instances of the 14-1-14 pattern. Between September 30 and December 21, 2020, the student was present (i.e., in attendance) for only 3 of 56 instructional days at Epic (Oct. 10, Nov. 10 and Dec. 4). Some Epic staff informed the OSDE that whether a student is on pace has historically been determined by the teacher, and for the current year the expectation

is that a student is on pace if the student completes at least 5.5% of the course each week. However, if a student is working on a single course, the student is considered on pace if at or above 18% of the course per week. Under any scenario, it is difficult to imagine data such as that reflected below – and which was observed numerous times for students enrolled at Epic – could equate to a student being on pace at the same time as the consistent 14-1-14 pattern of absences/attendance was observed.

LEGEND

1 RED REFLECTS DAYS ABSENT

1 NON-RED AND BOLD ARE DAYS IN ATTENDANCE

1 GRAY DATE NO SCHOOL



Exhibit 13: Recorded example of 14-1-14 pattern of student attendance (student record generated by Epic’s SIS)

Upon finding these patterns occurring frequently, the OSDE became concerned that the algorithm is allocating instructional activities across instructional days, thereby marking a student as present even though the student may not have completed any instructional activity on that day. For purposes of accurately reporting student attendance over time, this practice is problematic due to the direct relationship between attendance and state funding. Epic says its instructional model is based on student mastery of the course and not on whether a student is present (i.e., completed an instructional activity on a given day). Of further concern is this practice in connection with the requirement that a student be withdrawn if 1) not on pace and 2) not completing an instructional activity for a 15-school day period.

The OSDE interviewed multiple Epic representatives with knowledge of Epic’s SIS and process for enrollment, attendance and withdrawal. Following these interviews, the OSDE requested a copy of the coding for the algorithm built into Epic’s student information system to determine if there is an explanation for the 14-1-14 pattern. Epic provided the coding they believe was utilized to determine student attendance and truancy for the 2020-

21 school year. However, without additional information on the data feeding into this script and documentation on the business rules outlined and applied to this code, the OSDE is unable to determine how instructional activities are converted into student daily attendance for reporting purposes. The individual(s) who crafted this code left very minimal comments to explain the steps taken to determine these student attendance data.

Given the patterns and discrepancies the OSDE has seen in the data, it is concerning that Epic continues to use this code to report student attendance. Based on the patterns identified in Epic’s attendance data, this code appears to be skirting state truancy law to keep students enrolled who, under a different set of business rules, might have been withdrawn for truancy. Additionally, it is troubling that this algorithm was built by a third-party vendor, and no one at Epic has a working knowledge of the code or the business rules being applied in the algorithm, which determines daily attendance for all of Epic’s students.

Based on discussions with Epic, the functions and business rules of this algorithm are a “black box” to their staff – no one at the district could explain how a specific student’s record of completed instructional activities would be converted into the student’s attendance records after being run through the algorithm. Without the coding, the OSDE is unable to fully determine the cause of the inconsistency in data, whether due to coincidence, intent or inaccurate data. Due to the involvement of the third-party vendor who created the algorithm and related code, the OSDE is unable to obtain this information without a subpoena – which the OSDE does not have the power to issue. If this information could have been secured through an OSDE-issued subpoena, the agency could have provided a more definitive answer to the remaining questions. Absent that power, the OSDE intends to provide this information to other agencies so that a full review may be undertaken.

With respect to certifications of data relating to enrollment, the OSDE discovered similar inconsistencies between what is required in statute and what is occurring in Epic’s reported data. Epic’s policy regarding the first day of enrollment for a student is aligned with administrative regulation, but its practices do not appear to be. Administrative regulations for enrollment and attendance for virtual students were amended in 2018 to eliminate seat-time requirements and to specifically provide that the first day of enrollment for which a student can be counted in membership is the first day a student actually attends class or participates in instructional activities. [OAC 210:10-1-5](#). In reviewing data transmitted by Epic’s SIS to the OSDE, the following were identified:

- Epic enrolled 4,569 students in school year 2020-21 who were marked absent on their first date enrolled. For these students, there were on average 8.5 days between the first day of enrollment and the date when the student was first marked as completing an instructional activity;
- From the 2018-19 school year through the 2020-21 school year, all absences were reported and certified as unexcused; however, in the current school year (2021-22), all absences have been reported as excused;
- From the 2019-20 school year to the 2020-21 school year, absences increased from 18,275 to 647,624 (a 3,443.8% increase);⁶

⁶The OSDE notes that Epic saw a sharp increase in its student enrollment, doubling it, in this time period when COVID-19 was rampant. However, it is of concern that student absences would increase so dramatically, especially in a virtual setting where physical presence in a school facility is not a requirement.

- For the 2020-21 school year, 6,436 students (nearly 9% of all students enrolled at Epic during that school year) were absent more than 50% of the time they were enrolled, and 3,399 students (nearly 5% of all students enrolled at Epic during that school year) were absent more than 75% of the time they were enrolled. Of the greater than 50% group, 931 students were enrolled in Epic the following school year, and approximately 43% of them were promoted to the next grade level.

In reviewing the student’s attendance and enrollment information shown in Exhibit 14, the student’s first day was November 19, 2020. However, the first instructional day with a completed instructional activity was December 11, 2020. If December 11, 2020, was the first day the student completed an instructional activity (defined as in attendance), this should have been the first day to include the student in Epic’s student membership.

LEGEND

- 1** RED REFLECTS DAYS ABSENT
- 1** NON-RED AND BOLD ARE DAYS IN ATTENDANCE
- 1** GRAY DATE NO SCHOOL

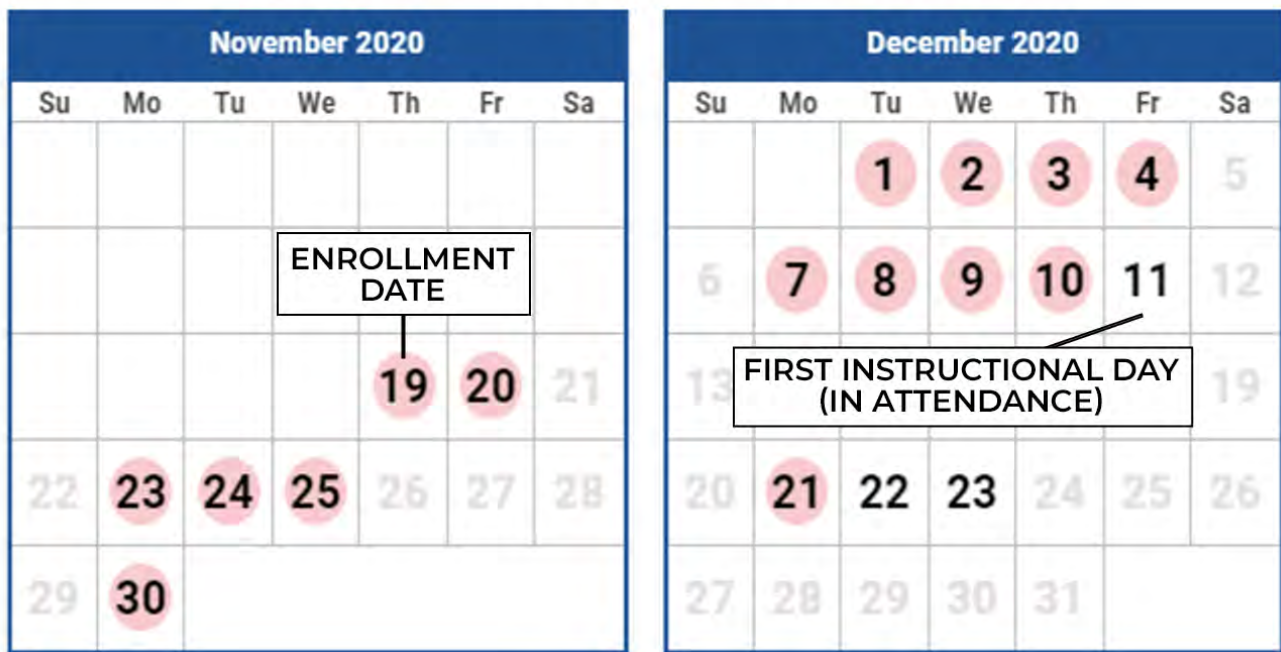


Exhibit 14: Example of certified student enrollment prior to completing an instructional activity

In Exhibit 15, the student had two enrollments at Epic in this school year. The first enrollment ended with the student exiting on April 18, 2021, and then re-enrolling on April 20, 2021. However, for this second enrollment, the first day with a completed instructional activity (in attendance) was May 10, 2021. If May 10, 2021 was the first day the student completed an instructional activity (defined as in attendance), this should have been the first day to include the student on Epic’s student membership.

LEGEND

- 1 RED REFLECTS DAYS ABSENT
- 1 NON-RED AND BOLD ARE DAYS IN ATTENDANCE
- 1 GRAY DATE NO SCHOOL

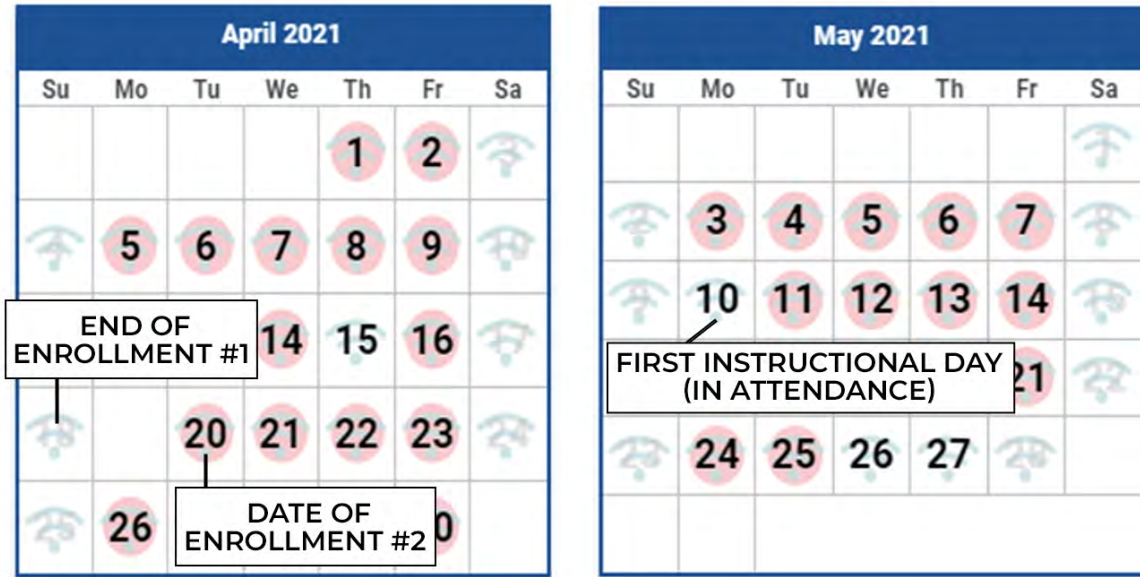


Exhibit 15: Example of certified student enrollment prior to completing an instructional activity

In Exhibit 16, the student enrolled on April 13, 2021, but the first day of instructional activity (in attendance) was May 3, 2021. If May 3, 2021, was the first day the student completed an instructional activity (defined as in attendance), this should have been the first day to include the student in Epic’s student membership.

LEGEND

- 1 RED REFLECTS DAYS ABSENT
- 1 NON-RED AND BOLD ARE DAYS IN ATTENDANCE
- 1 GRAY DATE NO SCHOOL

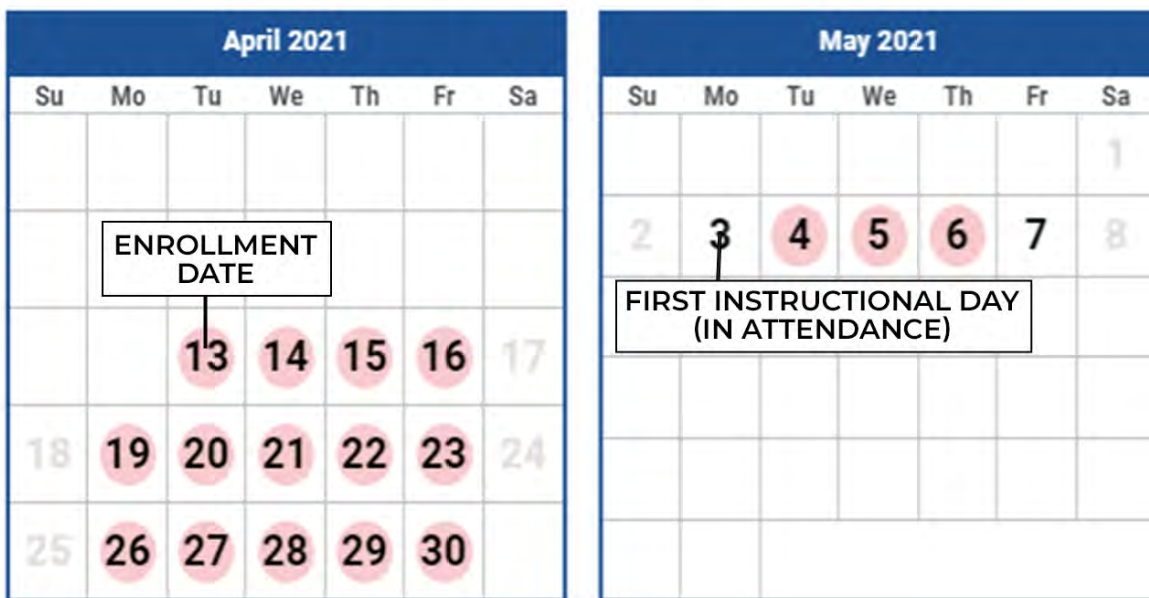


Exhibit 16: Example of certified student enrollment prior to completing an instructional activity

Had the OSDE received the full coding for the algorithm built into Epic’s student information system, it may have been able to fully determine why students were seemingly enrolled prior to the data system showing completion of an instructional activity. In addition to

what was believed to be the coding for the algorithm, Epic also provided a *spreadsheet* of student attendance data. However, it caused further confusion and concerns. For example, the spreadsheet shows the student in Exhibit 17 having two enrollments at Epic in the 2020-21 school year. The first was from September 8, 2020, to November 17, 2020, then again from November 18, 2020, to March 28, 2021. In *data transmitted to the OSDE* and certified by Epic’s superintendent as true and correct, during the student’s second enrollment, the student was absent from November 18, 2020, through December 7, 2020. However, the *spreadsheet* appears to indicate that the student completed instructional activities during the time the student was reported to the OSDE as being absent.

LEGEND

- 1 RED REFLECTS DAYS ABSENT
- 1 NON-RED AND BOLD ARE DAYS IN ATTENDANCE
- 1 GRAY DATE NO SCHOOL

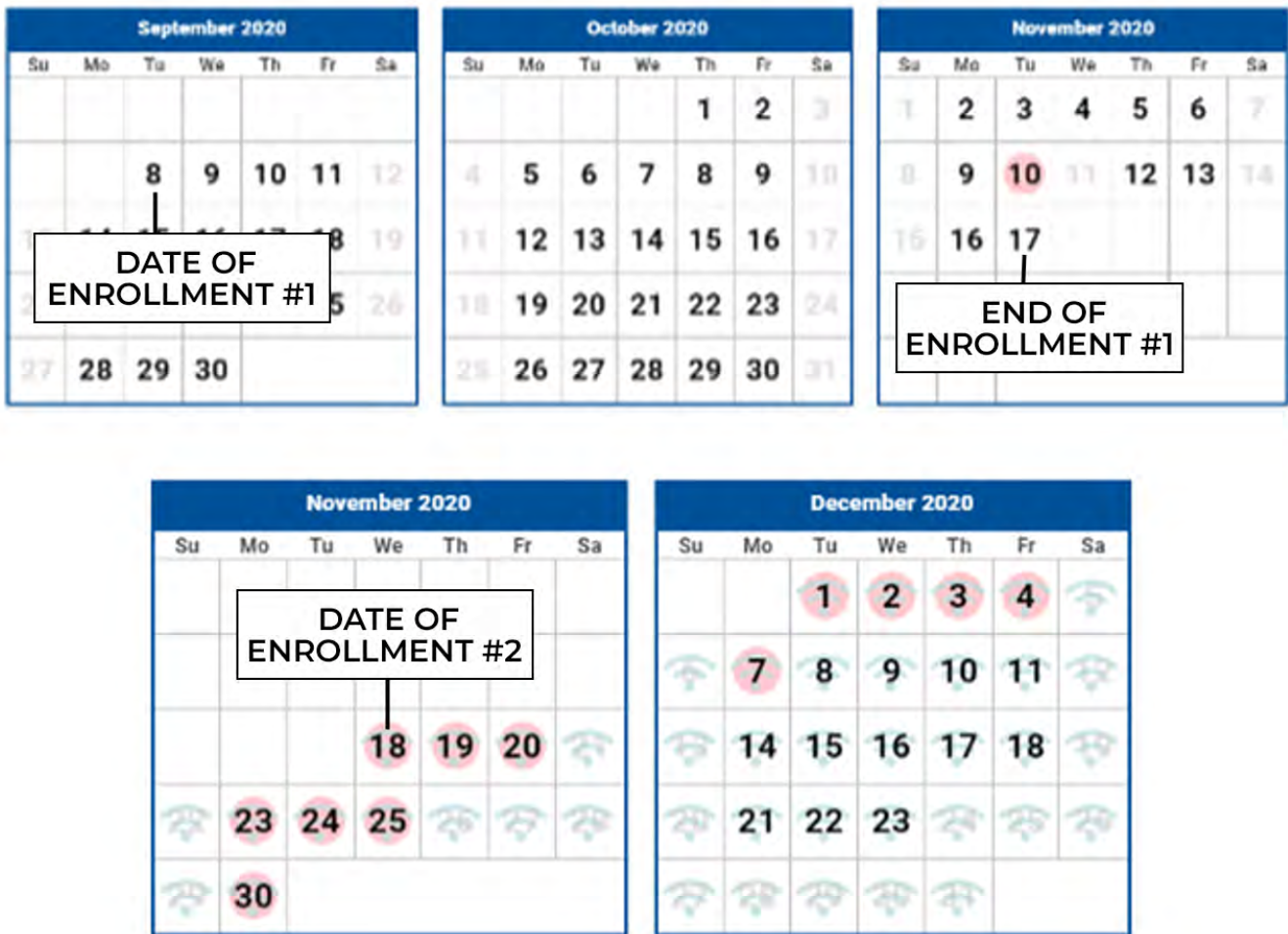


Exhibit 17: Example of certified student attendance data not matching additional data contained in a spreadsheet shared by Epic in response to the OSDE’s inquiry

Further, the *spreadsheet* shows another student certified as having completed instructional activities before the date of enrollment. Specifically, the student had two enrollments at Epic in the 2020-21 school year, the first from September 8, 2020, to October 1, 2020, and again from November 2, 2020, to May 27, 2021. In the spreadsheet, the student is identified as having completed instructional activities during the weeks of October 11, 2020, to October

17, 2020, and from October 25, 2020, to October 31, 2020 – during which the student was reported as not enrolled according to data certified to the OSDE as true and correct.

CONCLUSION AND FINDINGS

Obvious errors in Epic's certified enrollment and attendance data remain, even after the change in Community Strategies governance and after many at Epic were alerted to causes for concern. As a result of new attendance and truancy requirements for the 2020-21 school year, it appears that an algorithm was created and the coding for it written in a way to allow Epic to avoid having a significant number of truant students. A school with low numbers of truant students results in more enrolled students, and therefore more state funding allocated to the school. Assuming that each of 4,819 unique students with the 14-1-14 pattern did complete an instructional activity on the 15th day, Epic still appears to have had a 3,344% increase in student absences, have approximately 6,500 students (9% of all enrollment in the 2020-21 school year) absent more than 50% of the time and nearly 3,400 students absent greater than 75% of their time of enrollment.

The OSDE understands the competency-based model of education and supports districts implementing that model. Given these startling numbers, however, the OSDE questions whether Epic students are being properly served and receiving an excellent education as is the legislatively directed standard. [70 O.S. § 3-104.3](#).

It is apparent that Epic has violated state law by counting students as being in enrollment prior to the first day of completing an instructional activity, which is the legally required first day of enrollment. [70 O.S. § 3-145.8\(B\)](#). Without evidence to indicate otherwise, Epic enrolled 4,569 students in school year 2020-21 who were marked absent on their first date enrolled. For these students, there were on average 8.5 days between the first day of enrollment and when the student was first marked as completing an instructional activity. In total, Epic certified data that added 39,045 days of membership that should not have been counted, causing a misallocation of funds in the approximate amount of \$780,000. Note: This amount is merely reflective of what the OSDE gleaned from investigating one data reporting pattern in a given school year; it is possible additional reporting issues exist in other school years.

CHAPTER 3 – IMPROPER AWARD AND REPORTING OF COMPENSATION TO EMPLOYEES

In the Complaint, it is alleged that Epic’s internal auditor discovered questionable treatment of public funds, specifically concerning “extremely large and unapproved bonuses that exceeded employee contracts without board approval” and in “clear violation of board policy that expressly requires the proration of bonuses for partial-year employees.” Further, the Complaint alleges that the internal auditor discovered large compensation packages and raises for staff that well exceeded public school market norms. For purposes of the allegation in the Complaint, answers to the following questions must be provided:

- Was Community Strategies responsible for and obligated to approve the bonus payments allegedly made in June 2021?
- If so, were bonuses paid in June 2021, and were they approved by Community Strategies?
- Were bonuses paid in amounts consistent with the employment contract and policy of Community Strategies?

PERSONNEL AND COMPENSATION OVERVIEW

The Oklahoma Charter Schools Act requires charter schools to have employment contracts with employees, and these contracts must set forth personnel policies of the charter school as well as the employee’s salary, hours, fringe benefits and work conditions. [70 O.S. § 3-135\(B\)](#). As part of the noncompliance determination in 2020, the OSDE discovered that not all employees at Epic had employment agreements and, for those who did, information required by law was not present. [70 O.S. § 3-135](#). As such, the OSDE required immediate action by Community Strategies to come into compliance with these requirements. Community Strategies disagreed with the OSDE’s finding but agreed that all personnel would have an employment agreement that contains the required information by July 1, 2021. For purposes of the 2020-21 school year, it does not appear that Community Strategies approved employment contracts for administrators or purchase orders for the total amounts paid over the entirety of that year.

At Epic, bonus payments are said to be a longstanding practice designed to attract and retain top talent. As long as laws and regulations are adhered to with respect to controls and processes for expenditures of public funds, bonus payments may be provided to employees of any Oklahoma public school – charter and non-charter. In interviews with current and former employees, the alleged improper payments of bonus compensation are said to have occurred in June 2021. The OSDE reviewed information made available concerning employee compensation for the 2020-21 school year, including policies and procedures set forth in the employee handbook, contracting and purchasing policies, purchase orders, encumbrances, board meeting agendas, minutes and corresponding board materials, and employment agreements.

During the investigative process, Epic representatives repeatedly informed the OSDE that these bonus payments were made in December of the year following the fiscal and school year in which they were earned. For example, if an employee agreement for the

2019-20 year (July 1, 2019 - June 30, 2020) provided for bonus compensation up to \$40,000, payment of the bonus was not provided to the employee until December 2020. It is the OSDE's understanding that this practice with respect to administrative staff has ceased, but it continues to be the practice with non-administrative staff bonus payments. It is the OSDE's opinion that this practice violates the constitutional prohibition on crossing fiscal years. See Okla. Const. Art. X, Section 26. Notwithstanding the potential unlawful nature of this practice, there is no dispute that administrative staff at Epic were paid bonuses in December 2020 and again in June 2021. The bonus paid in December 2020 was for the 2019-20 school year, and the June 2021 payment was for the 2020-21 school year.

SALARY AND BONUS PAY – DECEMBER 2020 THROUGH APRIL 2021

As described in the OSDE's findings of November 2020, the OSDE previously identified Epic's noncompliance with laws and regulations relating to Community Strategies not approving all financial transactions and adhering to documented procedures relating to internal controls, segregation of duties and procurement. Epic and Community Strategies then advised the OSDE that Community Strategies adopted a resolution to direct Epic to comply, adopting policies and procedures at its December 7, 2020, meeting. Based on documents provided, it appears Epic began preparing and presenting encumbrances and purchase orders to Community Strategies for approval at board meetings.

Beginning in fall-to-winter 2020 through April 2021, purchase orders were used and approved by Community Strategies for all financial transactions, including employee payroll. See February 25, 2021, Agenda and Encumbrance and Purchase Order Register; March 18, 2021, Agenda and Encumbrance and Purchase Order Register; April 13, 2021, Agenda and Encumbrance and Purchase Order Register.

Operating on the representation from Epic that administrator bonuses have historically been paid in December, the OSDE reviewed the purchase orders and encumbrances in Community Strategies board materials from November 2020 through January 2021, and determined that payment was made to Epic administrative staff on December 23, 2020, covering bonuses earned in the *2019-20 school year*⁷. Importantly, Community Strategies approved the monthly salary and bonus compensation at its January 25, 2021, meeting. For example, the 2019-20 employment agreement for Epic's superintendent identifies a salary of \$150,000 and bonus potential up to \$40,000. The purchase order for the superintendent identifies monthly salary payments made in a gross amount of \$16,576.07 from July 2020 through November 2020. The purchase order then identifies two payments to the employee in December 2020 – one in the net amount of \$15,825 and the other on December 23, 2020, as supplemental pay in the amount of \$30,922.21. This suggests the payment on December 23, 2020, was for bonus compensation earned in the 2019-20 school year.

To verify this, the OSDE compared the encumbrance register reports presented to Community Strategies at its December 7, 2020, and January 25, 2021, meetings. These documents show the superintendent's compensation increasing \$46,747.21. As such, the

⁷To be clear, Community Strategies appears to have been presented with (and approved) monthly payroll; however, the OSDE is unable to verify that the employee contracts were approved by the board for that 2020-21 school year. As such, this would necessarily mean that the board would not have approved any bonus compensation provided for in such an agreement.

documents demonstrate the administrative bonuses for the 2019-20 school year were paid to the administrator on December 23, 2020, and approved by Community Strategies. Comparisons of the same documents and data for other senior administrators at Epic reveal identical results. The OSDE concludes that administrator bonuses from the 2019-20 year (covering July 1, 2019 – June 30, 2020) were approved by Community Strategies. Though this practice is contrary to the requirement that prohibits the expenditure of public funds across fiscal years, these financial transactions were at least approved by Community Strategies. Unfortunately, this practice ceased in May 2021.

SALARY AND BONUS PAY – MAY 2021 THROUGH PRESENT

In May 2021, documents show that Epic administrative staff began examining compensation structures and amounts for its administrative staff, including a shift to eliminating bonus payments to administrative staff and instead increasing base salary in proportionate amounts. These discussions centered on future employment agreements and compensation. For purposes of bonus payments made pursuant to the 2020-21 employment agreement, documents reveal that Epic planned to make bonus payments in June and not as historically done in December of the following school year. On May 19, 2021, Epic's superintendent emailed Epic administrative staff signaling a change to their compensation structure and announcing an "early bonus payment" in June 2021. See May 19, 2021, email. The email provided in part:

We are excited to announce that all of our administrative employees with a defined bonus amount in the employment agreement will be paid 100 percent of the full potential in June of 2021 instead of the percentage bonuses typically paid in December. This is being done to honor the tenacity and grit of administrative staff in a very challenging year and to close out our current Fiscal Year 2021 compensation in the fiscal year it was earned.

Going forward, all administrative employees will be paid a base pay without a yearly bonus so that those employees' total compensation is factored into their Teacher Retirement System of Oklahoma (TRS) benefits. While TRS has approved our faculty's bonus structure for TRS benefits, the agency did not approve the bonus structure of our administrative team. For most employees, this change will mean a higher base than you were paid previously and compensation equal to your base plus your bonus potential in this current fiscal year. For those with a pay structure based on growth or stats tied to roster, your compensation will be determined by your job duties and time in the position. This change reflects our dedication to compensating all employees in a fair and equitable manner, regardless of religion, gender, race or sexual orientation. *Id.*

Days later, Epic's treasurer and assistant superintendent of finance sent an email to the individual who would soon become board chair of Community Strategies concerning the future compensation plan for administrative staff. See email dated May 22, 2021. In that

email, the future board chair was provided with a spreadsheet setting forth compensation plans for each administrator and an explanation of the factors that a “team” of employees had considered in creating the new plan.

The OSDE obtained a copy of the spreadsheet identifying the 2021-22 administrator compensation plan, which contained references to employees’ experience at Epic, size and number of direct and downline reports, equitable treatment of positions and gender, and a sensitivity to grandfathered compensation plans. Within the spreadsheet was also a reference to a June bonus, which was added to reflect what the employee’s total 2021-22 school year compensation looked like, compared to the 2021-21 total compensation (including the referenced June 2021 bonus), since it was proposed to no longer include bonus compensation. Upon examining the spreadsheet and comparing it with documents provided across a similar period, the June reference appears to align with the email announcement on May 19, 2021, that administrative staff would receive their bonus payment in June 2021. To confirm, the OSDE examined employee purchase orders, which reflect compensation paid in large amounts to administrators on June 7, 2021. All representatives of Epic interviewed by the OSDE confirmed that the June 7, 2021, entries were the bonuses paid to administrative staff.

However, Epic representatives could not confirm that Community Strategies approved the bonus compensation paid in June 2021, and a review of meeting agendas and materials corresponding to each item on the agenda show that the bonuses were not approved by Community Strategies.

At its May 26, 2021, meeting, Community Strategies was presented with – and approved – purchase orders and encumbrances through May 14, 2021. Notably, whereas Community Strategies had been approving all financial transactions from December 2020 through April 2021, the May 26, 2021, financial transactions were labeled as “*excluding payroll*” (emphasis added). This action to remove payroll from the financial transactions presented to and approved by Community Strategies was directly in contrast with 1) the resolution in October 2020 directing Epic to ensure all financial transactions were approved by the governing board; 2) the Corrective Action Plan submitted to the OSDE in December 2020; and 3) Epic’s response to the OSDE’s identified noncompliance in 2020.

In examining the Community Strategies agenda and materials for its June 15, 2021, meeting, employee payroll was again expressly *excluded*. See Agenda, Minutes and Purchase Order Report through June 11, 2021. As such, it is apparent that Community Strategies was never presented with, and therefore never approved, the bonus payments made to administrators on June 7, 2021. Additionally, these payments appear to be in violation of Oklahoma law, a matter about which Epic and Community Strategies had been previously notified. [70 O.S. § 18-116, 5-135](#).

The OSDE asked Epic representatives why the bonuses were given without Community Strategies approval. In response to these questions: 1) Epic representatives explained that the superintendent had the authority to authorize such payments; and 2) They believed the bonuses might have been approved by the board. Epic representatives advised the OSDE that the former and current Community Strategies board chairs were advised, informed and approved of the bonus payments. While there is no evidence demonstrating that

the information was presented to and approved by the then-board chair of Community Strategies, an email demonstrated that the spreadsheet identifying the *next year's* (2021-22) compensation for administrative staff was given to the Community Strategies soon-to-be board chair. In a May 22, 2021, email to the board chair, the assistant superintendent stated, "Once *approved*, I will coordinate with HR to get the agreements for senior leadership prepared" (emphasis added). *Id.*

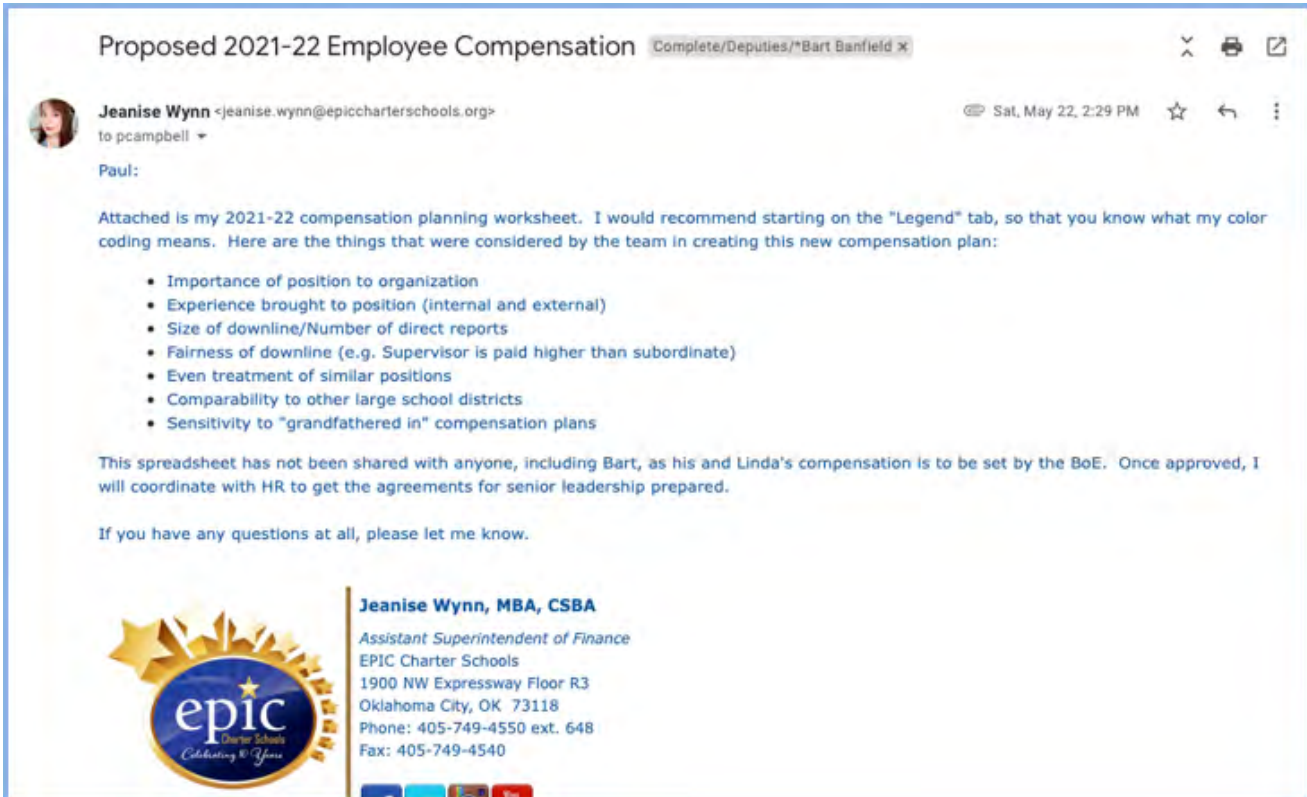


Exhibit 18: Email from Epic assistant superintendent to board chair, May 22, 2021

The assistant superintendent⁸ explained that “once approved” referred to presentation to Community Strategies, despite the OSDE being advised that the same Epic administrator made the decision to remove payroll from the purchase orders presented to Community Strategies. If this person had the authority to remove payroll from the board’s view and approval, it does not appear the compensation spreadsheet for bonuses would be sent to the board chair for ultimate full board approval. Further confusing the issue, this administrator also stated a belief that Epic’s superintendent alone had the authority to make the decision without Community Strategies. The board chair confirmed to the OSDE that he was provided with the bonus information and was “fine” with it, particularly that the amounts seemed reasonable. Regardless of the assistant superintendent’s belief that the board chair was going to send the information to the full board, sending the information to one board member does not equate to full approval by the governing board.

From interviews with Epic staff, it appears that they believed the superintendent had the authority to make decisions on bonus payments. His email to administrative staff on May

⁸ The assistant superintendent later received a change in her job title. As such, references to “assistant superintendent” may be used interchangeably with the “deputy superintendent of finance.”

19, 2021, announcing the “early bonus payment” to come the following month suggests a decision had already been made on the bonus payments. Additionally, the deputy superintendent sent an email to the superintendent on May 23, 2021, advising that the compensation plan referenced above provided him with “wobble room” on salary amounts for certain administrative staff (i.e., “Chiefs and Assistant Superintendents”). Specifically, Epic leadership told the OSDE that such authority was underscored in the Contracting and Purchasing Policy. According to the superintendent, deputy superintendent of finance and deputy superintendent of human resources, Community Strategies adopted the policy at its December 7, 2020, meeting. In the policy, Epic leadership informed the OSDE that Community Strategies had delegated authority to the Epic superintendent to make purchases and enter into contracts for up to \$150,000 at Epic One-on-One and Epic Blended.

But the OSDE found no such authority existed for the superintendent to do so. In the adopted [Contracting and Purchasing Policy](#), Community Strategies authorized the superintendent to “purchase materials, supplies, equipment and services for the School.” However, a review of the policy indicates that it does not apply to – nor was it intended for – personnel and payroll, including bonuses. Policy language references entering into contracts for expenditures of funds for construction, materials, supplies, equipment or services as set forth in [70 O.S. § 5-123](#) and [61 O.S. §§ 101 - 137](#) (Public Competitive Bidding Act) with a scope of purchases for “items.” The policy appears to have been adopted to authorize the superintendent to enter into contracts for facilities, contracted services, supplies and materials when such items cannot quickly be brought before the board. Even if it did apply to personnel, including payroll, the policy states that purchase orders for these items will be presented to Community Strategies on a monthly basis. The June 7, 2021, bonus payments were never presented to or approved by Community Strategies.

As a complementary reason to demonstrate the need for Community Strategies to approve bonus compensation and any deviation from policy or employment contracts, such a deviation was taken to Community Strategies in August 2021 for one employee. Following this agenda item in August, in October 2021, Community Strategies adopted an amended policy to provide “some discretionary authority to Superintendent” with regard to payment of bonus compensation to employees. This amended policy plainly reveals the award of bonus compensation previously required approval from Community Strategies.

BONUS COMPENSATION IN EXCESS OF EMPLOYMENT AGREEMENTS

According to documents obtained by the OSDE, *Epic* did put contracts in place for all administrators in the 2020-21 school year. It does not appear, however, that *Community Strategies* approved these employment agreements. Rather, these administrative employment contracts were approved and signed by Epic’s human resources department.

In the Administrative Employment Agreement for the 2020-21 school year, a base salary and the amount an employee “may be entitled to” for bonus compensation are explicitly identified. Further, in signing the contract, the employee agrees to “adhere to laws, policies, procedures and ethical standards of Epic Charter School” and understands that the employee is only entitled to the compensation and benefits as set forth in the employment agreement. By signing the Administrative Employment Agreement, the employee also

agrees to adhere to all policies, procedures, rules and regulations set forth by Community Strategies, including the employee handbook, which is incorporated into the Administrative Employment Agreement. *Id.*

When asked about their employment agreement, nearly all Epic administrators advised the OSDE that they did not believe they could receive more than the amount of bonus compensation set forth in their agreement. In fact, no employee interviewed could recall ever receiving bonus compensation in excess of the amount identified in the employment contract. However, in comparing employment contracts for administrators for the 2020-21 school year with payments made on June 7, 2021, some administrators clearly received more compensation than had been authorized in their employment agreement. The table on page 69 illustrates variations from the employment contract.

When questioned as to why these overages occurred, Epic leadership informed the OSDE that the bonus overage paid to Epic’s superintendent was in an amount that put the superintendent’s compensation at the highest level of any employee of any other Epic employee. Further, with regard to his spouse and another individual, excess bonus payments were said to be necessary to keep prior arrangements with Epic’s former management company regarding equitable salary-to-bonus distribution. Finally, Epic leadership said that, as a whole, the excess bonus compensation was due to the tenacity and determination shown by the administrators in a very challenging year for Epic. Regardless of the rationale, the OSDE has not found any authorization – in statute, administrative rule or Epic policy – allowing bonuses to be paid without board approval and in excess of employment contracts. The OSDE has concerns relating to the superintendent potentially approving and receiving his own June 2021 bonus compensation. The receipt of unauthorized bonuses by an Epic employee appears to be a violation of state law, which states in part:

If any [...] person charged with the collection, receipt, safekeeping, transfer or disbursement of the public money, or any part thereof, belonging to any [...] school district of the state shall convert to the officer’s or person’s own use [...] any of such public money, [...] held by such officer or person by virtue of such office or public trust for safekeeping, transfer or disbursement, or in any other way or manner, or for any other purpose; [...] such [...] person shall be guilty of an embezzlement. [19 O.S. § 641](#).

At a minimum, this transaction appears to implicate the provisions of the Community Strategies conflict of interest policy, which provides in part:

No employee, officer or agent of the School shall participate in selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.” *Id.*

In addition to his own bonus compensation exceeding the employment contract, the superintendent's spouse also received bonus compensation not approved by Community Strategies and in excess of her employment agreement. When asked about the spouse's bonus exceeding the employment agreement, Epic employees informed the OSDE that an agreement had been made with Epic's former charter management organization to shift the pay structure for her and another employee with the same job title at the time. When Epic leadership presented the bonus compensation to these two employees in May 2021, the employees asked that the deal formerly made be honored. Whether this situation presented a potential conflict of interest for Epic's superintendent regarding the second employee is unknown; however, it seems evident that a real or perceived conflict of interest was present with respect to the bonus payment to the superintendent and superintendent's spouse. At a minimum, further disclosures and approvals should have occurred.

BONUS COMPENSATION IN VIOLATION OF COMMUNITY STRATEGIES POLICY

In addition to exceeding the contracted amount, the June bonus payment violated Community Strategies' policy requiring bonus compensation to be prorated for individuals who did not work at Epic for the entirety of the applicable school year. In the employee handbook, effective July 1, 2020, the compensation policy provides that employee compensation will be made strictly in accordance with Oklahoma law. With respect to bonuses, the employee handbook provides:

Yearly, Bonuses

Bonuses are paid out based on the fiscal year. The fiscal year runs from July 1st – June 30th. (Example: If employment began January 1, the bonus would be prorated and the employee would receive 6/12 of the amount.)

Epic's deputy superintendent of finance commenced employment on February 22, 2021. According to Community Strategies' adopted policy, this individual would have been eligible for a bonus amount prorated for approximately 35% of her time employed at Epic for that school year. Instead, as noted in the table below, not only was the deputy superintendent of finance's bonus not prorated, but it also exceeded the amount of her employment agreement. In the OSDE's interviews with Epic's administrative leadership, specifically the board chair, the superintendent and deputy superintendent of human resources, all advised that the deputy superintendent of finance had raised this issue with them. After pointing out the requirement in policy that the bonus be prorated, Epic's superintendent and board chair said they approved exceeding the requirements in policy and providing the deputy superintendent of finance a bonus of \$50,000 after having been employed at Epic for just over three months.

Admin Employee	FY 2020-21 % of Year Employed	FY 2020-21 Base Pay (per contract)	FY 2020-21 Bonus Potential (per contract)	June 2021 Bonus	FY 2020-21 Base Pay and Bonus Pay Reported to School Personnel Records*
A	100%	\$150,000	\$40,000	\$67,500	\$263,345
B	100%	\$80,000	\$20,000	\$34,167	\$157,057
C	100%	\$70,000	\$40,000	\$40,000	\$150,832
D	100%	\$80,000	\$100,120	\$67,500	\$259,703
E	100%	\$100,000	\$30,000	\$30,000	\$158,107
F	100%	\$80,000	\$20,000	\$20,000	\$12,917
G	100%	\$110,000	\$40,000	\$40,000	\$260,264
H	100%	\$120,000	\$30,000	\$50,000	\$192,413
I	100%	\$100,000	\$30,000	\$50,000	\$182,657
J	100%	\$110,000	\$40,000	\$50,000	\$197,820
K	100%	\$100,000	\$20,000	\$20,000	\$132,635
L	100%	\$70,000	\$35,000	\$40,000	\$147,164
M	100%	\$85,000	\$30,000	\$50,000	\$155,478
N	100%	\$80,000	\$20,000	\$34,167	\$153,308
O	100%	\$125,000	\$10,000	\$50,000	\$208,588
P	100%	\$95,000	\$10,000	\$15,000	\$123,230
Q	35%	\$140,000 Note: Prorated from start date of 2/22/21 = \$56,544	\$20,000	\$50,000	\$103,525

*Although the data in this column accurately reflects what was certified as true and correct by Epic, a comparison of the information to the employment contract evidences that this reported information is not correct. As has been well documented, Epic has a lengthy record of certifying inaccurate data. A cursory look at the small sample in this table above evidences a continuance of inaccurate reporting to the OSDE.



LACK OF INTERNAL CONTROLS

In the November 2020 monitoring report on Epic's federal programs, the OSDE identified Epic to be noncompliant with requirements of OCAS for failure to submit accurate information and insufficient cash management and internal control procedures. "In this review and report," the OSDE stated:

Internal Control Procedures must be revised bringing practices in line with processes mandated by Code of Federal Regulations, the State of Oklahoma and the Oklahoma State Department of Education, and allowing for greater transparency in the use of Federal Funds. More importantly, such procedures must be followed in practice.

According to the Oklahoma State Auditor and Inspector, the system of checks and balances and internal controls that should exist within an organization (at Community Strategies) were inadequate to ensure proper financial oversight and management. In that report, the State Auditor and Inspector said:

The related parties involved with Epic Charter Schools, coupled with a lack of internal controls and the lack of separation of duties observed during this audit, are indicative of a system where appropriate checks and balances are limited.

Upon a finding of a deficiency in controls with one person serving as the financial officer and encumbrance clerk (i.e., on both sides of the transaction fence), Epic stated its intention to come into compliance. To take corrective action and come into compliance with directives from multiple agencies, Community Strategies agreed that, for the duration of its contract with the Statewide Virtual Charter School Board, it "shall hire and maintain an Internal auditor that oversees the finances of the Board and Epic One-on-One." Furthermore, Community Strategies stated it would hire and maintain a chief financial officer who works only for Epic One-on-One. Despite this attestation, Epic's deputy superintendent of finance serves as treasurer for Community Strategies. Upon the OSDE's questioning of its financial practices, Epic advised the OSDE that all finances are run through the same office (deputy superintendent of finance), that this same deputy superintendent creates the payroll spreadsheet and provides the spreadsheet to another employee for the check to be issued for compensation or the acquisition of an item as applicable.

The OSDE recommends that Epic install controls and procedures to separate and segregate duties. Further, with respect to the June 2021 bonuses, a staff person within the finance division advised the OSDE that she questioned her own bonus for exceeding the amount in the employment agreement. However, the employee said she was told by the deputy superintendent of finance the amounts were already decided upon. The employee also informed the OSDE that she received a list of the bonus amounts, did not question or review the list for accuracy, including cross-referencing the list with the employment agreements and, in the case of June 2021, "figured management had the authority to give bigger bonuses."

Despite the fact that financial and internal control issues, along with information about the significant impropriety of the June 2021 bonus payments, were brought to the attention of Epic’s leadership, including its board chair, Epic failed to initiate corrective action or take other appropriate measures. In fact, Community Strategies and Epic reversed course by removing oversight of employee compensation and maintained *less* oversight and transparency in the governing board (see Governance section, herein). According to the Complaint, the internal auditor approached the board chair of Community Strategies and Epic’s superintendent in August 2021 to present findings relating to improperly awarded administrative bonus compensation. According to the Complaint, when this information was brought to the attention of Epic’s board chair, superintendent and human resources lead, the board chair allegedly told the internal auditor not to bring up the information again. Moreover, the Complaint says the superintendent told the internal auditor any findings viewed as critical or “punitive” would result in roadblocks, obstinance and difficulties for the internal auditing team to do their job and that her job was currently under review.

The OSDE verified the substance of this claim. In a recording the OSDE reviewed, administrative staff at Epic advised the internal auditor that “if you do things that management considers punitive, it will make it very difficult for you to do your job.” Within two months, the internal auditor had resigned, and the remaining staff within that division at Epic were terminated. To date, it is the OSDE’s understanding that the internal audit position and team have not been replaced. The overarching lack of oversight by the governing board has again created an environment ripe for financial mismanagement and the misappropriation of funds.

CONCLUSION AND FINDINGS

A review of information provided by Epic demonstrates that \$8,598,184.50 in “bonus” compensation was improperly paid to administrators on June 7, 2021, and that these bonuses:

- Were not approved by Community Strategies;
- Violate Community Strategies policy resulting in one employee receiving 600% (six times) more than the amount in her employment contract despite being employed for only 35% of the school year;
- Exceeded the amount of bonus potential in some employees’ contracts by \$803,476.50 and to read \$803,476.50; and
- Lacked internal controls and oversight by a governing board, which again created an environment ripe for financial mismanagement and the misappropriation of funds.

According to state law, school districts are required to implement internal controls and procedures over initiating, recording and paying for all purchases, salaries, wages or contractual obligations. See [70 O.S. § 5-135](#). Community Strategies must also approve all financial transactions consistent with requirements in Oklahoma law. [70 O.S. §§ 5-135](#) and [18-116](#). The actions referenced above appear to have violated these Oklahoma laws and regulations, including those which Epic and the board had been made aware of in the past. Further, these actions are in contrast to the following: 1) the resolution in October 2020

directing Epic to ensure all financial transactions were approved by the governing board and 2) Epic's response to the OSDE's identified noncompliance in 2020.

There is a demonstrated lack of internal control at Epic and Community Strategies. The lack of effective internal controls and oversight by a governing board has created an environment that facilitated improper actions, which, even if done with good intentions to reward employee loyalty and extra effort, appears to have caused financial mismanagement and the misappropriation of funds.

Consistent with requirements in Oklahoma law relating to the accurate recording and reporting of expenditures, Community Strategies and Epic must immediately begin accurately reporting personnel expenditures to the OSDE. Alarming reporting issues continue on a large scale with personnel reports (including bonuses and compensation, benefits, etc.).

A deficiency in internal control exists when the design or operation of a control does not allow management employees, in the normal course of performing their assigned functions, to prevent, detect or correct misstatements on a timely basis. A material deficiency exists when a deficiency or combination of deficiencies in internal controls allows a reasonable possibility that a material financial misstatement will not be prevented, detected or corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. The OSDE deems the deficiencies in internal control over compliance described in the schedule of findings and executive summary to be significant deficiencies and material weaknesses. Internal controls should be in place to provide reasonable assurances to employees. These should include 1) the employee having a board-approved contract with payments that do not deviate from the amount provided for in the contract without board approval and 2) an extra-duty contract or time sheet signed by the employee and supervisor with a board-approved rate paid for those duties, if applicable. As a result of the failure to properly implement internal controls, employees were paid amounts without the approval of the board and without nearly all board members' knowledge.

Community Strategies should design and implement effective internal controls to ensure appropriate segregation of duties. For example, the board treasurer should not serve as deputy superintendent of finance for the school.

Further, internal controls surrounding Epic's payroll procedures do not provide a reasonable assurance that employees are paid in accordance with employment contracts and with board approval. There are a number of inherent limitations in how controls were, or were not, implemented. To begin, there are inherent limitations resulting from a small number of employees within the same office performing almost all of the accounting and payroll functions that would normally be divided among several offices. The OSDE recommends that Community Strategies, as the employer, approve and sign all employment agreements.

The OSDE recommends segregation of duties in the payroll function. This should include dividing responsibilities for payroll and for recording, authorizing and approving transactions

so that no single individual or group can control the payroll function from start to finish. Further, payroll encumbrances should be carefully reviewed at each board meeting before approval. Updated year-to-date payroll encumbrance reports should be provided to the board at every meeting. The board should also approve check numbers at each meeting and compare them to the checks that are being signed. In addition, if the board elects to use signature stamps, the stamps should remain in the possession of each board member or an independent party who does not have access to the checks. Payroll registers should also be reviewed by an individual independent of the payroll process, which could be an employee or a board member. The OSDE further recommends that the board and Epic senior leadership periodically review payroll records to ensure employees are being paid the correct amount based on contracts and that any amounts paid in excess include proper documentation and approval.

Furthermore, employment agreements are neither approved by the board nor signed by the board. Instead, the employment agreement appears to be approved by staff and signed by a representative of Human Resources.

Community Strategies must comply with the requirements in the Oklahoma Constitution prohibiting a public body from crossing fiscal years. If an employment agreement has a measurement that is required to be met to validate payment, documentation that the measurement has been achieved should be available, and/or board approval of the specific measurement approved in the board minutes should be provided. Upon any payment of bonus compensation (administrative or otherwise), the OSDE recommends such payments be reconciled with the employment agreement and with supporting documentation for the award.

CONCLUSION

All charter schools are Oklahoma public schools, and the OSDE's oversight responsibilities apply equally to both traditional public schools and charters. At the same time, the OSDE's partnership with all public schools is as valued and crucial now as it has ever been. Public charter schools have been in existence in Oklahoma since the passage of the Oklahoma Charter Schools Act in 1999. Debates about the role and/or support of public charter schools are irrelevant to the determinations in this report. The OSDE firmly believes public charter schools play an important role in the education of Oklahoma's children. The focus of the OSDE, in this report and with all public schools, is based on the legislative policies set forth in 70 O.S. [§ 3-104.3](#); [§ 3-131](#) and [§ 18-101](#). Succinctly, the focus is to ensure that Oklahoma's tax dollars are expended in a proper and efficient manner, and that students are provided with the best possible educational opportunities.

This report sets forth the OSDE's determination in an individual case and should not be interpreted to address Community Strategies' and Epic's compliance with any other regulatory provision. This report makes clear that serious challenges remain for the school and its governing board. Charter schools are endowed with freedom from many traditional requirements and given autonomy to build schools they believe will be successful. In exchange, they carry the obligation to focus talents and resources to create strong educational experiences for their students. This duty is not a one-time response; our best charter schools continuously improve and mature in all respects of their operations and outcomes.

For the sake of the thousands of Oklahoma families and students who depend on Epic, it is critical that things be made right. Those responsible for the governance and leadership at Community Strategies and Epic must mature and improve their performance. This OSDE investigative report starkly illustrates that Community Strategies and Epic must focus on developing and improving processes and procedures that are efficient, transparent and follow the letter of the law. The students of Epic deserve an excellent education, and the taxpayers of Oklahoma need Epic to fully change its ways. Until that is demonstrated, the OSDE recommends Epic be Accredited with Probation. The habit of "active adaptation" will assuredly be tested, and it must begin right away. The OSDE is committed to ensuring that it does so for the betterment of the governance, operations and outcomes at Epic.



OKLAHOMA

STATE DEPARTMENT *of* EDUCATION

2500 NORTH LINCOLN BOULEVARD, OKLAHOMA CITY, OK 73105-4599
PHONE: (405) 521-3301 • FAX: (405) 521-6205 • SDE.OK.GOV