

# STATE CHARTER SCHOOL BOARD

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Findings and Recommendations  
For the Period January 2015 through July 2016

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Report No. ATAC-16-SP1



## OFFICE OF THE STATE AUDITOR

AUDIT LEADERSHIP:

John Dougall, State Auditor  
Julie M. Wrigley, CPA, Audit Manager  
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**STATE CHARTER SCHOOL BOARD**  
For the Period January 2015 through July 2016

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OFFICE OF THE  
**STATE AUDITOR**

June 19, 2017

Kristin Elinkowski, Chair  
State Charter School Board  
250 East 500 South  
Salt Lake City, UT 84114

Dear Ms. Elinkowski:

During our recent review of records for the Athlos Academy of Utah (Athlos) (see Report No. ATAC-16-SP2), we noted that the State Charter School Board (SCSB) awarded and disbursed a state start-up grant to Athlos prior to the execution of the charter agreement. We reviewed the grant application and award documents and performed inquiry with past and present SCSB personnel and others. The results of our investigation are included in the attached finding and recommendation section of this report. While our inquiry was focused only on the disbursement to Athlos, we are concerned that the SCSB processes have allowed and may continue to allow charter schools to receive funds and to operate without the proper contract agreements in place.

Our procedures were more limited than would be necessary to express an opinion on any of the items referred to above or to express an opinion on the effectiveness of the SCSB's internal control or any part thereof. Accordingly, we do not express such opinions. Had we performed additional procedures or had we made an audit of the effectiveness of SCSB's internal control, other matters might have come to our attention that would have been reported to you.

We appreciated the courtesy and assistance extended to us by the personnel of the SCSB during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact me.

Sincerely,

Julie M. Wrigley, CPA  
Audit Manager  
jwrigley@utah.gov  
801-538-1340

cc: Mark Huntsman, Chair, Utah State Board of Education  
Deborah Davis, Internal Audit Director, Utah State Board of Education

## BACKGROUND

The State Charter School Board (SCSB) is made up of seven members appointed by the Governor under *Utah Code 53A-1a-501.5(2)*. The SCSB authorizes and promotes the establishment of charter schools in the state and may approve or deny charter school applications. Once the SCSB approves a charter application, the Utah State Board of Education (USBE) has 60 days to approve or deny the application. *Utah Code 53A-1a-513.5* tasks the SCSB with providing state grants to charter schools to assist charter schools with start-up costs. In January 2015, the SCSB approved the charter application of Athlos Academy of Utah (Athlos). The application was denied by the USBE in April 2015. However, the SCSB awarded Athlos a \$124,100 charter school start-up grant in July 2015. In August of that year the SCSB reaffirmed its approval, and in September the USBE approved the application. In December 2015, the SCSB disbursed the first of three start-up grant disbursements to Athlos. The SCSB and Athlos signed a charter agreement in July 2016.

## FINDING AND RECOMMENDATION

### 1. START-UP GRANT FUNDS IMPROPERLY DISBURSED TO CHARTER SCHOOL

The SCSB awarded a start-up grant to Athlos prior to USBE approval of its charter application and improperly disbursed all of the \$124,100 in awarded grant funds prior to the execution of the charter agreement. Athlos' grant application included the following certification:

*recipients certify that they have a signed charter agreement. If school has been approved, but charter agreement has not been executed, recipients understand that they will not be awarded grant funds until a contract between the school and authorizer has been executed and signed. Evidence of a signed contract must be provided prior to funding.*

Since the charter agreement was not executed until after all the grant funds were disbursed, the disbursement of the grant was in violation of the grant requirement set forth in the application. Furthermore, while it is clear that the charter agreement is a binding contract that obligates charter schools to comply with oversight laws and regulations, awarding funding prior to the execution of that agreement creates uncertainty regarding the extent to which charter school applicants are subject to laws and regulations intended to protect state funds from abuse and to provide oversight and transparency. Therefore, the awarding of state funds prior to execution of the charter agreement creates an increased risk of abuse of funds and a lack of transparency.

The SCSB indicated that the execution of the charter agreement with Athlos was delayed due to efforts to update the language in their charter agreements. We find this an insufficient reason to disburse public funds prior to the execution of the legally binding Agreement. Regardless, it is clear that the SCSB process was insufficient to ensure that the Agreement was in place prior to disbursing the funds.

**Recommendation:**

We recommend the State Charter School Board:

- **Refrain from awarding any public funds, including charter school start-up grant funding, until all applicable parties have signed a charter school agreement.**
- **Ensure all charter school start-up grant applications are properly reviewed and in compliance with applicable requirements prior to awarding grants and disbursing grant funding.**
- **Identify instances where the SCSB disbursed grant funds prior to the execution of the charter agreement and review the use of the funds for propriety and compliance with the state procurement code and other applicable laws and rules. If violations are identified, consider recovering all or part of the improperly disbursed charter school start-up grant funds.**



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June 14, 2017

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Re: Report No. ATAC-16-SP1

The State Charter School Board has already begun taking steps to address the issue raised in this report. More recently, we have not funded cohorts until we have a fully signed and executed charter agreement. Prior to the reception of this report we drafted a policy that will ensure schools are not funded without the signed and executed charter agreement. The board intends to adopt this policy at an upcoming meeting.

Sincerely,

Kristin Elinkowski  
Chair  
State Charter School Board  
[kelinkowski@msn.com](mailto:kelinkowski@msn.com)

cc: State Charter School Board