

Audit Brief – LEA Audit (Lumen Scholar Institute)

Objective and Scope:

As approved by the Utah State Board of Education, the Internal Audit Department (IA) is performing an audit of funding allocations, use of funds, and student membership at a selection of local education agencies (LEAs). Financial, compliance, and performance aspects are subject to consideration during the audit and the period of time covered is dependent on the LEA and area being reviewed. As directed by the Audit Committee, reports are being released by LEA to facilitate timely and effective communication and corrective action.

Findings and Observations:

Findings were identified in the following areas and are listed below with recommendations for corrective action. The findings are prioritized by significance.

Finding areas:

- Tax Exempt Status
- Background Checks
- Student Membership
- Student Incentives
- Student Reimbursements
- Procurement - Competitive Bidding
- Procurement - Approvals
- Use of Public Funds
- Official Records – Student Enrollment Records
- Official Records – Homeschool Affidavits
- Sales Tax Exemption Refund

Though there were several reasons for the findings above, it appears the most common reason was lack of oversight and internal controls. The impact of the concerns is generally increased risk of fraud, waste and abuse of public education funds and potentially student outcomes.

Internal Audit Recommendations:

- Ensure policies, procedures, and internal controls are comprehensive and operating effectively; as necessary, design, implement, and monitor new policies, procedures, and internal controls.
- Train staff on policies, procedures, and internal controls to ensure proper implementation.

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Management Response:

The LEA appreciates the auditor's opinion on what was observed and the audit has allowed the LEA to reflect on their practices and make positive changes.

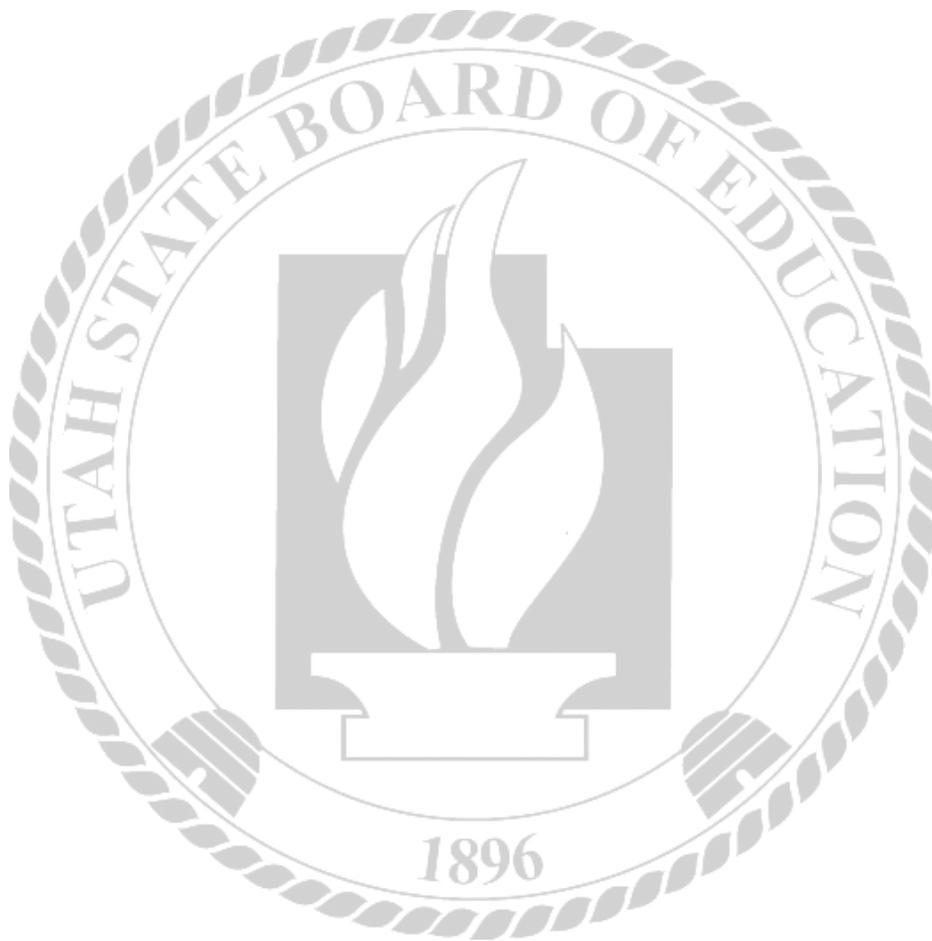
Auditor Concluding Remarks:

The LEA should carefully consider the use of public education funds on items that do not appear necessary, prudent, or that may not be of the highest priority in achieving successful student outcomes.

Additionally, the LEA should carefully consider the implications of their tax status, at both the Federal and state level, related to receiving state sales tax refunds from the Utah State Tax Commission and recording such items in their accounting system.

Utah State Board of Education 16-03.1

LUMEN SCHOLAR INSTITUTE



USBE Internal Audit Department

06/02/2017

Kristy Gordon, President
And
Lumen Scholar Institute Board
1353 West 760 North
Orem, Ut 84057

Dear President Gordon and Lumen Scholar Institute Board Members,

The Utah State Board of Education (Board) Administrative Rule 277-116-3 authorizes the Board's Internal Audit Department (IA) to perform audits as outlined in the audit plan approved by the Board. IA performed an audit of Lumen (LEA) funding allocations, use of funds, student membership count, and instructional hours and school day requirement for the purpose of verifying compliance with applicable code, rule, and policy and procedures. IA obtained relevant documentation from LEA personnel and performed the following procedures.

1. Gained an understanding, through research and inquiry, of applicable state code, administrative rule, and LEA policy
2. Analyzed the LEA's process and results for tracking students and student reporting
3. Analyzed the LEA's process and results for fund collection, disbursement, and documentation
4. Analyzed the LEA's calculation of the 180 school day/990 hours of instruction (180/990) requirement
5. Reviewed and analyzed on a limited basis the LEA's internal control environment

These procedures were limited to membership records for fiscal year (FY) 2016, financial records for FY 2016, and 180/990 records for FY 2017. We have identified the procedures performed above and the findings, observations, and recommendations from those procedures are included in this report. These procedures were more limited than would be necessary to express an audit opinion on compliance or the effectiveness of internal control or any part thereof; accordingly, we do not express such opinions.

Audits are conducted in accordance with current International Standards for the Professional Practice of Internal Auditing.

By its nature this report focuses on exceptions, weaknesses, and problems. This focus should not be understood to mean there are not various strengths and accomplishments. We appreciate the courtesy and assistance extended to us by the personnel of the LEA during the course of the audit. Management's response to the audit is included as Appendix A.

This report is intended solely for the information and use of the LEA Board and management of the LEA, and the Utah State Board of Education; it is not intended to be, and should not be, used by anyone other than these specified parties. If you have any questions, please contact me at (801) 538-7639.

Sincerely,

A handwritten signature in black ink that reads "Deborah Davis". The signature is written in a cursive style with a light grey rectangular background behind it.

Deborah Davis, CPA
Internal Audit Director, Utah State Board of Education

- cc. Members of the Utah State Board of Education
 - Sydnee Dickson, Ph.D., State Superintendent of Public Instruction, Utah State Board of Education
 - Members of the Utah State Charter School Board
 - Rosanna Weeks, Director of Education, Lumen Scholar Institute
 - Rebecca Harrison, Director of Curriculum, Lumen Scholar Institute

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I. Background

In the March 24, 2016 Utah State Board of Education Audit Committee meeting, the committee approved an audit of LEA funding allocations and use of funds as well as student membership counts for a selection of LEAs, including both districts and charters.

II. Objective and Scope

The Internal Audit Department's (IA) objective was to consider potential fraud, waste, and abuse, appropriate handling of public funds, and to verify compliance with applicable state code, administrative rules, and policies and procedures. We reviewed relevant LEA financial records, membership records, school calendars and other documentation as necessary. The scope of our audit generally covered records from fiscal year 2016 to current.

The audit reviewed financial information for fiscal year 2016, which is the first year the school was in session, student membership for school year 2015-2016, and school calendar information for school year 2016-2017; risk is inherently higher for new entities.

III. Findings and Recommendations

Findings were identified in the areas listed below with recommendations for corrective action. Per auditor judgement, findings are prioritized by significance.

Findings are comprised of five elements. The five elements are:

1. **Criteria:** What should happen?
2. **Condition:** What is happening?
3. **Cause:** Why did it (i.e., the condition) happen?
4. **Effect:** What is the impact, or why should you care?
5. **Recommendation:** Suggestions on how to resolve it (i.e., the cause)?

a. Tax Exempt Status

Criteria: LEA Procurement Policy C-a(i) dated August 11, 2015, states:

The school board and administration shall maintain the schools IRS 501(c)(3) and public school tax exempt status by complying with government regulations at all times.

Condition: The LEA is not recognized as a 501(c)(3) tax exempt organization by the Internal Revenue Service (IRS), though they have been working with the IRS on this status. Therefore, the LEA's fiscal year 2016 audited financial statements note disclosure

stating the school has been recognized as exempt from federal income taxes as a IRS 501(c)(3) organization, is inaccurate.

Cause: Lack of governance by the LEA Board and Administration to ensure the organization structure complies with their founding documents and to ensure their financial statements are accurate.

Effect: Increased risk of federal taxes, penalties and fees, which could be presumed a waste of public education funds.

Recommendation: The LEA should continue to work with the IRS to receive 501(c)(3) status and until such time, they should ensure their financial statements include correct disclosures regarding their federal tax status.

b. Background Checks

Criteria: LEA Charter Application states:

All members of the Founding Council, Board of Trustees, Family Council, [Lumen] staff, and any vendors working with students, will be required to fill out a background information sheet and have a background check.

Utah Administrative Code R277-418 Distance, Blended, Online, or Competency Based Learning Program states:

- A. An LEA offering a nontraditional program shall comply with the following standards: (6) fingerprint and background check requirements for educators, employees, and volunteers, described in: (a) Title 53A, Chapter 15, Part 15 Background Checks, (b) 53A-1a-512.5; (c) 53A-6-401, R277-516; and R277-520.

Condition: Twenty-six of the 37 (70%) vendor-provided educational service transactions reviewed, lacked evidence that a background check was completed.

Cause: Inconsistency between the LEAs policies and procedures and their charter application regarding background checks. Additionally, reliance on a waiver of school liability for a background check in favor of a parent's direct supervision of activities may contribute to this concern.

Effect: Increased risk of liability to the LEA, and potentially the USBE, related to potential misconduct of vendors/third party providers and/or student safety.

Recommendation: The LEA should ensure their policies and procedures are compliant with state regulations and consistent with the charter application. Background checks should be obtained for all vendors/third party providers that may have access to students.

c. Student Membership

Criteria: Utah Administrative Code R277-419 (effective as of July 8, 2015) Minimum School Days, LEA Records, and Audits states:

4.B(3) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

5.A(2)(b) For a student enrolled in a nontraditional program, an LEA shall; (i) adopt a written policy that designates a continuing enrollment measurement..., (ii) document each student's continued enrollment status in compliance with the continuing enrollment policy at least once every ten consecutive school days; and (iii) appropriately adjust and update student membership records in the student information system for students that did not meet the continuing enrollment measurement.

Utah Code Annotated 53A-1a-506.5 Charter school students – Admission procedures – Transfers states:

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school: ... (c) a letter of acceptance for enrollment in the student's school district of residence in the current school year; (d) a letter of acceptance for enrollment in a nonresident school district; or (e) a letter of acceptance for enrollment in a charter school.

Utah Administrative Code R277-484-3 Deadlines for Data Submission states:

For the purpose of submission of student level data, each Utah LEA shall participate in UTREx (Utah eTranscript and Record Exchange). UTREx includes a required student exit code field.

Condition: The LEA does not have a comprehensive policies and procedures regarding daily attendance, designating and monitoring the continuing enrollment measurement, and student withdrawals, including appropriate coding of student exits.

Cause: Lack of governance to ensure required policies and procedures for student membership are developed, implemented, and operating effectively.

Effect: Membership, and ultimately funding allocations, may be overstated as students continue to be counted for membership when they should not be. Discrepancies or inaccuracies in the school or state student record tracking system may also exist, which may impact student outcomes.

Specifically, four students were not removed from the school's rolls for membership purposes in a timely manner. Additionally, the school did not accurately prepare and maintain daily attendance records for these students and officially un-enroll the students in a timely manner. Finally, 11 students were exited with an incorrect exit code.

Recommendation: The LEA should develop and implement policies and procedures to ensure compliance with student membership regulations, including daily attendance,

continuing enrollment, and withdrawals, including appropriate coding of student exits. LEA staff should be regularly trained on these policies and procedures.

d. Student Incentives

Criteria: Utah Administrative Code R277-417 Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation (effective November 23, 2015) states:

- 2(1) "Incentive" means one of the following given to a student or to the student's parent or guardian by an LEA or by a third party provider as a condition of the student's enrollment in an LEA or specific program for any length of time, during any school year:
 - (a) money greater than \$10; or
 - (b) an item of value greater than \$10.
- 3(3) An LEA may use public funds to provide:
 - (a) uniforms, technology devices, curriculum, materials and supplies, or instructional services to a student if the uniforms, technology devices, curriculum, materials and supplies, or instructional services are:
 - i) available to all students enrolled in the LEA or program within the LEA

Condition: While reviewing a selection of 27 student's educational unit (EU) tracking sheets, which 27 student records actually included 71 students as the tracking sheets are organized as a family file, we noted 27 of 48 (56%) students, as well as an additional 44 family member students, had "\$350 added to their EUs in their PALM (personalized assessed learning map) in lieu of receiving a technological device that was offered to all students. In this case, the \$350 constitutes an incentive in excess of the \$10 limit.

Cause: Lack of governance in establishing policies and procedures that ensure compliance with applicable state regulations prohibiting incentives.

Effect: Incentives totaling \$24,850, for the files reviewed, were provided to students in an apparent violation of state regulations.

Recommendation: We acknowledge that the LEA has reviewed and revised their practices in this area for the 2016-2017 school year; "the issuance of computers is now attached within the Learning Plans...". We recommend that the LEA regularly review their policies and procedures to ensure they are compliant with state regulations governing the use of public funds. Further, the LEA should work with the Utah State Board of Education Financial Operations staff to consider appropriate action regarding the questionable incentives provided during the 2015-2016 school year.

e. Student Reimbursements

Criteria: Utah Administrative Code R277-417-3 Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation (effective November 23, 2015) states:

- (2) Except as provided in Subsection (3), an LEA ...may not use public funds to provide a reimbursement to a student or the student's parent or guardian for:
- (a) curriculum selected by the parent;
 - (b) instruction not provided by the LEA;
 - (c) private lessons or classes not managed or facilitated by the LEA;
 - (d) technology devices selected by the parent; or
 - (e) other educational expense selected by the parent.

As best practice for use of public funds, 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards states:

403 Factors affecting allowability of costs. Costs must follow the following general criteria in order to be allowable... (a) be necessary and reasonable...

404 Reasonable costs. In determining reasonableness of a given cost, consideration must be given to (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the Non-federal entity, its employees, where applicable its students or membership, [and] the public at large.

Condition: The LEA does not have internal controls to ensure purchases for extra-curricular activities and non-curricular items are a reasonable, necessary, and prudent use of public education funds. The LEA also cannot account for student participation in or use of the purchased activities or items by the student. Additionally, activities and items are generally procured on a student or family basis rather than on a course or grade-level basis, with the ability for the student or family to own the items once they are classified by the LEA as consumed (i.e., between 100 days and one school year) and it is questionable if some items purchased are consumable (e.g., not able to be used in future by another student).

Cause: Lack of governance in establishing policies and procedures (i.e., internal controls) to ensure use of public education funds are for activities and items that are reasonable, necessary, and prudent, that include performance or accountability measures to ensure appropriate student participation and use, and that appropriately consider if and when items are consumable.

Effect: Increased risk of fraud, waste, and abuse of public education funds and potentially a lessened ability for the LEA to meet their financial obligations.

Areas of risk based on a review of 48 purchases totaling \$41,215.96, include that the LEA is expending funds on student activities such as, music lessons, gym and museum memberships, recreational sports, theater tickets, ski and rock climbing passes, and student items such as fitbits, iPods, computers, a sewing machine and a piano.

Recommendation: The LEA should develop and implement policies and procedures to ensure public education funds are used for items and services that 1) are reasonable, necessary, and prudent; 2) are compliant with applicable regulations; 3) include performance or accountability measures to ensure appropriate student participation and use, and 4) appropriately consider the nature of items and if they are consumable. Staff should be regularly trained on policies and procedures to help ensure they are operating effectively.

f. Procurement - Competitive Bidding

Criteria: Procurement policy/procedures per the LEA charter application state:

- [Lumen] shall follow provisions of the state's procurement code (UCA63G-6a).
- Written records will be kept for all purchases, including competitive bids when applicable.
- Competitive bids will be filed in the winning bidder's vendor file.
- The school will select the best value by obtaining two written, telephone, or electronic quotes for single items greater than \$1,000 and less than \$50,000.

Condition: For all 10 procurements with a single item greater than \$1,000, there was no competitive bidding documentation; the procurements total \$56,884.72.

Cause: Lack of governance in establishing comprehensive LEA procurement policies and procedures (i.e., internal controls) that are consistent with LEA founding documents. Lack of governance ensuring appropriate training of staff on procurement policies and procedures also appears to be a factor.

Effect: Increased risk of fraud, waste of public education funds.

Recommendation: The LEA should review their procurement policies and procedures related to competitive bidding to ensure they are comprehensive (i.e., consider all payment types), consistent, and operating effectively to safeguard assets of the LEA. Staff should be regularly trained on procurement policies and procedures.

g. Procurement - Approvals

Criteria: LEA charter application states:

[Lumen] will develop and maintain simple check requests and purchase order forms to document the authorization of non-payroll expenditures. All proposed expenditures outside of student allotments must be pre-approved to ensure expenditures are consistent with Board of Trustees adopted budgets and the charter.

Condition: Twenty of 76 (26%) non-payroll purchases reviewed, totaling \$35,882.89, were initiated and/or paid for prior to being formally authorized; these were non-student allotments.

Cause: Lack of governance in establishing LEA procurement policies and procedures (i.e., internal controls) that are consistent with LEA founding documents. Lack of governance ensuring appropriate training of staff on procurement policies and procedures also appears to be a factor.

Effect: Increased risk of fraud, waste, and improper use of public education funds.

Recommendation: The LEA should review their procurement policies and procedures for approvals and ensure they are comprehensive (i.e., consider all payment types), consistent, and operating effectively to safeguard assets of the LEA. Staff should be regularly trained on procurement policies and procedures.

h. Use of Public Funds

Criteria: LEA Requisition and Check Request Form requires:

A description and a purpose for requisitions and reimbursements.

Additionally, as best practice for use of public funds, 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards states:

403 Factors affecting allowability of costs. Costs must follow the following general criteria in order to be allowable... (a) be necessary and reasonable for the performance of the award.

404 Reasonable costs. In determining reasonableness of a given cost, consideration must be given to (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the Non-federal entity, its employees, where applicable its students or membership, [and] the public at large.

Condition: Documentation for 19 out of 76 transactions (25%) totaling \$17,355.44 did not contain a clear purpose for the purchases made, including nine transactions purchased with funds restricted for a certain purpose, such as Special Education.

An additional eight items, totaling \$2,606.40, appear to be a questionable use of public education funds (i.e., food for employee meetings, items for employee holiday and end of year parties, carriage for prom, flowers, a DJ for a retreat, and postage for student motivation items mailed to students).

Cause: Lack of governance ensuring comprehensive policies and procedures including consideration of the reasonability and necessity of purchases with public education funds.

Effect: Increased risk of fraud, waste, and abuse of public education funds, along with increased risk for account coding errors.

Recommendation: The LEA should establish comprehensive policies and procedures, to ensure purchases are allowable (i.e., reasonable, necessary, and prudent). LEA staff should be regularly trained on policies and procedures and LEA administration should regularly review compliance with policies and procedures for operating effectiveness.

i. Official Records - Student Enrollment Records

Criteria: Utah Administrative Code R277-419-1.M Enrollment Verification Data states: Enrollment verification data” includes (1) a student’s birth certificate or other verification of age; (2) verification of immunization or exemption from immunization form...

Condition: We noted that two students did not have birth certificates and two students did not have verification of immunization or an exemption form on file at the school.

Cause: Lack of governance in establishing policies and specific procedures (i.e., internal controls) to ensure all enrollment verification records are received from students.

Effect: The LEA will not be able to provide accurate enrollment and health information for students in the event it is needed or to adequately strategize an overall health plan for all students should a health incident arise.

Recommendation: The LEA should develop policies and specific procedures (i.e., internal controls) to ensure required enrollment and immunizations (or exemption from immunization) documentation is obtained as part of the enrollment verification process. LEA staff should be regularly trained on the policies and procedures.

j. Official Records – Homeschool Affidavits

Criteria:

Utah Code Annotated 53A-1a-506.5 Charter School Students – Admissions – Transfers states:

Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.

Utah Code Annotated 53A-11-102(2)(a) Minors Exempt from School Attendance states: A local school board shall excuse a school-age minor from attendance, if the school-aged minor's parent files a signed and notarized affidavit with the school-age minor's school district of residence.

Condition: Six transferring students did not have home school affidavits on file with the recorded school district of residence reported in the state's student records system.

Cause: Lack of governance in establishing policies and procedures to ensure compliance with student membership requirements, including student transfers to homeschool.

Effect: The LEA or district of residence may retain responsibility for a student and their education if clear and accurate records of enrollment and transfers are not maintained; this may impact graduation reporting. Additionally, in trying to ensure compliance with regulations, resources to track students may be unnecessarily used and membership counts with associated funding could be inaccurate.

Recommendation: The LEA should establish and develop policies and procedures to ensure a student's district of residence is notified if the student exits the charter school with no provision for enrollment in another school.

k. Sales Tax Exemption Refund

Criteria: Utah Administrative Code R865-19S-42(3) Purchases by the State of Utah, Its Institutions, and Its Political Subdivisions, states:

A purchase is considered made by the state, its institutions, or its political subdivisions if the purchase is paid for directly by the purchasing state or local entity. If an employee of a state or local entity pays for a purchase with the employee's own funds and is reimbursed by the state or local entity, that purchase is not made by the state or local entity and does not qualify for the exemption.

Condition: For four out of 8 reimbursements for purchases not initially made with the school's funds, the LEA requested a sales tax refund from the Utah State Tax Commission;

the sales tax total for these transactions was \$129.58. The LEA also recorded a tax receivable for these funds, which is not appropriate.

Cause: Lack of governance ensuring comprehensive policies and procedures with directives regarding sales tax exemption. Lack of staff training may also be a factor.

Effect: The LEA's financial records are overstated by the amount of sales tax they are not eligible to be reimbursed for. Also, funds that could be used for student outcomes will be used to reimburse potentially avoidable sales tax.

Recommendation: The LEA should develop and implement policies and procedures (i.e., internal controls) to ensure they are compliant with state regulations, including directives regarding use of the LEAs tax exempt status number, which will maximize the use of public education funds for student outcomes rather than taxes. All staff should be trained on the policy and associated procedures.

IV. Management Response

See Appendix A.

V. Auditor Concluding Remarks

See Appendix B.

APPENDIX A MANAGEMENT RESPONSE -LUMEN

USBE Internal Audit Section:

The Board and Administration of Lumen Scholar Institute would like to thank your team for its thorough review of our school's operations, practices, and policies. We appreciate your office's opinion on the conditions you observed. This process has allowed us to reflect on our practice as a school and make positive changes as well as identify what is working well and what can be efficiently improved. This letter will respond to each of the areas of recommendations and/or opinions in your report, in the same order that you prioritized them. Many of the recommendations have already been identified and addressed internally. The current administration continues to collaborate in improving internal controls and compliance with relevant policies and rules.

- a. Tax Exempt Status: This issue should resolve itself as the IRS makes its determination. Subsequent to the completion of the internal audit, Lumen received communication from the IRS that a determination is imminent . If the IRS determination doesn't come through prior to the next external audit, the auditors will be reminded to accurately represent our current status in their report .
- b. Background Checks: The board will review current policies and adopt appropriate changes to ensure that vendors, employees, or volunteers receive background checks according to legal requirements .
- c. Student Membership: The board will review school policies and administration will review procedures to ensure compliance with legal requirements.
- d. Student Incentives: As noted in the audit report, the school had already resolved its policy on this matter prior to the audit commencing.
- e. Student Reimbursements: The school will review its policy and consider the cited "best-practice" for federal dollars when implementing the school's program and reviewing purchases for approval.
- f. Procurement - Competitive Bidding: The school will review its policy and procedures for procurement, particularly as it relates to purchases initiated without documented pre-authorization. Staff involved will be trained on any appropriate changes.
- g. Procurement - Approvals: The school will review its procedure and ensure that all staff are retrained on the pre-approval requirement.
- h. Use of Public Funds: The audit makes no citation of any law, rule, or other regulation that the school is not following in this regard. The school believes that the purchases listed here (items and services for a school dance, food during a faculty holiday luncheon, and postage to mail student motivation (Lumen is an online school) are appropriate and that the Special Education funds noted were spent appropriately. There is no "requirement" that an explanation be given for each purchase request, though space exists on the school's form to make such an explanation, should one be necessary.
- i. Official Records - Student Enrollment: The school has developed policies and procedures to ensure that required documents are obtained for each student, and that new students are entered in the system only when such documents are received.
- j. Official Records- Homeschool Affidavit : The school has developed procedures to notify school districts if a student withdraws with no provision for enrollment in another school and to document such notification.
- k. Sales Tax Exemption Refund: Lumen disputes this finding. Lumen Scholar Institute has applied as a "Charitable or Religious Organization" under Internal Revenue Code, which entitles it to sales tax exemption with different standards than that governed by Utah Administrative Code R865-19S-42(3). It is entirely appropriate for a charitable or religious organization, like Lumen Scholar

Institute, to reimburse sales tax for the organization's use that was originally paid for with an employee's own funds.

Date: 5-15-17

Signature: 

Title: Board President

APPENDIX B – Auditor’s Concluding Remarks

The following are concluding remarks to the response provided by Lumen Scholar Institute (the LEA) found in Appendix A.

Finding H: Use of Public Funds

Use of public funds inherently includes a consideration of reasonableness *and* necessity to ensure accountability when expending taxpayer funds. Therefore, the USBE Internal Audit Department questions if purchases of food for employee meetings, items for employee holiday and end-of-year parties, postage for student motivation items, etc. were necessary. The USBE Internal Audit Department recognizes there is discretion in making these decisions, but urges caution in using limited public education funds on items that do not appear necessary and may not be the highest priority and most prudent use of funds to achieve successful student outcomes.

The nature of restricted funds is that they are used for the specific purpose for which they are awarded. Therefore, regarding the restricted special education funds, because these purchases lacked adequate descriptions of their purposes; it would have been more prudent to purchase them with unrestricted funds to ensure the restricted funds were used only for the specific program for which they were intended.

Finding K: Sales Tax Exemption Refund

Internal Audit concurs that the LEA has discretion in establishing a policy to reimburse sales tax for purchases originally paid for with an employee’s own funds. However, the finding, as noted in the audit, is regarding the Utah State Tax Commission (USTC) regulations that do not allow a sales tax refund to certain governmental entities, including public schools, for sales tax paid on purchases initially made with employee funds rather than public funds.

The LEA’s Utah Sales Tax Exemption certificate is currently issued as a TC-721G Public Elementary and Secondary School. Per Utah Administrative Code R865-19S-43 *Sales to or by Religious and Charitable Institutions*, “to qualify for an exemption from [state] sales tax as a religious or charitable institution, an organization must be recognized by the IRS as exempt from tax under Section 501(c)3 of the Internal Revenue Code.” The LEA currently does not have an IRS 501(c)3 Determination Letter, though they have been working on this with the IRS for multiple years. Therefore, the LEA currently does not qualify for an exemption from sales tax as a religious or charitable institution.

Per Utah Code 59-1-1410, a claim for a refund must be made within the later of three years from the date of the return, or two years from the date the tax was paid to USTC. We recognize that in the future the LEA may be exempt from sales tax as a religious or charitable entity and as such receive sales tax refunds on purchases not initially made with public funds; however, given the pending 501(c)3 status, it is not likely that the USTC will refund to the LEA all of the currently accrued tax receivables due to the time limit on claiming refunds.
