

Office of the Inspector General

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Review of the South Carolina Governor's School for Science and Mathematics and the Organizational Relationship to its Supporting Foundation

I. Executive Summary

The South Carolina Office of the State Inspector General (“SIG”) initiated a review of the South Carolina Governor’s School for Science and Mathematics (“SCGSSM”) and the South Carolina Governor’s School for Science and Mathematics Foundation, Inc. (“Foundation”) based on a credible complaint that publicly funded school employees were assigned to and supervised by employees of the private nonprofit Foundation, and the SCGSSM and Foundation appeared to maintain a blended organizational structure. The scope of the review was to determine the appropriateness of the delegation of publicly funded programs and state employees to a private nonprofit entity, as well as provide observations on the appropriateness of the blended organizational structure.

The SCGSSM is a publicly funded secondary educational institution which was created by the South Carolina General Assembly in 1987 (SC Code of Laws, §§ 59-48-10 to 70) to provide accelerated instruction in science, technology, engineering, and math (“STEM”) in a residential setting for high school juniors and seniors, who are academically talented in science and math. The school is directed by a chief administrator (“president”) and is governed by a board of trustees (“Board”) who are appointed by the Governor of South Carolina. The school opened its doors with the beginning of the 1988-89 school year. In 2015, the school reached its maximum capacity of 288 residential students. In support of the school, the General Assembly also authorized the school to maintain an endowment (§59-48-70). This was accomplished in 1988, through the establishment of the Foundation as a charitable nonprofit organization to support the SCGSSM and establish the endowment. The Foundation is directed by a chief executive officer (“CEO”) and is led by a separate Board comprised of community and business leaders.

The SIG’s investigation determined for the period of 2005 – 2011, the Foundation nearly doubled the size of the endowment to \$11.7 million as the result of a second successful capital campaign under the current Foundation CEO’s direction. Beginning in 2010, the former SCGSSM president designated the Foundation CEO as Executive Vice President (“EVP”) for Strategic Direction at the school. Over the course of four years (2010 – 2014), the former SCGSSM president gradually delegated supervision of core school programs, functions and staff to the Foundation for oversight and direction. These publicly funded programs, and supporting school staff, were comprised of the marketing, outreach, and recruitment programs, as well as the student admissions process (not final selection). A total of eleven SCGSSM staff program directors and other staff were placed under the supervision of a private nonprofit organization without the approval of the SCGSSM Board. The SIG also determined the SCGSSM Board did not give approval for the designation of the Foundation CEO as the school’s EVP for Strategic Direction.

As with any change in organizational leadership, particularly following a successful and long tenured leader, challenges can arise as existing staff and external relationships adapt to a new style of management and organizational goals are re-prioritized. This was no more evident than with the installation of the new school president in April 2016. Over the ensuing 16 months, the communication and relationship between each entity’s leadership has deteriorated. This is most unfortunate as the sole focus of both groups should be the education of South Carolina students who are highly motivated in the field of STEM.

While there is no singular “how to” process in relationship building, a best practice among institutions and supporting organizations which can mediate these challenges is through the establishment of an operating agreement or memorandum of understanding (“MOU”). In this way, roles and responsibilities are delineated, and a clear understanding of the mission, priorities and strategy is understood by both groups. In the case of the SCGSSM and Foundation, these roles and responsibilities must be consistent with the established statutory authority of the school, as well as the laws and regulations governing charitable nonprofit groups such as the Foundation.

To identify best practices utilized by the nation’s leading secondary STEM schools, the SIG interviewed the leadership of three of the four founding members of the National Consortium of Secondary STEM Schools which was established in 1988 as an alliance of specialized high schools in the nation whose mission is to advance STEM education, of which the SCGSSM is an institutional member. In each instance, it was determined the school and its foundation utilized an operating agreement or MOU to delineate the roles and responsibilities for each organization. In addition, the SIG determined the South Carolina Governor’s School for the Arts and Humanities also employs this same best practice.

However, the SIG determined the SCGSSM and the Foundation did not have an operating agreement or MOU in place to set forth these roles and responsibilities. In the case of the SCGSSM and Foundation, the delegation of these school programs and staff, and the blending of each entity’s senior leadership was memorialized in two separate organizational charts (2003 & 2014) which provided for the SCGSSM president’s direct supervision of the Foundation CEO’s oversight of these school programs and staff.

The SIG requested the South Carolina Office of the Attorney General (“SCAG”) to provide a legal opinion on the appropriateness of the SCGSSM, a state funded agency, delegating its publicly funded programs and staff to the oversight of the Foundation, a private nonprofit organization. (*See Appendix D*) In its opinion, the SCAG concluded the school could only delegate ministerial and administrative functions to the Foundation. This delegation was subject to SCGSSM’s oversight and supervision, and SCGSSM “*may not constitutionally delegate its legislatively created authority to the Foundation. Thus ‘publicly funded programs’ may not be delegated to the Foundation.*”

The SCAG also opined it was inappropriate for SCGSSM to reassign publicly funded employees to the nonprofit Foundation. In a prior 1997 opinion, the SCAG opined an agency, “*must at all times maintain adequate supervision and control over [the agency’s employees] in carrying out the assigned tasks and...avoid the situation where the Foundation or nonprofit corporation possesses ultimate control over the State employees.*”

By all accounts, the SCGSSM and the Foundation have each achieved many successes over the past 29 years. To continue this excellence in secondary STEM education, both the SCGSSM and Foundation must begin by resolving the communication barriers between the two organizations and rebuild a relationship based on trust, collaboration, and coordination. In 2016, leadership on both Boards recognized the need to address the communication breakdown by convening a joint committee to provide resolve barriers negatively impacting the two organizations’ relationship. Efforts were already underway to construct an MOU prior to the SIG initiating

its review. In addition, the current SCGSSM president initiated realignment efforts of the staff members and programs previously delegated to the Foundation back under SCGSSM oversight. This is consistent with the SCGSSM's statutory authority outlined in the S.C. Code of Laws, §§59-48-10, et seq.

It is essential that administrators, staff members, and members of both organizations have a clear understanding of the statutory authority of the SCGSSM to prioritize and direct all programs of the school, and the role the Foundation plays in supporting the school in these endeavors. This is accomplished through the execution of an MOU which delineates the roles, responsibilities and authorities of each organization.

Second, the integration of the strategic and budget planning processes is another best practice that would benefit the SCGSSM/Foundation relationship. Staff and Board members of both organizations should participate in each organization's planning process in order to produce a better understanding of the school's priorities and the Foundation's challenges.

Finally, increasing transparency between the Foundation and the SCGSSM is essential to improving the relationship. The Foundation should create processes to affirmatively share financial information with SCGSSM, to include audited financial statements, annual IRS filings, final annual allocation amounts expended on behalf of the school, and requests from school staff for supplemental financial information should be responded to promptly and completely.

During the course of this review, the SIG identified the existence of a Foundation bank account utilized and maintained by SCGSSM staff, yet another example of the blending of the two organizations. The account was opened in the early 1990s when the Foundation had no staff and was used primarily for the deposit and expenditure of student activity funds. The Foundation was not aware of the account until 2016 when the requirement to provide an IRS Form 1099 was recognized for an individual paid from the account. SCGSSM's use of the account avoided certain administrative requirements of state government and the SC Department of Education, under which SCGSSM reports administratively.

Following this discovery, the Foundation closed the original account and opened a new Foundation account on 2/3/2016, with SCGSSM continuing to use it as before but under Foundation oversight. SCGSSM obtained an audit of the account for two years previous to discovery by the Foundation, along with recommendations from the auditor for the elimination of the account and use of a bank account compliant with state regulations and in compliance with state procurement and disbursement regulations. The auditor's recommendations would streamline administrative requirements for SCGSSM in handling the numerous student activity and trip transactions, some of which involve international travel. SCGSSM has not pursued all of the auditor's recommendations and has continued to use the Foundation account.

Correct mission alignment and authority are no less important than when fiscal transparency of a state governmental entity is at stake. The public expects the governmental entity to exercise fiduciary care and custody of its appropriated resources (i.e., personnel, financial, and fixed assets). As in the case of a Foundation account established by SCGSSM over two decades ago, the school's use of this account to accept and disburse

student activity fees, school program funds, etc., however well-intentioned, circumvented the State's accounting system and procurement code, which lowered the school's internal controls and elevated the risk to these funds for both SCGSSM and the Foundation. The State has mechanisms in place to assist the SCGSSM in handling these types of funds in an efficient manner without undue burden on the school while maintaining the requisite level of oversight, internal control, and accountability needed for a state governmental entity such as SCGSSM.

The SIG extends its appreciation to the leadership and staff of the SCGSSM and the Foundation for the cooperation and courtesies provided to the SIG during this review.

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Administrative Note: Responses by SCGSSM and the Foundation are located Internet links:

[SCGSSM Response to the Review](#)
[Foundation Responses to the Review](#)

II. Background

A. Predicate

The South Carolina Office of the State Inspector General (“SIG”) initiated a review of the South Carolina Governor’s School for Science and Mathematics (“SCGSSM”) and the South Carolina Governor’s School for Science and Mathematics Foundation, Inc. (“Foundation”) based on a credible complaint that publicly funded school employees were assigned to and supervised by employees of the private nonprofit Foundation, as well as the appropriateness of a blended organizational structure between SCGSSM and the Foundation.

B. Scope and Objectives

The scope of this review was to determine the following:

- The appropriateness of SCGSSM’s publicly funded employees being assigned to and supervised by the private nonprofit Foundation; and
- Provide observations and recommendations on the organizational structure and relationship between SCGSSM and its supporting Foundation.

C. Methodology and Initial Assessment

The methodology utilized in this review encompassed interviews of current and former leaders and staff members in both organizations, members of each governing Board of Trustees (“Board”), a review of statutes and regulations relative to each organization, as well as external research for best practices utilized by similar institutions with their supporting foundations. The research for best practices included studies of institution/foundation relationships at similar governor’s schools, interviews of those schools’ leaders, and studies of institution/foundation relationships in higher education.

In April 2017, the SIG’s initial assessment determined the relationship between SCGSSM and the Foundation was strained and serious communication issues existed between the leadership of both organizations. Questions raised by the school’s new president regarding oversight of several SCGSSM functions and personnel previously delegated to the Foundation appeared to have contributed to the contentious relationship from the outset following his installation as the new SCGSSM president in April 2016. As a result, plans were underway to realign the previously delegated oversight of school functions back under SCGSSM authority. Additionally, school personnel previously assigned to the Foundation had been realigned back under the school’s authority prior to the SIG initiating its review. Throughout most of fiscal year 2016-17, members of each entity’s Board, along with outside parties were working to resolve these conflicts and accurately define the relationship between the two entities, which included the development of a memorandum of understanding (“MOU”).

III. Historical Framework and Operations of SCGSSM and its Foundation

A. Legislative Creation of SCGSSM and its Foundation

The school was created as a state governmental entity by the South Carolina General Assembly in 1987 (SC Code of Laws, §§ 59-48-10 to 70) to provide accelerated instruction in science, technology, engineering, and math (“STEM”) in a residential setting for high school juniors and seniors who are academically talented in science and math. The school opened its doors with the beginning of the 1988-89 school year. The school is governed by a Board comprised of eighteen members with eleven appointed by the Governor, along with seven additional members serving in an ex-officio capacity to include the Foundation’s Board chairperson and a number of state public education officials. (See link: <http://www.scstatehouse.gov/code/t59c048.php>)

Through its statutory authority, the SCGSSM Board was authorized to:

- Establish the course of study;
- Set admission criteria, standards, and procedures;
- Adopt policies and regulations it considered necessary for the operation and management of SCGSSM;
- Select an administrative officer (“President”) to administer all the affairs of the SCGSSM subject to the policies, rules, and regulations adopted by the Board; and
- Establish and maintain an endowment fund for the school.

Pursuant to its statutory authority (§59-48-70), the SCGSSM leadership chartered the Foundation in 1988 as a South Carolina nonprofit corporation. The Foundation’s stated purpose was enumerated in seven statements in its Articles of Incorporation, all related to providing support to the school. (*See Appendix A*) The Foundation applied for and received an exemption from federal income tax. In 1990, the Foundation’s charter was amended at which time it resolved that upon dissolution, the Foundation’s assets would be delivered to the school if still in existence, and if not, to the State of South Carolina for a public purpose. The Foundation is governed by its own Board which is currently comprised of 32 state business leaders and elected officials. In addition, the SCGSSM’s president and the SCGSSM’s Board chairperson serve as ex officio and non-voting members along with former Foundation Board members who also serve as ex officio and non-voting members. (See link: <https://www.scgssm.org/support/gssm-foundation-board>)

B. Core Functions and Activities

The SCGSSM

From 1988 through 2003, SCGSSM conducted operations in space provided by Coker College in Hartsville, South Carolina. In addition to their regular courses of study, rising seniors were required to conduct mentored summer research either nationally or internationally, and perform community service. Upon graduation, seniors received the standard state high school diploma and a special SCGSSM diploma.

In 2001, SCGSSM's immediate past president was hired and over the course of his 15 years of leadership the school achieved numerous milestones, which included:

- In 2003, the school moved into its own newly constructed campus in downtown Hartsville with a capacity for 128 residential students;
- In 2010, two new building wings were added to the campus, which increased the school's capacity to 288 residential students; and
- In 2015, the school reached its maximum residential capacity of 288 students.

In addition to its residential program, SCGSSM's outreach program was considered a fundamental core function of the school's mission. As part of its outreach efforts, the school conducted residential summer camps for middle school students, high school freshmen and sophomores, along with workshops for teacher professional development. In the early 2000s, following a strategic planning process, the school's Vice President ("VP") of Outreach and Research was charged with expanding the outreach program throughout the state, which included satellite camps. Other core functions of the school included the recruitment and admissions processes for new students, marketing, as well as liaison to the General Assembly on the school's budgeting, strategic planning, and educational priorities.

The Foundation

The Foundation's early efforts involved fund raising initiatives and included an initial \$6 million capital campaign to fund an endowment. Due to its early success, the Foundation hired two full time staff members – an executive director and a secretary. Annual fund raising campaigns, parent campaigns, and corporate campaigns were all established by the Foundation in its early years. During the 1990s and into the 2000s, the Foundation provided the school with an annual allocation and funded the summer research program required of the rising seniors. The Foundation's primary office location was moved to Columbia by its former executive director as a central base of operations for fundraising efforts.

Following the 2005 hiring of the current Foundation chief executive officer (CEO), the Foundation increased its activities which included a second successful capital campaign that nearly doubled the endowment to \$11.7 million as shown in the Foundation's Fiscal Year 2011 IRS Form 990 – Schedule D, Part V – Endowment Funds, Line 1g. The Foundation CEO, whose background was in marketing, increased the school's marketing effort, and worked with SCGSSM staff to promote its many programs, including SCGSSM's outreach efforts and management of the school's website.

IV. Delegation of Oversight of Publicly Funded Programs & Staff

A. Blended Organizational Structure and Expansion of Foundation CEO's Role

While the school and the Foundation were governed by separate Boards, an organizational hierarchy existed both in statute and through the incorporation of the Foundation. The Foundation was incorporated to support the school. (*See Appendix A*) The blending of the two organizations was memorialized in separate organizational charts from 2003 and 2014, which established the former school president's direct supervisory role over the Foundation CEO for those school programs and staff delegated to the Foundation. All other Foundation functions were directly supervised by the Foundation CEO under the oversight of the Foundation Board. (*See Appendix B*)

This blended relationship mutually benefited each entity through the Foundation CEO's success in fund raising, marketing, and board development. The school benefited by having the Foundation fund pilot programs for new SCGSSM programs not formally included in the school's state budget as a way of testing new programs without committing state funds. In turn, this informal arrangement allowed the Foundation CEO freedom to make school related decisions with minimal oversight from the former SCGSSM president.

However, a review of SCGSSM Board minutes did not identify where approval was given to the former SCGSSM president to delegate publicly funded programs and staff to the Foundation.

In 2010, the former SCGSSM president requested approval of the SCGSSM Board to create an executive vice president ("EVP") position for the school. At its June, 2010 meeting, the SCGSSM Board unanimously agreed to "create a new title at SCGSSM for an executive vice president and to support that position with a competitive salary." The following month, the Foundation Board announced it had changed the Foundation executive director's title to Foundation CEO, and simultaneously the former SCGSSM president unilaterally named the Foundation CEO to the position of EVP of Strategic Direction at the school. A review of prior SCGSSM Board meeting minutes did not identify approval of the Foundation CEO's appointment to this newly created SCGSSM position. Consequently, no state appropriated funds were provided to the Foundation as a supplement to the Foundation CEO's salary as part of her new SCGSSM role.

B. Delegation of Oversight of SCGSSM Programs and Staff to the Foundation

Initially, all necessary student recruitment efforts were minimal and were handled by the school's admissions director. With the 2010 building expansion at the school and the doubling of SCGSSM's residency capacity, a more significant recruitment effort was required. Given the expansion of capital campaign marketing efforts by the Foundation between 2005 and 2010, the former SCGSSM president delegated supervision of the student recruitment program to the Foundation and the recruitment efforts were incorporated into its marketing efforts.

In August 2012, the former SCGSSM president placed the school's VP of Outreach and Research, along with his staff of eight employees, under the supervision of the Foundation CEO for all SCGSSM outreach program activities. Once again a review of prior SCGSSM Board meeting minutes found no approval was given for the

delegation and reassignment of the supervision of these publicly funded programs and state personnel to the Foundation.

The practice of delegating supervision of SCGSSM programs and reassignment of SCGSSM personnel to the Foundation continued into 2014 when the school's former admissions director resigned and the oversight of the school's admission process, to include supervision of two school admissions employees, was delegated to the Foundation. The final decision making authority on student selection was retained by a select SCGSSM committee. Also occurring during this period was the Foundation CEO's added role of joint liaison to the General Assembly along with the former school president.

C. Foundation Bank Account Containing SCGSSM Funds

An additional example of the blending of the two organizations occurred in the early 1990s, when a bank account was opened in the name of the Foundation for the purpose of depositing and expending student activity and trip related funds. The account was opened at a point in time when SCGSSM staff performed the Foundation's administrative functions, prior to the Foundation having a staff. Although it was a Foundation account, SCGSSM staff made deposits to the account, wrote checks on the account, and maintained documentation of the account's activity. School staff believed the flexibility the bank account provided was essential in allowing SCGSSM to operate efficiently in dealing administratively with the collection of fees and the related expenditures associated with numerous student activities and trips, some of which involved international travel. SCGSSM's use of the account avoided certain administrative requirements of state government and the SC Department of Education (SC-DOE), under which SCGSSM reports administratively.

After the Foundation employed its own staff during the 1990s and began handling its own administrative activities, it lost awareness of the account as the school continued to administer the account. Consequently, the account was not recognized in the Foundation's accounting records or financial statements, and conversely, SCGSSM auditors did not audit the account because it was a Foundation account. This created an internal control weakness in SCGSSM's fiscal oversight and accountability of school funds with SC-DOE.

In 2016, SCGSSM staff recognized a requirement to provide an IRS Form 1099 to an individual who had been paid from the account. A request for the Foundation to provide the Form 1099 alerted the Foundation to the existence of the account and led to a joint Foundation/SCGSSM effort to determine the proper methods and processes to manage these funds. Advice was sought from the SC-DOE, the State Auditor's Office, and the State Comptroller General's Office. The Foundation requested that SCGSSM provide an audit of the past two years of account activity. The original account was closed and a new Foundation account was opened on 2/3/2016, under the Foundation's oversight and controls. An external auditor was engaged by SCGSSM to provide an agreed-upon procedures review of fiscal years 2015 and 2016, and make recommendations on the proper handling of the transactions within state rules and regulations. (*See Appendix E*)

The SIG reviewed transactions in the new account from its inception on 2/3/2016 through 9/30/2017. During this 20-month period, 211 checks were written totaling \$103,317, and 128 deposits were made totaling \$181,789. The new account began with a balance of \$30,308 from the original account and the ending balance on 9/30/2017 was \$108,780. The balances in the account varied from a low of \$25,579 on 3/31/2016, to a high

of \$108,780 on 9/30/2017. The account balance peaked in the falls of 2016 and 2017 following the collection of fees for the various student activities and trips during the remainder of each school year.

Funds deposited to and expended from the account included: vending commissions; student parking fees; student flu shot fees; PSAT test fees; yearbook fees; and other miscellaneous fees. However, the majority of deposits were for student activity and trip fees, which consisted of trips to Costa Rica; the Mediterranean; “Behind the Iron Curtain;” a sports trip to various college and professional sports events and venues; a “Tech Trek” to New York City; scuba training and a dive trip to Florida; as well as soaring training. The majority of expenditures were payments associated with student activities and trips, but also included: payments to AP test proctors; soccer referees; reimbursements for student “goody bags” and student “care packages;” and the payment for lost or damaged textbooks.

When the new account was opened, the Foundation required its use to be under the Foundation’s accounting rules, procedures, and audit requirements. The account was required to be an “in and out” account for funds restricted to student activities and no general revenues were to be deposited to the account. General (non-appropriated) funds had been deposited to the old account. Foundation staff and the SCGSSM CFO were given signatory authority. All checks and deposits were to be made by SCGSSM staff with records maintained by SCGSSM. Pre-authorization from the Foundation’s business director was required for all checks exceeding \$500. SCGSSM was required to utilize its existing approval and documentation procedures as well as provide receipts for all funds received. The Foundation engaged an external accounting service to reconcile the account since the Foundation’s business director was a signatory on the account. The cost of that service was paid from the account.

The Foundation treats the bank account as an agency fund – funds held for another entity. The balance of the account is shown in the Foundation accounting system as an amount “due to SCGSSM.” Likewise, SCGSSM should record a similar, offsetting asset amount in its accounting system. However, since the opening of the new bank account, no entries have been made to reflect this offsetting transaction in SCGSSM’s accounting system. Instead, SCGSSM records the transactions in a subsidiary ledger. The SIG’s review of a sample of the transactions in the new account determined that, with the exception of several transactions following the opening of the account, SCGSSM is complying with the documentation and approval requirements.

The SIG was advised by SCGSSM staff that collected fees equal expenditures for most activities and trips. However, the SIG was also advised in most cases any unspent activity or trip fees were carried over and spent at the discretion of the school sponsor for a similar future activity. The SIG is of the opinion this represents an internal control weakness, and that unspent fees collected for specific trips or activities should be refunded and not left to the discretion of a school sponsor. At no point in the last 20 months did the balance of this account approach zero as would be expected with an “in and out” account. Instead, it would appear the majority of the funds transferred to this new account in February, 2016 were still there, and actually may have grown. The SCGSSM staff advised they have records showing the composition of the balance.

In the review of the account, the SIG observed both the Foundation and SCGSSM received funds associated with student trips and the Foundation deposited those funds it collected to the student activity account. The

Foundation staff explained they were collecting credit and debit card trip payments from parents because SCGSSM did not have the capacity to process those payments.

In the audit report dated 8/9/2016, the auditor made several recommendations to SCGSSM to address the accounting and procurement concerns associated with this account. One recommendation was for SCGSSM to utilize a state travel credit card to pay for the fairly high volume of student travel, thereby eliminating the requirement to satisfy state procurement and disbursement regulations on student travel transactions. SCGSSM secured a state travel card and is currently using it for student travel.

The primary recommendation was for SCGSSM to seek permission to utilize its own checking account, allowable if approved by the State Treasurer. Such an account, identified by the state as a composite reservoir bank account, was recommended for the deposit and disbursement of all student activity type funds, eliminating the use of the Foundation account. In addition, the auditor recommended SCGSSM seek a procurement exemption similar to that granted to higher education relative to “Athletic Funds” - SC Code § 11-35-710 (6). The definition of this exemption includes funds derived from “activities of student organizations.” If such an exemption were granted, SCGSSM would also be exempted from certain state disbursement regulations, further reducing the administrative workload of handling these funds. SCGSSM has taken no action to date on either the composite reservoir account or the procurement exemption recommendations.

D. No Documented Operating Agreement or Memorandum of Understanding

Critical to any successful transition of leadership where one entity [SCGSSM] depends upon another [Foundation] to execute program management of delegated functions is the need for an operating agreement or MOU between the two organizations which delineates the authority, roles, and responsibilities of each party in the relationship. Without an MOU, these informal practices, however well-intentioned and convenient between two leaders can “unintentionally undermine institutional integrity.”¹

The SIG determined there was no such operating agreement or MOU in place between SCGSSM and the Foundation which established the authorities, roles and responsibilities for the school and the Foundation. Additionally, there was no approval given by the SCGSSM Board for this informal oversight and program management of state funded programs and staff by the Foundation.

E. Reversal of Foundation Oversight of Previously Delegated SCGSSM Programs and Staff

Upon his arrival in April 2016, the new SCGSSM president implemented a strategic planning process and an “executive leadership team building retreat” where he questioned all members on their functions, philosophies, and priorities for the SCGSSM to familiarize himself with the operations of the school and its faculty and staff. Eventually, the president turned his attention to the school programs and staff previously delegated to the Foundation. For the period of 2010 – 2014, the SCGSSM delegated functions: marketing; school webpage management; student recruitment; supervision of outreach efforts and summer camps; supervision of the

¹ University of Texas System’s report titled, “Advisory Task Force Report on Best Practices Regarding University-Affiliated Foundation Relationships.”

administrative admissions process; and joint liaison to the General Assembly became integrated into the Foundation's core functions. These added functions resulted in the expansion of Foundation staff to take on these core school functions.

In December 2016, the current SCGSSM president reversed the 2012 delegation of oversight of the VP of Outreach and Research and his staff to the Foundation. In April 2017, the SCGSSM president appointed an interim director of enrollment to replace the former admissions director, who also was previously supervised by the Foundation CEO. Both of these positions are direct reports to the SCGSSM president and provide oversight for their respective programs. The school president notified the Foundation of these realignments and asked the Foundation to continue with recruitment activities for the 2017-18 school year to allow the school sufficient time to properly staff its recruitment program which was staffed by Foundation personnel.

F. Joint Committee on Alignment

A Joint Committee on Alignment ("Joint Committee") comprised of SCGSSM and Foundation Board members was created in the fall of 2016 after the school president raised concerns of "organizational/structural/functional misalignment between the two organizations" and "communication challenges" at the September, 2016 SCGSSM Board meeting. The Joint Committee focused on the organizational structure and made recommendations in a report dated 1/4/2017. (See Appendix C) Key recommendations made in the joint report were:

- Eliminating the EVP for Strategic Direction position.
- The Foundation was to maintain primary responsibility for recruitment and admissions.
- The Foundation would have primary responsibility for all off-campus programs, events, and activities.
- The Foundation would have primary responsibility for the day-to-day management of governmental affairs.

Per the January, 2017 SCGSSM Board meeting minutes the trustees approved the following motion: *"The GSSM Board would like to express sincere appreciation to the GSSM Foundation for its outstanding support of the Governor's School for Science and Mathematics. I move that we receive the Joint Committee's report as information and that the report be considered by President Flores as he develops an MOU [memorandum of understanding] between GSSM and the GSSM Foundation. The MOU should be prepared by the President in consultation with legal counsel for GSSM and be consistent with the GSSM's statutory authority and by-laws, which charge and empower the President with the school's overall direction, strategy, operations, and outcomes, subject to the policies, rules, and regulations of the Board. Additionally, the President is authorized by law and policy to coordinate all activities of the GSSM, directly, or through his designee."*

A draft of the MOU was approved by the SCGSSM Board's executive committee and a copy was forwarded to the Foundation Board chairman on 3/1/2017. Since then the two organizations have been in negotiations over the terms of the MOU.

However, when weighed against the research and findings of an opinion authored by the South Carolina Attorney General (SCAG) and obtained by the SIG, three of the four recommendations proposed by the Joint

Committee were prohibited, as these constituted the delegation of publicly funded programs, which the SCAG noted the “*SCGSSM may not constitutionally delegate its legislatively created authority to the Foundation.*” (See Appendix D)

G. South Carolina Attorney General’s Opinion on Delegation of Publicly Funded Programs

The South Carolina Office of the Attorney General was asked to provide a legal opinion on three key questions for this SIG review (See Appendix D):

- The appropriateness of SCGSSM employees, who are publicly funded employees, being reassigned to the supervision of employees at a nonprofit foundation;
- The appropriateness of delegating publicly funded programs at the SCGSSM to a nonprofit foundation; and
- The SIG’s authority to conduct a review of the Foundation, a nonprofit educational and eleemosynary corporation, based upon its support to the SCGSSM.

The SCAG concluded the school could only delegate ministerial and administrative functions to the Foundation. Furthermore, this delegation was subject to SCGSSM’s oversight and supervision, and SCGSSM “*may not constitutionally delegate its legislatively created authority to the Foundation. Thus ‘publicly funded programs’ may not be delegated to the Foundation.*”

Second, the SCAG opined it was inappropriate for SCGSSM to reassign publicly funded employees to the private nonprofit Foundation. In a prior 1997 opinion, the SCAG opined an agency “*must at all times maintain adequate supervision and control over [the agency’s employees] in carrying out the assigned tasks and...avoid the situation where the Foundation or nonprofit corporation possesses ultimate control over the State employees.*”

Finally, to answer the question of the SIG’s authority to conduct a review of the Foundation the SCAG concluded that since the Foundation was created pursuant to SCGSSM’s statutory authority, and SCGSSM was subject to the SIG’s review, then the Foundation was “also subject to investigation and review by the SIG.”

V. Best Practices Among Institutions and Supporting Organizations

A. Best Practices at other Publicly Funded Residential STEM Schools

The SIG contacted three publicly funded schools recognized as leaders among those providing residential secondary STEM education: the North Carolina School of Science and Mathematics; the Illinois Mathematics and Science Academy; and the Louisiana School for Math, Science, and the Arts. These schools represented three of the four founding members of the National Consortium of Secondary STEM Schools (“Consortium”) which was established in 1988 as an alliance of specialized high schools in the nation whose mission is to “advance STEM education by providing professional development and networking opportunities for educators

and learning experiences for students; to serve as a national resource for STEM schools and programs in partnership with education, corporate, and international organizations; and to inform policymakers on STEM education.” The SCGSSM is an institutional member of the Consortium.

To identify best practices employed by these national leaders each school was requested to provide information regarding its organizational relationship with its supporting foundation, along with the core functions performed by each school and its supporting foundation. This afforded the SIG the opportunity to compare these practices with those employed by SCGSSM and its Foundation. In addition, the SIG met with the president of the South Carolina Governor’s School for the Arts and Humanities to gain an understanding of its structure and relationship with its supporting foundation.

North Carolina School of Science and Mathematics (“NCSSM”)

The NCSSM opened its doors in 1980 as a two-year public residential high school program, and was the “first in the nation” STEM residential governor’s school. The NCSSM is led by a chancellor who has complete executive authority over the school and is subject to the direction and oversight of the NCSSM Board. The NCSSM Foundation, Inc. was created two years before NCSSM opened its doors for the purpose of raising funds to renovate an abandoned hospital that was donated to the school. The foundation is governed by a separate board of trustees. The NCSSM’s foundation staff consists of a president, who reports directly to the NCSSM chancellor, and two office staff. All NCSSM foundation employees, including the president, are state employees and the foundation maintains offices at the school. The foundation’s only function is to raise funds for its endowment. The recruiting, admissions process, outreach, and marketing programs, including website management, are all school functions and are managed by school staff. The school and its foundation have an MOU in place which delineates the roles and responsibilities for each entity in this relationship. In furtherance of its mission, the NCSSM focuses on educating teachers and students throughout North Carolina as part of its external programs and outreach.

The NCSSM chancellor advised the SIG the budget process for its foundation begins with the development of a budget by the school’s management, which includes the foundation president. The chancellor stated that most of the funding provided by the foundation is donor-restricted and is applied to the restricted purposes within the school. The school’s management, including the foundation president, develops a budget for unrestricted foundation funding based on NCSSM’s strategic plan. This budget is presented to the foundation Board for approval. The foundation’s funding support can be used for brick and mortar, but is mostly used for renovations to the NCSSM campus. The NCSSM does not delegate its state supported programs, staff or functions to its foundation.

Illinois Mathematics and Science Academy (“IMSA”)

The IMSA opened its doors to residential students in 1986. The school’s enabling legislation not only mandated the offering of a challenging education to students in math and science in its residential program, but it also mandated that IMSA “stimulate further excellence for all Illinois schools in mathematics and science.”

Because of this second mandate IMSA has an extensive outreach effort with approximately 20 school personnel dedicated to statewide outreach efforts.

The IMSA is led by a president who is directed by a board of trustees. The school's supporting foundation is known as the IMSA Fund and is headed by an executive director, who along with five employees, focus strictly on fundraising support to the school. No school function or program is managed by the IMSA Fund. Eighty-six percent (86%) of IMSA Fund employee salaries are paid by the school. The school president advised he evaluates the performance of the foundation's executive director using state of Illinois protocols. The president also advised a process is underway to better align IMSA and the IMSA Fund, and clarify what is funded by the IMSA Fund.

Louisiana School for Math, Science, and the Arts ("LSMSA")

The LSMSA opened its doors to new students in 1983. It was the second state supported residential school of its kind following the creation of NCSSM. The head of LSMSA is its executive director and LSMSA's affiliated support organization is the Louisiana School for Math, Science, and the Arts Foundation, Inc., which is headed by a CEO. The executive director advised that its foundation primarily conducts fundraising activities, but the foundation staff creates goodwill for the school and works side by side with the school's staff. No school functions are performed by the foundation. The foundation staff consists of the CEO and two employees, and the executive director advised he works closely with and communicates frequently with the foundation CEO. The foundation staff maintains offices at the school and reimburses the school the fair market value of its office space. The foundation does manage the alumni association, whose purpose is not fundraising but is to promote goodwill between the alumni and the school.

The school and its foundation have an MOU in place which clearly defines the relationship between the two organizations and the responsibilities of each organization. The executive director advised it was his goal to convert the foundation's employees into state employees to provide them better benefits.

South Carolina Governor's School for the Arts and Humanities ("SCGSAH")

Originally established in 1980 as a summer residential program, the SCGSAH was created by the South Carolina legislature in 1996 and opened its doors to new students for the 1999-2000 school year. The SCGSAH is led by its president and its supporting foundation is the Governor's School for the Arts Foundation, Inc. The president advised recruitment, admissions, alumni relations, and outreach are all managed by the school. The foundation's chartered purpose is to increase awareness of SCGSAH and raise revenues to support SCGSAH. The foundation staff consists of three employees – the director, an events employee, and an office manager. There are no direct reports from the foundation to the school's president, but he advised the foundation director meets regularly with him and the school's senior management. The foundation offices are located within the school.

The common characteristics identified in these four schools in comparison to the SCGSSM/Foundation organizational relationship is set forth in Table A below.

TABLE A

Common Traits Identified / School → ↓	<u>SCGSSM</u>	<u>NCSSM</u>	<u>IMSA</u>	<u>LSMSA</u>	<u>SCGSAH</u>
MOU or Operating Agreement exists between the school and its supporting foundation		X	X	X	X
Foundation executive director reports to the school's chief executive / administrator		X	X		
Foundation employees are state employees		X	X		
The recruitment, admissions process, outreach and marketing programs are directly managed by the school		X	X	X	X
Foundation staff size	13	3	6	3	3

B. Best Practices – Universities and University-Affiliated Foundations

Numerous examples of institutions and affiliated nonprofit support organizations occur in the area of publicly supported colleges and universities. Virtually all higher education institutions of any size have supporting foundations, and many have multiple foundations serving the institutions in different ways.

The most current and comprehensive report addressing best practices found by the SIG was the University of Texas System's report titled, "*Advisory Task Force Report on Best Practices Regarding University-Affiliated Foundation Relationships.*"² While it is noted that SCGSSM and its supporting Foundation are not part of a university system, the basic principles and best practices identified in the report are applicable and adaptable to SCGSSM and the Foundation. Three key areas identified for best practices for institution and foundation relationships were:

- Mission alignment through the development of an MOU;
- Increase transparency and openness between the institution and the foundation; and
- Good governance and executive board leadership.

Mission Alignment and the MOU

To assure mission alignment, the task force recommended each institution and foundation jointly develop an MOU, that "(a) clearly defines the relationship between the university and its affiliated foundation(s), (b) assures the preservation of mission alignment over time; and (c) is periodically reviewed, assessed, and adapted in keeping with changing circumstances and the passage of time." In that respect, the MOU should summarize

² University of Texas System's "*Advisory Task Force Report on Best Practices Regarding University-Affiliated Foundation Relationships.*" (see link: [Best Practices Regarding University-Affiliated Foundation Relationships](#))

how the foundation's resources and efforts serve the institution's mission, and define the foundation's role in fundraising along with any other services to be provided.³

Increase Transparency and Openness

Institutions and foundations should “implement practices that increase transparency, openness, and disclosure to the supported institution and the public. Each entity should provide for the sharing, consistent with applicable laws and donor privacy, of financial information, audits, annual IRS filings, and other records with each other and outside parties.”⁴

Good Governance

Two best practices identified in the area of good governance and executive Board leadership were:

“1. Ensure that the work of the foundation is aligned with the strategic priorities of the supported university.

2. Collaborate to establish strong periodic orientation programs to educate new university officials and all new foundation board members about the foundation's mission, legal requirements, and fiduciary duties.”⁵

The SIG also identified in the accreditation standards utilized by the Southern Association of Colleges and Schools (“SACS”) Commission on Colleges, “*Principles of Accreditation: Foundation for Quality Enhancement.*” Section 3.2.12 of the SACS' standards states “*The institution demonstrates that its chief executive officer controls the institution's fund-raising activities.*”⁶ Additionally, SACS accreditation standard Section 3.2.13 states, “*For any entity organized separately from the institution and formed primarily for the purpose of supporting the institution or its programs, (1) the legal authority and operating control of the institution is clearly defined with respect to that entity; (2) the relationship of that entity to the institution and the extent of any liability arising out of the relationship is clearly described in a formal, written manner; and (3) the institution demonstrates that (a) the chief executive officer controls any fund-raising activities of that entity or)b) the fund-raising activities of that entity are defined in a formal, written manner which assures those activities further the mission of the institution.*”⁷

VI. Way Forward

As with any change in organizational leadership, particularly following a successful and long tenured leader, challenges can arise as existing staff and external relationships adapt to a new style of management and organizational goals are re-prioritized. As with the relationship between SCGSSM and the Foundation, one

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Southern Association of Colleges and Schools Commission on Colleges “Principles of Accreditation: Foundation for Quality Enhancement” standard 3.2.12. (see link: <http://www.sacscoc.org/pdf/2012PrinciplesOfAccreditation.pdf>)

⁷ Ibid.

would think each entity would be immune from any significant challenge given the successes attained by both groups. Since 2005, these successes have included the doubling of school's endowment; the expansion of the summer satellite camp programs through the combined efforts of the school's VP of Outreach and Research and the Foundation; as well as, the implementation of the Accelerate Engineering Program, which originated with the former school president and Foundation CEO as a pilot program. This program was approved by the SCGSSM Board, the current school president, and incorporated into the school's budget priorities.

Unfortunately, these successes become easily hidden when individual conflicts expand into mistrust among each entity's staff members toward each other. Everything from "repurposing of personnel" to intentional disengagement only exacerbates the problem instead of reconciling the issue. Joint meetings of Foundation and SCGSSM staff have been reduced or eliminated, and the Foundation CEO has moved from her SCGSSM office. Most recently, a press release issued by the Foundation on 8/1/2017, described the Foundation as "*...a hybrid, forward-looking organization of creative and driven individuals working to retain and return our alumni to South Carolina. Our goal is to positively impact economic development across the state and in the Pee Dee while also providing unwavering support for the Governor's School for Science & Mathematics and its students, faculty and programs.*" While statewide economic development and efforts to retain and return the school's alumni to the state are important, they are not currently a stated priority of SCGSSM.

Regardless, when leaders of organizations such SCGSSM and the Foundation engage in a "tug of war" for ownership of mission and ideas where there should instead be a synergy of ideas to support the broader mission, they only affect those who can least afford the impact – **the SCGSSM students.** [SIG emphasis]

When an organization loses focus or lacks clarity resulting in "mission drift" a time honored process is to take an "operational pause" and "get back to basics." For the SCGSSM and the Foundation, this process begins by looking at the General Assembly's enabling legislation in S.C. Code of Laws §59-48-10, which states:

"There is established a special school of science and mathematics for the purpose of fostering educational development of high school juniors and seniors in this State who are academically talented in the areas of science and mathematics and who show promise of exceptional development in these subjects. The school shall provide accelerated instruction in mathematics and science in a residential educational setting."

The authority to determine the mission, priorities, programs, and direction of SCGSSM is vested in the school's board of trustees and its chief administrative officer. The Foundation was created to build an endowment, fundraise and support SCGSSM, its students, and the academic programs of SCGSSM as set forth in its charter. (See Appendix A)

Correct mission alignment and authority are no less important than when fiscal transparency of a state governmental entity is at stake. The public expects the governmental entity to exercise fiduciary care and custody of its appropriated resources (i.e., personnel, financial, and fixed assets). As in the case of a Foundation account established by SCGSSM over two decades ago, the school's use of this account to accept and disburse student activity fees, school program funds, etc., however well-intentioned, circumvented the State's accounting system and procurement code, which lowered the school's internal controls and elevated the risk to these funds for both SCGSSM and the Foundation. The State has mechanisms in place to assist the SCGSSM in handling

these types of funds in an efficient manner without undue burden on the school while maintaining the requisite level of oversight, internal control, and accountability needed for a state governmental entity such as SCGSSM.

The first step is to resolve the communication issue and build a relationship based on trust, collaboration, and coordination. This is accomplished through the “best practice” of establishing an MOU between SCGSSM and the Foundation. It is essential that administrators, staff members, and members of both organizations have a clear understanding of the role and functions of the Foundation in support of the SCGSSM and its authorities found in the S.C. Code of Laws.

Second, the integration of the strategic and budget planning processes is another best practice that would benefit the SCGSSM/Foundation relationship. Staff and Board members of both organizations should participate in each organization’s planning process in order to produce a better understanding of the school’s priorities and the Foundation’s challenges.

Increasing transparency between the Foundation and the SCGSSM is essential to improving the relationship. The Foundation should create processes to affirmatively share financial information with SCGSSM, to include audited financial statements, annual IRS filings, final annual allocation amounts expended on behalf of the school, and requests from school staff for supplemental financial information should be responded to promptly and completely.

VII. Findings and Recommendations

Finding #1a: Between 2012 and 2014, the SCGSSM delegated supervision of a number of school staff to the Foundation for program management purposes which resulted in a private nonprofit organization supervising publicly funded state employees. This delegation of supervision of publicly funded state employees was inappropriate and potentially in violation of state law.

Finding #1b: Between 2010 and 2014, the SCGSSM delegated oversight of a number of SCGSSM programs and functions to the Foundation which resulted in a private nonprofit organization supervising publicly funded programs which went beyond ministerial or administrative duties. This delegation of oversight of publicly funded programs was inappropriate and potentially in violation of state law.

Recommendation #1: SCGSSM leadership should finalize the process of realigning supervision of the school’s programs, functions, and staff previously delegated to the Foundation back under SCGSSM oversight.

Finding #2: The SCGSSM and Foundation have operated under an informal arrangement which resulted in a blended organizational structure. The failure to document this operational relationship either through a memorandum of understanding or operating agreement which delineates the roles and responsibilities of each entity has resulted in a lack of clarity in the relationship between each entity; the appropriate roles, responsibilities, and authorities; and the organizations’ missions may no longer be aligned.

Recommendation #2: The current process involving the development of an MOU should be completed collaboratively by the Foundation and SCGSSM, and be done following the recommended best practices found in various guidance on institution/foundation relationships, highlighted in this report and elsewhere with the primary goal of assuring mission alignment over time.

Finding #3: A communication issue has developed between the SCGSSM president and the Foundation CEO which has negatively affected each organization.

Recommendation #3: The Foundation CEO should re-engage with the SCGSSM president and school staff and work collaboratively to strengthen the relationship between the Foundation and SCGSSM following the principles and framework established by the president relative to outreach and marketing, and all other interrelationships between the two organizations.

Finding #4: The financial activities of the Foundation are not transparent to the SCGSSM. There is no affirmative process followed by the Foundation to provide basic financial information to the school, including audited financial statements, annual IRS information returns, and final yearly expenditures of those programs and activities managed by the Foundation. Over the last year there has been a hesitancy to provide specific requested information related to those functions delegated to the Foundation.

Recommendation #4: The Foundation should create processes to affirmatively provide full financial disclosure to the school on Foundation activities, consistent with any need to protect donor privacy. Requests from SCGSSM for supplemental information should be responded to promptly and in the spirit of sharing between affiliated, and collaborative entities working toward a common purpose.

Finding #5: SCGSSM utilized a Foundation bank account to deposit and expend student activity type funds and general, non-appropriated revenues. In doing so SCGSSM avoided certain state procurement and disbursement rules and regulations along with an increased administrative workload. Currently, general revenues are being processed through the SCGSSM system, but student activity funds continue to be deposited and expended through a new Foundation bank account, under the oversight of the Foundation. The Foundation is properly accounting for the funds as an agency fund due to SCGSSM. However, SCGSSM only records the transactions in a subsidiary ledger, but is not recognizing the complimentary asset amount in its accounting system. SCGSSM has received outside audit advice recommending the use of a composite reservoir checking account for the student activity type funds, and to seek certain procurement and disbursement exemptions allowed higher education for similar funds. SCGSSM has not pursued these recommendations.

Recommendation #5a: SCGSSM should eliminate the use of the Foundation bank account for student activity funds, pursue the recommendation of the outside auditor in seeking approval to institute the use of a composite reservoir bank account for those funds, and in all circumstances comply with state procurement and disbursement regulations.

Recommendation #5b: The Foundation should close the student activity bank account and transfer the balance of the existing funds being held on behalf of SCGSSM to the school's composite reservoir account when it is established.

Recommendation #5c: SCGSSM should seek a procurement exemption similar to that granted higher education, but with a limit appropriate to the average transaction size of the expenditures of the student activity funds.

Recommendation #5d: SCGSSM should recognize in its accounting system the balance as well as the inflows and outflows of student activity funds processed in the new Foundation bank account since its creation and going forward, as long as the Foundation account is in use.

Finding #6: The new student activity bank account appears to have maintained the majority of the \$30,308 balance transferred from the old account in February, 2016, and has not been reduced to near zero, which is expected at the end of a school year for a student activity account. The carry forward balance may actually have grown. SCGSSM staff advised any unspent funds from various activities and trips are carried over and spent at the discretion of the school sponsor for the original purpose. SCGSSM staff advised they typically do not have significant over collections or under collections on trips and activities and that refunds are rarely given. They also advised they keep records which show the breakdown of account's balance by individual activities and trips.

Recommendation #6a: SCGSSM should establish a formal policy on the handling of any over collections of student activity or trip funds recognizing the funds were requested and provided for a specific purpose and any excess funds should be refunded, unless the payers are advised in advance that nominal unspent amounts below a specific threshold may be retained for similar activities.

Recommendation #6b: SCGSSM staff should review their analysis of the balance of the student activity checking account and determine whether or not any portion of the balance should be refunded. The SCGSSM President should approve any unspent balances to be retained. Should any portion of the balance have resulted from non-student activity revenues, or general revenues inadvertently deposited to the account, that amount should be removed and deposited to the SCGSSM general revenue account.

Recommendation #6c: The school sponsor of a student activity or trip should not be given discretion over spending any over collections that are not refunded. Any over collections from a prior activity may be a component of the budget for a future similar activity and be considered in SCGSSM's normal management approval process for that activity.

Finding #7: The Foundation is utilizing its credit card payment handling process to receive credit card payments on behalf of SCGSSM for student activities and trips, and transferring those payments to the student activity bank account.

Recommendation #7: SCGSSM should establish a credit card payment handling process to accept those payments in conjunction with the opening of a composite reservoir bank account. Consideration should be given also to the practicality of utilizing payment card processing provided by the state contractor for the state government portal – SC.gov.

List of Appendices

- A. Foundation Articles of Incorporation , By-Laws, and IRS Form 990-FY2016
- B. SCGSSM Organizational Charts (2003 and 2014)
- C. Joint Committee on Alignment Recommendations
- D. SC Attorney General’s Opinion, dated 8/22/2017
- E. WebsterRogers LLP - Review of Foundation Bank Account Usage
(Appendices A – E located at Internet link: http://oig.sc.gov/Documents/GSSM_Appendices_A-E_Consolidated.pdf)
- F. SCGSSM Response to the Review
(Appendix F located at Internet link: http://oig.sc.gov/Documents/SCGSSM_Response_to_Review.pdf)
- G. Foundation Responses to the Review
(Appendix G located at Internet link: http://oig.sc.gov/Documents/Foundation_Responses_to_Review.pdf)