



OKLAHOMA STATE
DEPARTMENT *of* EDUCATION

To: Superintendent Ryan Walters and Other Members of the State Board of Education
From: Bryan Cleveland, General Counsel
Date: January 26, 2023
Re: Sovereign Community School

One item for discussion on the January 26, 2023 meeting of the State Board of Education is the status of Sovereign Community School, with the option for possible termination of the charter. The Board tabled any vote to notice termination of the school at the December 2022 meeting. Like several of the Board members, I am new to the issue of Sovereign, and I have been compiling information to educate myself on its status. This memorandum is intended to share what I have learned, providing information about Sovereign and why it is being considered for termination.

For brief background, Sovereign Community School is a charter school in Oklahoma County with the admirable goal of educating and training the next leaders in Indigenous communities in Oklahoma. It is a small charter school, as it currently serves approximately 115 students across fifth through twelfth grade. It primarily uses an online curriculum facilitated by Chromebook computers, and it focuses on Indigenous culture to help provide a unique education to students.

In considering Sovereign's pending issues, I begin with the question of whether it is fulfilling the purpose of the Oklahoma Charter Schools Act. As that Act states, the purposes of a charter school include improving student learning, increasing learning opportunities for students, and encouraging the use of different and innovative teaching methods. 70 O.S. § 3-131. While improving academic performance due to freedom in teaching, a charter school is also required to comply with the same financial reporting and auditing requirements as any other public schools. *See* 70 O.S. § 3-136. Thus, I wanted to know how Sovereign performs academically and financially.

The memorandum proceeds in three sections: (1) an overview of school metrics and facts about Sovereign, including academics and finance, (2) some history of Sovereign's interactions with the Board, and (3) a list of options that are available to the Board at the upcoming meeting.

I. Overview of School Metrics and Facts

Like all charters, Sovereign's charter requires it to meet or exceed expectations on the School Performance Framework. Thus, that Performance Framework makes a useful starting point for understanding Sovereign's status. I did not find any Performance Frameworks for Sovereign in my files, and I requested my staff prepare their tentative scoring for each fiscal year that Sovereign has operated.

The Performance Framework has three sections: academic, financial, and organizational. A blank copy is at the end of Sovereign's charter, which is attached as **Exhibit 1**. In that blank copy, you can see what questions are used to assess schools, award points, and determine a final score.

The Department's tentative view is that Sovereign has failed all academic metrics and all financial metrics for every complete year of its operation, and it has consistently met less than half of the organizational metrics. For FY22, the only category in which Sovereign met expectations is compliance with Open Meetings and Open Records requirements. For FY 21, Sovereign scored zero academic points, zero financial points, and four organizational points (out of a possible ten that year). For FY 20, there was no academic testing due to the pandemic, but Sovereign scored zero financial points and scored two organizational points (out of a possible eight that year). The Department's tentative scores for all three years are attached as **Exhibit 2**.

Because these Performance Frameworks was not prepared under the prior administration, I am labeling these scores as tentative because I am interested in hearing Sovereign's perspective on the

framework categories and obtaining any documentation they have that would correct or improve these scores.

Further details on the three Performance Framework categories should help explain why these scores are low. Thus, I discuss the Department's understanding of current academic, financial, and organizational metrics in depth below.

A. Academic Status of Sovereign

The Oklahoma School Testing Program (OSTP) provides scores for schools across the state on the performance of students in grades 3-8. It assesses three subject areas: English and language arts (ELA), mathematics, and science. It then rates students in four categories: below basic, basic, proficient, or advanced.

Below is a brief overview of Sovereign's scores for FY 21 and FY 22. (No testing occurred in FY 20.)

Fifth Grade

	ELA	Math	Science
FY 21 % Proficient or Advanced	11%	≤1%	11%
FY 22 % Proficient or Advanced	6%	6%	6%

Sixth Grade

	ELA	Math	Science
FY 21 % Proficient or Advanced	11%	≤1%	n/a
FY 22 % Proficient or Advanced	8%	≤1%	n/a

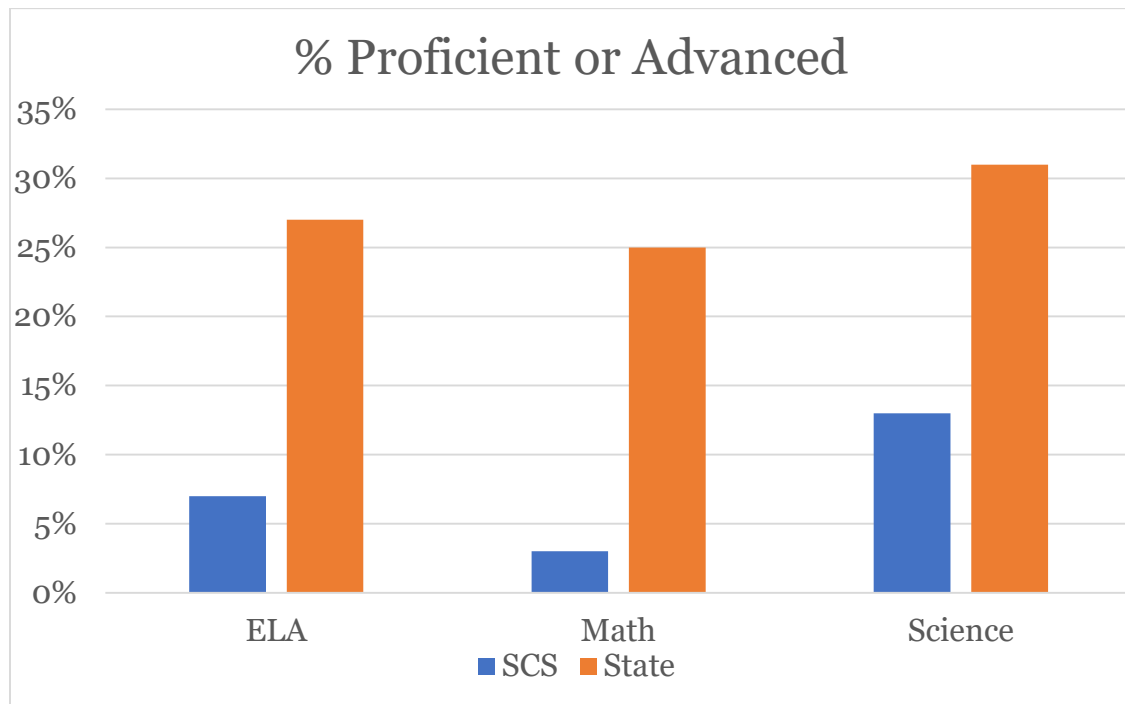
Seventh Grade

	ELA	Math	Science
FY 21 % Proficient or Advanced	7%	4%	n/a
FY 22 % Proficient or Advanced	≤1%	≤1%	n/a

Eighth Grade

	ELA	Math	Science
FY 21 % Proficient or Advanced	≤1%	≤1%	10%
FY 22 % Proficient or Advanced	8%	≤1%	16%

As the charts show, more than 80% of Sovereign's fifth through eighth grade students test at basic or lower levels in all subjects in OSTP. Here is how Sovereign's academic performance on OSTP compares to the statewide average:



For more granular comparison, here are the FY 22 percentages that are proficient or higher for three other school districts in the area as compared to Sovereign:

Fifth Grade

	ELA	Math	Science
Sovereign	6%	6%	6%
OKC	8%	4%	16%
Mustang	25%	37%	38%
Norman	28%	29%	34%

Sixth Grade

	ELA	Math	Science
Sovereign	8%	≤1%	n/a
OKC	8%	4%	n/a
Mustang	29%	39%	n/a
Norman	24%	16%	n/a

Seventh Grade

	ELA	Math	Science
Sovereign	≤1%	≤1%	n/a
OKC	8%	5%	n/a
Mustang	29%	36%	n/a
Norman	24%	15%	n/a

Eighth Grade

	ELA	Math	Science
Sovereign	8%	≤1%	16%
OKC	8%	6%	14%
Mustang	29%	22%	38%
Norman	23%	12%	30%

B. Financial Status of Sovereign

Sovereign has two independent audits that the Department has reviewed and noted problems listed in findings or in the Management letter. For both fiscal years 2020 and 2021, the Department identified three areas of concern. *First*, Sovereign has a problem with internal controls because it does not segregate duties. *Second*, Sovereign has a problem with encumbrance accounting because it has failed to comply with requirements for purchase of goods and services for the school. *Third*, Sovereign has a problem with organizational structure because there is no surety bond or the individual bonded did not fulfill the responsibilities assigned.

In addition, the FY 2021 audit notes a concern with Sovereign's financial position because future revenues are obligated to pay for current and past year obligations, which suggests that Sovereign may become insolvent. Documents in the FY 2021 audit observed that Sovereign's financial position was caused in part by several years of student enrollment not meeting the projections of Sovereign's leadership. A copy of both audit reports is attached as **Exhibit 3**.

Sovereign has been addressing its revenue shortfall through a series of grants and loans. Since August of 2020, Sovereign has borrowed approximately \$550,000 through four different loans. To the best of the Department's knowledge, \$500,000 of that debt is both unpaid and past its due date for

payment. In addition, Sovereign has received over \$700,000 in one-time grants and donations. The following chart briefly summarizes the Department's knowledge of Sovereign's funds:

	FY20	FY21	FY22
STATE AID	\$252,279	\$510,803	\$733,923
FEDERAL AID	\$200,436	\$92,751	\$235,593
GRANTS/DONATIONS	\$425,992	\$61,041	\$320,000
LOANS	\$102,500*	\$403,597*	\$150,000
OTHER	\$28,046**		
TOTAL REVENUE	\$1,009,254	\$1,090,742	\$1,496,039
CARRYOVER (For Next FY)	\$20,812	\$47,651	\$67,155

* Paycheck Protection Program loans (\$102,500 in FY20 and \$103,597 in FY21) were forgiven.

** End of Year FY20 Transfer from Student Activity Funds (funds raised or donated specifically to fund expenditures for specific student groups/activities). Without transfer, carryover would have been (\$7,234).

The debt listed here does not include \$100,000 in additional debt incurred this fiscal year. The carryover category indicates the funds remaining in their accounts from year to year without adjustment for unpaid expenses or debts. I included that category here to illustrate how their current revenue status compares to their debt, even if it may omit relevant unpaid expenses.

For fiscal year 2023, the Department anticipates that there will be no carryover unless Sovereign finds someone willing to pay its debts or its creditors extend repayment of its debts. A Department audit of Sovereign on August 5, 2022, found that Sovereign had made \$7,000 more in payments than it had in available cash, and the audit also found FY 22 bills being paid with FY 23 funds, which is consistent with the findings of the independent audit that Sovereign is financially unstable because it uses current funds to pay bills from prior years.

Some of Sovereign's financial issues appear to stem from preventable errors. One example of particular concern is that Sovereign has only completed the paperwork for child nutrition reimbursement for two months of its existence. It is paying for school lunches from other funds

because it does not comply with the federal program forms for child nutrition. This example is only an isolated example, but it helps illustrate issues seen by the Department that raise concern about Sovereign's financial status.

C. Organizational Status of Sovereign

Sovereign struggles to meet reporting deadlines or to comply with accreditation requirements. It appears that these struggles are caused, at least in part, by the frequent changes in leadership of the school.

Over the last 3.5 years, since July 2019, the school has changed its board leadership and Superintendent five times. At the outset, the founder Phil Glover was the Sovereign board's chair, and he also served as the Superintendent instead of hiring a separate Superintendent. He corrected this mistake in early 2020, and a different person subsequently assumed his position as chair of the Sovereign board. Both positions have changed hands three more times in the three years since early 2020.

Kendra Wilson-Clements is the current Sovereign board chair. She has been a member of the Sovereign board since early 2021, and she became the chair in March of 2022. Alison Black is the current Head of Schools. The prior Superintendent Dr. Dusty Delso departed on December 1, 2022, and Sovereign hired Ms. Black.

The teaching staff is similarly subject to frequent changes. Since starting in July 2019, Sovereign has employed several different teachers and support staff. To the best of the Department's knowledge, for this school year, Sovereign started with five teachers but currently employs only two teachers for approximately 115 enrolled students.

The lack of staff also contributes to deficiencies in special education. For fiscal year 2022, only one of the twenty-eight special education students received direct instruction. In addition, twelve of

those twenty-eight students were missing present level data to support their Individualized Education Plan (IEP). Sovereign also did not timely complete evaluations and reevaluations that are required by federal law. The Department is still reviewing whether these problems are improving during fiscal year 2023.

II. History of Sovereign's Interaction with the Board

The State Board of Education agreed to sponsor Sovereign Community School in November 2018. Sovereign initially applied to Oklahoma City Public School to sponsor its charter. OKCPS denied sponsorship, and Sovereign appealed to the Board, who agreed to sponsor the school. The charter began on July 1, 2019, and is effective for five years.

In May and June 2020, the Board discussed Sovereign's financial difficulties. The Board voted in June of 2020 to require auditing and monthly financial reporting.

In November 2020, the Board again reviewed Sovereign's financial difficulties. The Board voted to change Sovereign's accreditation status to accredited with probation. The Board then imposed the following terms of probation:

1. Fiscal management plan, including schedule and plan for repayment of outstanding obligations, and designate an Oklahoma State Department of Education (OSDE)-approved independent fiscal agent that reports monthly to the OSDE. In addition, see items below relating to Board Meetings, financial reports, and audit. Due: immediately begin planning and prepared to report by December 4, 2020.
2. Independent review and assessment of capacity and expertise of the governing board, taking into consideration current term limits for existing board members, and add membership as needed to allow the board to fulfill its governance duties. Due: immediately begin planning and prepared to report by December 10, 2020.
3. Ensure the timely and uniform reporting of actual costs and expenditures to the OSDE Office of School Personnel Records. Due: immediately.
4. Timely reporting and work with OSDE to ensure work is done. Due: immediately.
5. Timely and accurate completion of items addressed in the State Board meeting, including but not limited to School Personnel Records and reports relating thereto.
6. Prioritize and expedite prior conditions, including:
 - a. Obtain an independent financial audit, to be conducted immediately and reported on

- b. Financial reports. To be provided to OSDE/OSBE on a bi-weekly basis.
 - c. Board Meetings: Bi-weekly meeting recommended.
 - d. Reconciled financials, income statements, balance sheets, budget to include amounts due and owed to Oklahoma Teachers Retirement System and Santa Fe South Development Corporation. Due: Beginning December 4, 2020
 - e. Compliance with applicable rules, regulations, and policies. Due: immediately
 - f. Submit to the Oklahoma State Department of Education, board and committee meeting agendas, materials corresponding to agenda items, and minutes prior to each board meeting while these items are sent to the school's board members. Due: immediately.
7. Quarterly reporting to the State Board

In April 2021, the Department raised concerns with the Board that Sovereign was not complying with charter requirements and recommended termination. The Board required Sovereign to submit a five-year plan to solve its problems and then reviewed that plan in a second meeting in late April 2021. The Board also required Sovereign to present on progress at a June 2021 meeting. That presentation occurred, and the Board continued Sovereign on probation.

In October 2021, the Department sent the Board a quarterly report outlining ongoing concerns regarding Sovereign's compliance with the terms of probation. Sovereign replied to this report the following month. A copy of this report and the response is attached as **Exhibit 4**.

In March 2022, the Department sent Sovereign a draft report outlining several ongoing problems that need to be remedied to comply with the terms of probation. Sovereign's board president issued a response that same month, disputing some of the conclusions in the draft report. In April 2022, the Department's general counsel sent a report to the Board explaining why, in the Department's view, the March response was inadequate. A copy of these reports is attached as **Exhibit 5**. Sovereign was provided with a copy of the April 2022 report, and to date, it has not provided any direct rebuttal or other response.

In December 2022, the Department returned to the Board to again recommend the termination of Sovereign. The basis for the recommendation was that Sovereign is not complying with the terms of the Oklahoma Charter Schools Act and its Charter because it not in compliance with the financial, academic, or other legal and regulatory requirements for operating a charter school. The Board tabled any decision pending a future meeting.

III. Options for the January 26, 2023 Meeting

The Board may impose a requirement for further information or actions from Sovereign, may issue a notice of termination, or may table the discussion for a later meeting.

The Oklahoma Charter Schools Act allows a sponsor to terminate a charter school for:

- failing to meet student performance requirements in the contract,
- failure to meet standards of fiscal management,
- violations of the law,

or other good cause. *See* 70 O.S. § 3-137(F). The legal requirements imposed for the third option above include requiring charter schools to comply with the same financial reporting and audit requirements as a school district, to prepare a statement of actual income and expenditures in compliance with relevant state laws, and to comply with all federal and state laws regarding children with disabilities. *See id.* § 3-136.

Sovereign's particular charter also contains several provisions that may be at issue for termination:

- Section 4 of the charter requires Sovereign to annually meet or exceed expectations on the Performance Framework.

- The other Section 4 (a numbering error in the charter) requires Sovereign to comply with state and federal laws regarding children with disabilities.
- Section 11 requires Sovereign to comply with all applicable state financial and budget laws, rules, and regulations, to submit corrective action plans within 60 days of any audit deficiency, and to timely report financial and personnel matter to the Department.

The Board may choose one, or several, of the provisions of the Oklahoma Charter Schools Act or of Sovereign's charter as a basis for termination. Such termination occurs after giving at least ninety days' written notice. *See* 70 O.S. § 3-137(F). As a result, any vote regarding termination would be a vote to send a notice indicating termination, with a termination date at least 90 days from today.

If the Board requires more information from the Department before deciding, I am available at their convenience, as are staff with further details. If the Board requires more information from Sovereign before deciding, it may choose to hear from one or more of Sovereign's representatives that are present at the January 26, 2023 meeting.