

Office of Inspector General
The School District of Palm Beach County

Case No. 15-211

Boynton Beach High School Facilities Leasing

INVESTIGATIVE REPORT

AUTHORITY AND PURPOSE

Authority. *School Board Policy 1.092, Inspector General (4)(a)(iv)* provides for the Inspector General to receive and consider complaints, and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the Inspector General deems appropriate.

Allegations. The Office of Inspector General (OIG) initiated a preliminary investigation during January, 2015, in response to a complaint regarding the potential unauthorized use of a nonprofit organization's status by a semi-professional basketball team in connection with a lease at Boynton Beach High School (School). The allegations were:

1. The South Florida Gold ABA Inc. basketball team (Basketball Team) inappropriately misrepresented themselves as the Stop Bullying Now Foundation, Inc. (Foundation) by using the IRS Nonprofit Status Determination Letter of the Foundation; and,
2. By using the Foundation's name, the Basketball Team inappropriately benefitted by receiving substantially reduced leasing fees to use the School's gymnasium for basketball games.

Additional Issues. During the OIG's investigation, additional issues were identified concerning the Basketball Team's use of District facilities, as follows:

1. The Basketball Team entered into a lease agreement with the School in the name of the Foundation, when they were not authorized by the Foundation to do so.
2. The Basketball Team obtained and provided the District a *Certificate of Insurance* in the name of the Foundation, when they were not authorized by the Foundation to do so.
3. The Basketball Team used the gymnasium at Boynton Beach High School during tryouts and practices without an executed lease agreement.
4. District employees allowed use of School facilities by the Basketball Team without the required lease agreement.
5. The Basketball Team previously leased and used facilities at two other District schools using the name of another nonprofit organization.

6. The Basketball Team did not pay leasing fees associated with its previous use of District facilities.
7. The Basketball Team owes the District \$10,584 for use of District facilities.

BACKGROUND

On December 13, 2014, the Complainant contacted the District with a concern regarding the potential unauthorized use of the Foundation's IRS Nonprofit Status Determination Letter by the Basketball Team. The Foundation was founded by the complainant as a nonprofit corporation and qualified as a 501(c)(3) tax-exempt organization under the IRS Tax Code. District Staff determined the Basketball Team had leased the School's gym using the name and nonprofit status of the Foundation. The District's Chief Operating Officer forwarded the complaint to the Office of Inspector General for further review.

The Basketball Team is a local semi-professional franchise affiliated with the American Basketball Association. The Florida Department of State records indicate that the Basketball Team was organized as a for-profit corporation on October 7, 2013. The Basketball Team's corporate filing listed three officers.

The Foundation is a Florida nonprofit organization created on January 27, 2012. None of the Basketball Team's three officers appear as officers or directors in the corporate filings of the Foundation.

The Basketball Team published a schedule of games for the period November 1, 2014 through March 8, 2015, indicating Boynton Beach High School as its home court location.

Our preliminary review of the documents in the District's Computer Aided Facilities Management System (CAFM) reflected three lease agreements executed during the current school year between the School and the Foundation, as follows:

Table 1 – Leases issued to Stop Bullying Now Foundation, Inc.
for use of Boynton Beach HS Gymnasium

Lease ID # / Lessee Type	Event Description	Date Issued	Dates of Use	Cost
2015-2361-1010 / Non-Profit (Taxable)	Basketball/Gym— November 2014	10/13/2014	11/01, 11/02, 11/08, 11/09, 11/15, 11/16	\$2,838
2015-2361-1012 / Non-Profit (Taxable)	Basketball	10/29/2014	10/20	\$106
2015-2361-1019 / Non-Profit (Taxable)	ABA Gold Basketball	12/03/2014	12/13, 12/14, 12/20, 12/21	\$1,892

Although, each of the above listed lease agreements were in the name of the Foundation, they did not bear the signature of any Foundation officer and were instead signed by the General Manager of the Basketball Team. The corresponding *Certificate of Insurance* and proof of nonprofit status were also in the name of the Foundation.

REVIEWS PERFORMED

Document Review

Draft Lease Agreements for Use of School Facility (source: CAFM)
Rental Contract Approvals (source: CAFM)
Signed Lease Agreements with attached exhibits and notes (School's file)
Certificates of Liability Insurance submitted by Basketball Team
Application for Certificate of Liability Insurance by Foundation
2014-2015 South Florida Gold Official Schedule
Boynton Beach HS Leasing Accounts (source: Schoolcash.net)
District Bulletin # P-14872-COO-RBM – Vendors' Liability Insurance Requirements for Community School Facilities
School Board Policy 7.18 – Community Use of School Facilities
School Board Policy 1.013 – Responsibilities of School District Personnel and Staff
School Board Policy 3.10 – Conditions of Employment with the District
District Training Document: *How to Check Certificate of Insurance, Updated 2014-2015 Community Use of School Facilities 2014-2015 Hourly Billing Rate Summary*
Florida Department of State, Division of Corporations (source: www.sunbiz.org)
Applicable E-mail Correspondence
Jessica Lunsford Act (Florida Statutes §1012.465)

Interviews

Founder/President, Stop Bullying Now Foundation, Inc.
Principal of Boynton Beach HS
Assistant Principals (Boynton Beach HS, Royal Palm Beach HS, Olympic Heights HS)
Technical Analyst - Leasing
Social Services Coordinator/Former head coach of Basketball Team
Assistant Superintendent, Teaching and Learning (former principal)
Head Coach, Boynton Beach HS Varsity Basketball Team
General Manager, South Florida Gold ABA, Inc.

Consultation

School Police

This investigation was conducted in compliance with the *Quality Standards for Investigations* found within the *Principles and Standards for Offices of Inspector General*, promulgated by the Association of Inspectors General.

APPLICABLE DISTRICT POLICIES AND PROCEDURES

School Board Policy 7.18, Community Use of School Facilities provides for the use of school facilities by community organizations (including commercial organizations). Consequently, the Basketball Team qualified as an organization eligible to use the School's gymnasium.

The Policy further states that all qualified community organizations, shall be required to complete a lease agreement in the Computer Aided Facilities Management system (CAFM) system.

Policy 7.18 requires, among other things:

- the school to retain a fully executed lease agreement (2.d.)
- adequate liability insurance coverage under all lease agreements (2.j.)
- the lease to be signed by all parties at least 48 hours prior to the use of the facility (3.a.)
- the payment of fees by check or credit card at least 48 hours prior to the use of the facility (7.a.)

Policy 7.18 (2.b.) further sets forth the *process and criteria for applying for a lease* and requires the potential lessee to:

- have the school complete the Computer Aided Facilities Management (CAFM) web based lease in Tririga (Computer System).
- provide the required additional documentation as identified in the CAFM lease program with the web based lease.
- provide a copy of liability insurance policy in the amount of \$1,000,000.00, naming the School Board of Palm Beach County as a certificate holder and as an additional insured, with the Lease Agreement or purchase liability insurance from the School District.
- not be in default on a prior-lease payment with any District school.
- fully compensate the District for any damage resulting from prior use.

The *Matrix* incorporated into *School Board Policy 7.18* defines categories of community organizations and allowable rent reductions including:

- Category A – Commercial Organizations such as for-profit companies, which must pay full rent (i.e., the Basketball Team).¹
- Category C – Non-Profit Organizations that do not provide a direct benefit to the public school students. Organizations qualifying under Category C are afforded a 50% reduction of rent (i.e., the Foundation).

School District *Bulletin # P-14872-COO/RBM – Vendors’ Liability Insurance Requirements for Community School Facilities* provides procedures to all principals regarding liability insurance for organizations leasing School District facilities and states:

*Although a school center may waive rental fees, as they deem appropriate, insurance requirements may not be waived. Even good cause and charities must sign a lease and provide insurance. **There are no exceptions.***

District’s training document, *How to Check Certificates of Insurance (Updated 2014-2015)* provides guidelines for School Leasing Coordinators to follow. Of specific note,

2) The name of the “Lessee” must be the name of the entity with whom we are contracting.”

School Board Policy 1.013, Responsibilities of School District Personnel and Staff (1.) states:

It shall be the responsibility of the personnel employed by the district school board to carry out their assigned duties in accordance with federal laws, rules, state statutes, state board of education rules, school board policy, superintendent’s administrative directives and local school and area rules.

School Board Policy 3.10, Conditions of Employment With the District (6.) requires District employees to carry out their responsibilities in accordance to *School Board Policy 1.013*.

¹ In addition, we noted a draft lease (Lease Agreement #2014-2361-1055) in the CAFM, initiated March 25, 2014, with South Florida Gold ABA, Inc. as lessee, indicating the lessee was a commercial organization. The proposed dates of use were April 14 and April 15, 2014; however, the lease was never issued as final.

RESULTS OF REVIEW AND CONCLUSIONS**Allegation #1: The South Florida Gold ABA basketball team (Basketball Team) may have inappropriately misrepresented themselves as the Stop Bullying Now Foundation, Inc. by using the IRS Nonprofit Status Determination Letter of the Foundation.**

During an interview on January 14, 2015, the Foundation's Founder/President (Founder) explained that he was approached by the Chief Operating Officer (COO) of the Basketball Team during July or August 2014, to discuss mutual sponsorship opportunities between the Foundation and the Basketball Team. According to the Founder, the COO advised the Founder that if the Basketball Team supported the Foundation, the Basketball Team would be eligible for a reduction of fees associated with their use of the School's facilities. The Founder said he was told the sponsorship would include fundraising on behalf of the Foundation at the Basketball Team's games. No formal agreement was made.

After the season began on November 1, 2014, the Founder contacted the Basketball Team to follow up on the fundraising offer he stated was made to him by the COO. Since the initial meeting, he had not heard from any Basketball Team representative and the Foundation had not received any donations from the Basketball Team. The Founder stated he was told by an unidentified person that the COO no longer worked for the Basketball Team. When he asked about the fundraising, the person on the phone told the Founder that they don't give donations.

The OIG requested the lease file from Boynton Beach High School related to the games played by the Basketball Team. The Assistant Principal responsible for leasing activities provided three leases signed by the Basketball Team's General Manager to use the gymnasium on various dates (Table 1) for basketball games. Also included in the School's file was a copy of the Foundation's IRS Determination Letter.

The Basketball Team's General Manager explained the Basketball Team sponsors local nonprofit organizations by offering them the opportunity to set up a table at home games to promote their programs and ask for donations. She stated that the Founder approached the Basketball Team through email in June 2014 and that the Founder emailed copies of the nonprofit's designation letter to her for the Basketball Team's use. The General Manager confirmed that no formal agreement was made and offered to provide our office with copies of the emails. The emails forwarded to our office on March 18, 2015, did not indicate the Foundation provided their designation letter to the Basketball Team.

The Founder denied ever giving a copy of the IRS Determination Letter to the Basketball Team and does not know how it was obtained by them. The IRS Determination Letter is posted on the Foundation's website.

Based on the OIG's review of documentation and statements obtained by the Founder, the allegation with regard to the Basketball Team inappropriately misrepresenting their organization as the Stop Bullying Now Foundation, Inc. by using the IRS Nonprofit Status Determination Letter of the Foundation is substantiated.

Allegation #2: By using the Foundation's name, the Basketball Team may have inappropriately benefitted by receiving substantially reduced leasing fees to use the School's gymnasium for basketball games.

All three lease agreements were issued under the name of the Foundation. The Foundation, as a nonprofit organization is provided a 50% reduction in rental fees vs. the Basketball Team, as a commercial organization, is not entitled to any rental fee reductions.

Based on the dates and times of use of the School's gym reflected on the three executed leases, the Basketball Team, as a commercial organization, underpaid \$2,166 in rental fees. The allegation with regard to the Basketball Team receiving reduced leasing fees from the use of the Foundation's Nonprofit Status is substantiated.

ADDITIONAL ISSUES

During the OIG's investigation, several additional issues were identified concerning the Basketball Team's use of District facilities and the conduct of District employees.

Issue #1: Basketball Team Entered Into a Lease Agreement with the School Using the Unauthorized Name of the Foundation

Three lease agreements were executed between the School and the Foundation for the purpose of the Basketball Team to use the School's gym. The executed agreements, however, did not bear the signature of any Foundation officer and were instead signed by the General Manager of the Basketball Team.

The Founder stated the Basketball Team's General Manager had no authority to execute lease agreements in the name of the Foundation or otherwise use the Foundation's name or Nonprofit Status.

Issue #2: Basketball Team Obtained and Provided the District a Certificate of Insurance in the Name of the Foundation

A *Certificate of Insurance* (COI) was included in the School's file as an exhibit attached to all three executed lease agreements naming the Foundation as the insured and the School Board as the

certificate holder for “Sport(s): Basketball Age(s): 20 and over.” The Basketball Team’s General Manager acknowledged that she purchased the liability insurance and that the Basketball Team paid for the COI as a donation to the nonprofit. The Founder stated he had no knowledge of the COI and indicated he never gave permission to the Basketball Team to obtain a COI in the name of the Foundation.

The Founder obtained a copy of the application submitted to the insurance company to purchase the COI. The application was completed electronically by the Basketball Team’s General Manager who represented herself on the application as an “*Employee/Staff Member of the insured [Foundation].*” Although the Founder’s name appeared as the contact, the email and cell phone numbers provided were those of the Basketball Team’s General Manager.

Based on the above information, it appears that the District was not properly insured during the Basketball Team’s use of the School’s gym during 2014 on October 20; November 1, 2, 8, 9, 15, and 16; and December 13, 14, 20, and 21, contrary to *School Board Policy 7.18 (2.j.)*.

Issue #3: Basketball Team Used the Gymnasium at Boynton Beach High School During Tryouts, Trainings and Practices Without an Executed Lease Agreement

The OIG investigation determined that the School’s gymnasium was used by the Basketball Team for tryouts and practices on multiple occasions without an executed lease agreement. The Assistant Principal (AP) responsible for leasing activities acknowledged that no lease was drafted or issued and no payment was received by the School for these uses. The Basketball Team’s former head coach confirmed that the team held tryouts and practices in the School’s gym.

Tryouts

Hand-written notes regarding the dates of tryouts were located in the School’s ABA lease file obtained from the AP. The dates and times of tryouts were confirmed through news articles, both on television and newspapers, and through a review of employee emails. Tryouts occurred on three different weekends: June 21-22, July 19-20, and August 23-24, 2014, between the hours of 10 a.m. and 2 p.m. The OIG found no evidence to indicate (1) any payment was received for the use of the School’s gym during tryouts, or (2) that this use was encompassed under a lease agreement. Based on the known dates and times of the tryouts, the School should have received \$7,638 in rental fees.

Practice Sessions

The school was unable to provide documentation to confirm the exact dates and hours the School’s gym was used for team practices. The Basketball Team’s former head coach indicated that the team practiced every day for three to four hours each evening at least two weeks prior to the start of the season on November 1, 2014. He also stated that the team would arrive at least

two hours before each game for warm-ups. Without a complete list of practice sessions, our office was not able to estimate rental fees for practice sessions.

Training

The Basketball Team's former head coach said the team used the gym for training as authorized by the Basketball Team's General Manager. However, the Basketball Team's General Manager indicated that use of the gym for training was provided by the School's varsity basketball coach. Access was obtained by entering the already open gym in the evenings after regular school activities were completed. Custodians were still on campus and would lock the gym at the end of their shift. On weekends, the Basketball Team's Former Head Coach stated a School Assistant Football Coach with keys to the gate and facility would provide the Basketball Team access for practice.

School Board Policy 7.18, Community Use of School Facilities requires that a lease agreement be executed for all uses of school facilities. The District was potentially exposed to liability when the Basketball Team used the School's gym without an executed lease agreement.

Issue #4: Basketball Team Allowed Use of School Facilities Without a Lease Agreement

School Board Policy 7.18 – Community Use of School Facilities provides that all non-school activities outside of regular school hours will be documented by a lease agreement and payment of appropriate fees. Our review of email correspondence between the School's Assistant Principal (AP) and the Basketball Team's General Manager confirmed that the AP was fully aware the Basketball Team was using the School's gym for tryouts during weekend hours.

During our interview with the AP, we inquired if a lease was ever created for the tryouts. The AP responded that the School's former principal allowed the Basketball Team to be there. When we inquired about the practice sessions held in the gym, the AP replied that the Basketball Team's General Manager had worked out a deal with the current principal for practices. Neither the former nor the current School principals could recall any meetings with representatives of the Basketball Team. The Basketball Team's General Manager stated that her first meeting with any principal was with the current one in preparation for the December 20th game.

The AP stated that the Basketball Team's owners visited the School and were introduced to the current principal by the School's varsity basketball coach. According to the AP, the Basketball Team's owners spoke to the principal regarding the use of the gym by the Basketball team. He stated the Basketball Team's owners also promised the current principal money for the school along with upgrades to the gym's sound system and scoreboard. The Basketball Team's General Manager said that all discussions were with the School's varsity basketball coach.

The School's varsity basketball coach confirmed that he was approached by Basketball Team's representatives at the end of School Year 2014 to discuss a partnership. However, he added that he introduced the representatives to the AP – not the principal – to discuss leasing requirements for use of the gym.

Our preliminary review of the School's leases showed that the AP had first contact with the Basketball Team on or about March 25, 2014 when he initiated a Lease Agreement with South Florida Gold, Inc. as a commercial organization lessee into the CAFM system. The Draft Lease Agreement (LID#2014-2361-1055) was for use of the gym on April 14-15, 2015, for one hour each day at the full commercial organization rate. The attached exhibits included a COI naming South Florida Gold ABA, Inc. as insured. The Basketball Team also provided corporate registration and tax-exempt status documents that were in the name of a different nonprofit organization, Mentoring Valuable Protégés, Inc., instead of the corporate status documents of the Basketball Team. There was no explanation for these documents. This lease was neither signed nor issued.

According to District records, the Boynton Beach High School AP has attended the mandatory training sessions for leasing procedures four of the past five years. Materials issued and discussed during those training sessions included a review of ***School Board Policy 7.18*** and District guidelines and procedures, including rules for applying rental fee discounts.

Allowing unauthorized use of the School's gym without executed leases subjected the School District to liabilities, in violation of *School Board Policies 7.18, 1.013, and 3.10*.

Issue #5: Basketball Team Previously Leased and Used Facilities at Other District Schools Using the Name of Another Nonprofit Organization

The OIG confirmed that the Basketball Team previously leased two additional District high school gymnasiums under a different nonprofit organization's name and documentation.

On November 9-10, 2013, the Basketball Team used the Royal Palm Beach High School gym under a lease agreement issued to Mentoring Valuable Protégés, Inc. The Basketball Team subsequently used the gym at Olympic Heights High School on December 15, 2013 and again on December 28, 2013. Both lease agreements at Olympic Heights High School were issued to Mentoring Valuable Protégés, Inc. The Certificates of Insurance and related IRS Determination Letters were provided to the schools in the name of Mentoring Valuable Protégés, Inc. However, all leases were signed by the Basketball Team's General Manager.

The OIG found no evidence that the Basketball Team's General Manager held a position as a corporate officer or possessed a corporate resolution authorizing her to sign for Mentoring Valuable Protégés, Inc.

Issue #6: Basketball Team Failed to Pay Leasing Fees Associated with its Previous Use of District Facilities

During the OIG investigation, the current AP from Olympic Heights High School (Olympic Heights) informed us that a \$780 fee for use of Olympic Heights on December 28, 2013, was never paid. The original lease also included use of the gym on January 5, 2014, but use on that date did not occur and the fees for that portion of the lease were cancelled by the school. The current AP of Olympic Heights provided the OIG with notes of her efforts in January and February 2014, to contact the Basketball Team and obtain payment.

Further, according to the current Olympic Heights AP, she called the Boynton Beach High School AP when she heard that the Basketball Team intended to play its games at Boynton Beach High School. She wanted to make the School aware of the Basketball Team owed Olympic Heights High School unpaid leasing fees. **School Board Policy 7.18 (2.b)** requires that a potential lessee not be in default on a prior-lease payment with any District school. Although she spoke to an office employee at the Boynton Beach Adult and Community Education Office and a message was left, no return call was received by the Olympic Heights AP acknowledging the message by the Boynton Beach AP.

Issue #7: Basketball Team Owes the District \$10,584 for use of District Facilities

Based on information gathered during the OIG's investigation, we estimated that the Basketball Team did not pay the District a total of \$10,584 for uses of school facilities (Table 2).

Table 2 – Estimated Unpaid Lease Revenue

School	Event Description	Dates of Use	Amount Due
Olympic Heights High School	Basketball Game (Lease #2014-2181-1074)	12/28/2013	\$780
Boynton Beach High School	Team Tryouts	6/21, 6/22/2014 7/19, 7/20/2014 8/23, 8/24/2014	\$7,638
Boynton Beach High School	Basketball Games (additional fees for commercial organization)	10/20/2014 11/1, 11,2, 11/8, 11/9 11/15, 11/16/2014 12/13, 12/14, 12/20, 12/21/2014	\$2,166
Total Estimated Unpaid Lease Revenue			\$10,584

Improper access to students by Basketball Team personnel during mentoring sessions without background checks/fingerprinting, as required by the Jessica Lunsford Act (Florida Statutes §1012.465).

The Basketball Team's General Manager confirmed that none of the players or Basketball Team management involved with the mentoring of student sessions prior to team tryouts were background checked/fingerprinted by proper authorities in accordance with the *Jessica Lunsford Act*.

To protect the safety and welfare of students, District personnel should ensure that non-school mentors/volunteers who perform services on school campus and have direct contact with students have received the required background and clearance checks.

Immediate Advisory Issued. Due to the ongoing history of questionable leasing practices by the South Florida Gold ABA basketball team, the Office of Inspector General issued a memorandum to the Chief Operating Officer on January 20, 2015, recommending immediate notification to District schools to refrain from entering into any agreements with the Basketball Team or their representatives. On January 21, 2015, the COO issued an email notice to all District principals. (Exhibit 1)

RECOMMENDATIONS

The District should ensure all lease agreements are executed properly by persons with corporate authority. District schools should only accept the signature of a corporate officer on leases. Verification should be made by reviewing the entity's latest corporate filing with the Florida Department of State. In the event this is not possible, then the person signing on behalf of the entity should be required to present a corporate resolution providing signature authorization.

The School District should recover rental fees owed to the District by South Florida Gold ABA, Inc. for use of facilities. Appropriate interest should also be added to the unpaid balance.

Payment Received by Olympic Heights High School. Subsequent to our meeting with the Basketball Team's General Manager on March 10, 2015, Olympic Heights High School received full payment for the gym's use on December 28, 2013.

FURTHER ACTION

Our investigative results will be referred to the Office of Professional Standards and School Police for any necessary actions.

The OIG has provided a draft copy of this report to the appropriate parties, who were given the opportunity to respond. No responses were received.

EXHIBIT 1

1/29/2015

Mail - Important Lease Alert - South Florida Gold ABA, Inc.



Important Lease Alert - South Florida Gold ABA, Inc.

Mike Burke <mike.burke@palmbeachschools.org>

Wed, Jan 21, 2015 at 11:09 AM

To: All District Principals <alldistrictprincipals@palmbeachschools.org>

Cc: Keith Oswald <keith.oswald@palmbeachschools.org>, Lung Chiu <lung.chiu@palmbeachschools.org>, Steve Bonino <steve.bonino@palmbeachschools.org>, Kris Garrison <garrison@palmbeach.k12.fl.us>, "Dianne Howard (Director Benefits-RiskMgt)" <dianne.howard@palmbeachschools.org>, Barry Present <barry.present@palmbeachschools.org>, Susy Miller <susy.miller@palmbeachschools.org>, Claudia Robbins <claudia.robbins@palmbeachschools.org>, Lawrence Leon <lawrence.leon@palmbeachschools.org>, E Wayne Gent <ewayne.gent@palmbeachschools.org>

All District Principals,

Due to an ongoing investigation by the Inspector General's Office, school principals are advised **NOT** to enter into any lease agreements with South Florida Gold ABA, Inc. This organization had previously leased district space for basketball games. Should your school be contacted by South Florida Gold ABA, please contact the Inspector General's Office at 434-7335 (PX47335).

Thank you,
Mike Burke
Chief Operating Officer