

AGENDA ITEM: Compliance Matters – Academy Del Sol, Inc.

Issue

In accordance with the Board’s [Policy Statement on Board Notification of Six Months of Non-compliance](#), staff is to bring charter holders having state equalization assistance withheld for failure to timely submit their annual financial statement and compliance audit to the Board for consideration of an issuance of a Notice of Intent to Revoke the charter after two months of withholding. Pursuant to this policy, Academy Del Sol, Inc. has been placed on the agenda for the Board’s consideration for the charter holder’s failure to submit its fiscal year 2011 audit. In preparation for the January meeting, Board staff completed a full compliance check for Academy Del Sol, Inc. With the exception of math at the Academy Del Sol campus, the charter schools are meeting the Board’s level of adequate academic performance. Additionally, the compliance check found that the charter holder has not demonstrated compliance with federal No Child Left Behind requirements and has failed to timely submit its federal grant completion reports.

Annual Financial Statement and Compliance Audit Submission

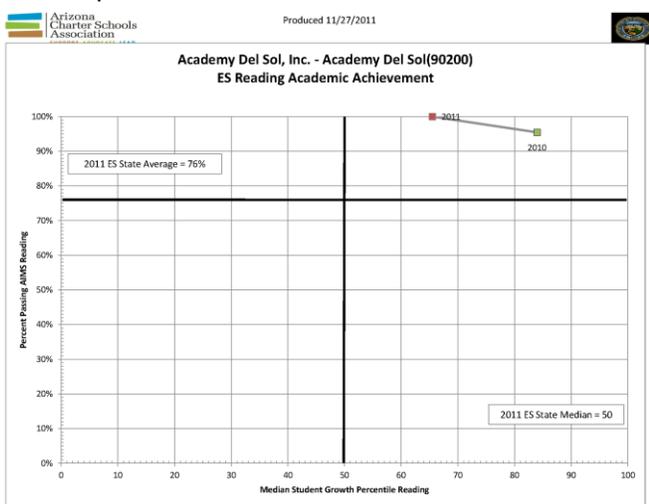
On November 21, 2011, the Board approved withholding 10 percent of Academy Del Sol’s monthly state aid apportionment for failure to submit its fiscal year 2011 annual financial statement and compliance audit. On November 22nd, a letter describing the Board’s action was emailed to Academy Del Sol. The November 22nd letter also included the following: “Please note that per Board policy staff will bring charter holders having state aid withheld for failure to timely submit their audits to the Board after two months of withholding for consideration of a Notice of Intent to Revoke the Charter.”

Having reviewed the charter holder’s prior compliance with submitting its annual financial statement and compliance audit, Board staff found that Academy Del Sol failed to timely submit its audit for fiscal year 2010, which was the charter holder’s first year of operation. The fiscal year 2010 audit was submitted four days late although it was submitted prior to the Board’s November meeting.

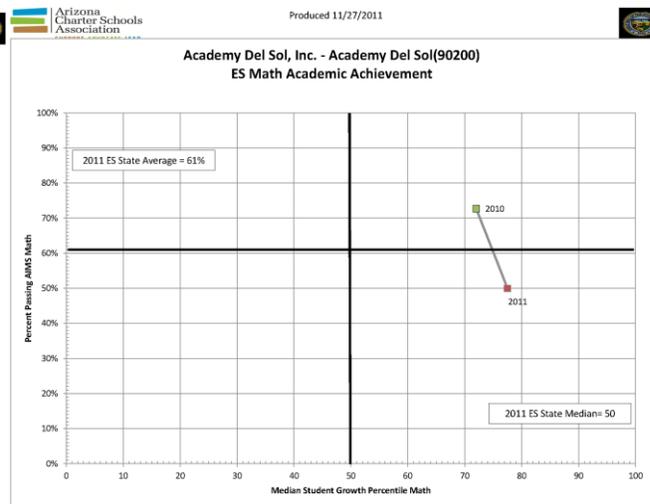
The audit firm contracted to complete the audit for Academy Del Sol, Inc. stated that it was presented with the financial statements on January 10th. By January 12th, the audit firm believes it will have a good idea about whether they will be able to issue the audit reporting package by January 20th. Board staff was unable to obtain an audit update on January 13th, but will provide a verbal update at the meeting, if necessary.

Compliance Check Results

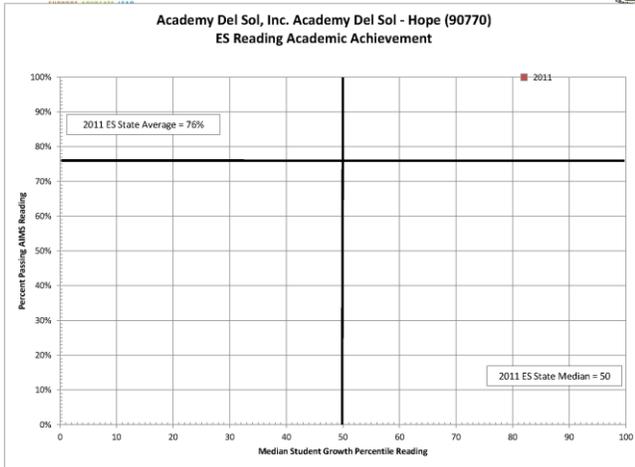
In preparation for the January meeting, Board staff completed a full compliance check for Academy Del Sol, Inc. The graphs below are representations of the academic performance for Academy Del Sol and Academy Del Sol – Hope.



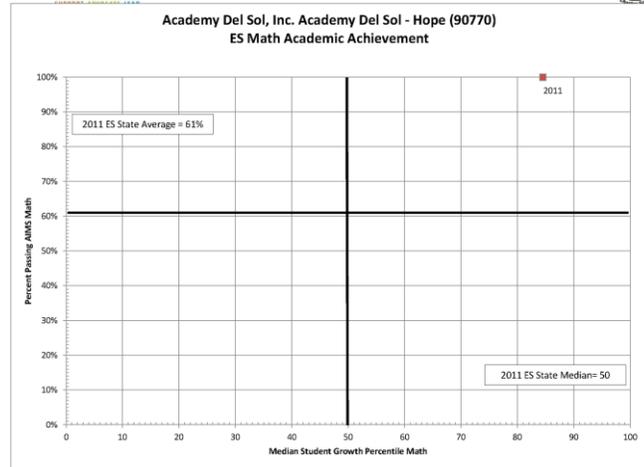
Note: This chart is based on data obtained from the ADE in Oct. 2011. Proficiency and growth percentiles are only reported for FAY students.



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In addition to reviewing the academic performance, the compliance check included determining whether the charter holder is:

- In compliance with special education, No Child Left Behind, federal grants, and Arizona State Retirement System requirements, as applicable; and
- In good standing with the Arizona Corporation Commission as required by the charter contract.

As of the writing of this report, Academy Del Sol, Inc. has not demonstrated compliance with federal No Child Left Behind requirements and has failed to timely submit its federal grant completion reports.

No Child Left Behind

The compliance check found that the charter holder was not in compliance with federal No Child Left Behind requirements for fiscal years 2011 and 2012.

- At the time the check was conducted, for fiscal year 2011, Academy Del Sol had not yet closed out its Cycle 1 monitoring, which was due June 30, 2011. As of January 13, 2012, the charter holder had submitted the required documentation to the Arizona Department of Education (ADE).
- As of the writing of this report, for fiscal year 2012, Academy Del Sol still has not submitted its Continuous Improvement Plan, which was due October 3, 2011 and is required as part of the federal Elementary and Secondary Education Act (ESEA)¹, Title I, Part A, Section 1112. Further, it still has not submitted its Cycle 2 monitoring, which was due on November 30, 2011, or ESEA Plan Assurances, which was due on October 3, 2011. These are required by the ESEA.
- As a result of the noncompliance, on December 23, 2011, the ADE placed Academy Del Sol's Title I and Title II funds on academic hold.

Federal Grant Completion Reports

The charter holder is out of compliance with the federal reporting requirements for fiscal year 2011. ADE Grants Management indicates that completion reports for the following grants have not been submitted and are overdue:

- Fiscal Year 2011 IDEA – Basic
- Fiscal Year 2011 Title I LEA
- Fiscal Year 2011 Title II Improving Teacher Quality
- Fiscal Year 2011 ARRA Education Jobs Fund
- Fiscal Year 2011 ARRA Education Stabilization Fund – Fall

¹ The Elementary and Secondary Education Act is also known as No Child Left Behind.

A charter holder is given 90 days after the project end date to submit the completion reports, which ADE uses to determine if the grant monies were spent appropriately.

Board Options

1. The Board may decide to take no further action at this time and direct staff to bring the matter back to the Board at its February 2011 meeting for further consideration should Academy Del Sol, Inc. still not have submitted its fiscal year 2011 annual financial statement and compliance audit. (Under this option, the current 10 percent withholding would continue until the fiscal year 2011 audit is submitted.)
2. The Board may find Academy Del Sol, Inc. is in noncompliance with federal laws and its charter contract for its failure to comply with accounting and reporting requirements for receipt of NCLB, IDEA and ARRA funding and add to the basis of the current 10% withholding Academy Del Sol's monthly State aid apportionment until compliance is demonstrated through the completion of its NCLB Cycle 2 monitoring and the submission of its Continuous Improvement Plan, Elementary Secondary Education Act Plan Assurances, and the outstanding grant completion reports.
3. The information contained in the audit package is one of the primary means the Board has to meet its statutory oversight and administrative responsibilities for the schools it sponsors. The audit submission is a statutory and contractual requirement. Although this is a matter that could be quickly corrected, it is recurring and therefore represents a material breach of the charter contract. Therefore, I move to issue a Notice of Intent to Revoke the charter of Academy Del Sol, Inc. for failing to submit the fiscal year 2011 annual financial statement and compliance audit as required by A.R.S. §15-183(E)(6), A.R.S. §15-914 and the charter contract and failing to comply with the accounting and reporting requirements for receipt of NCLB, IDEA and ARRA funding as required by federal law and the charter contract. The motion should also require that:
 - Within 48 hours of receipt of the Notice the charter operator shall notify staff and parents/guardians of registered students of the Notice of Intent to Revoke and the Notice of Hearing and provide a school location where the copy may be reviewed;
 - Within 20 days of receipt of the Notice the charter operator shall provide copies of all correspondence and communications used to comply with the preceding provision; and
 - Within 20 days of receipt of the Notice the charter operator shall provide the Board with the names and mailing addresses of parents/guardians of all students registered with the school.
4. The Board may choose to add to the basis of the 10% withholding (Option #2) and to issue a Notice of Intent to Revoke the charter holder's charter contract (Option #3).

Staff's Recommendation

Staff's recommendation is Option 4.