
AGENDA ITEM: Compliance Matters – El Centro for the Study of Primary and Secondary Education and Luz Academy of Tucson, Inc.

Issue

El Centro for the Study of Primary and Secondary Education (“El Centro”) and Luz Academy of Tucson, Inc. (“Luz Academy”) have failed to submit their fiscal year 2015 audit reporting packages (“audit”). Pursuant to the Board’s November 20, 2015 motion, El Centro and Luz Academy have been placed on the agenda for the Board to consider whether to proceed to a hearing as allowed under the charter holders’ July 2012 settlement agreements.

Background

As a result of El Centro’s and Luz Academy’s past failures to timely submit their audits, in July 2012, the Board approved a Settlement Agreement with each charter holder. Under the Settlement Agreement’s terms, each charter holder agreed to submit a complete fiscal year 2012 audit and all subsequent fiscal year audits by the audit deadline. Pursuant to the Settlement Agreement, if the charter holder fails to comply with the terms and conditions of the agreement, the Board may, on no less than 30 calendar days notice, hold a hearing at which time the Board will receive information to determine whether evidence exists that the charter holder has failed to comply with the terms and conditions of the agreement. If the Board determines a breach of the agreement has occurred, the Board may revoke the charter holder’s charter and terminate the charter contract.

The information below reflects El Centro’s and Luz Academy’s audit history since the Settlement Agreements have been in place:

- Fiscal Year 2012 – Late
- Fiscal Year 2013 – On time
- Fiscal Year 2014 – Late
- Fiscal Year 2015 – Late (Not Yet Received)

In April 2014, El Centro and Luz Academy filed for bankruptcy protection. The bankruptcy proceedings prevent the Board from taking action to withhold 10% of El Centro’s and Luz Academy’s monthly state aid apportionment until the fiscal year 2015 audits are received.

El Centro for the Study of Primary and Secondary Education

On November 20, 2015, the Board found El Centro in noncompliance for its failure to submit the fiscal year 2015 audit and acknowledged that had the bankruptcy filing not prevented it, the Board would have withheld 10 percent of El Centro’s monthly state aid until the audit is submitted to the Board. Further, if a complete audit has not been received by December 31, 2015, the Board’s motion directed staff to place El Centro on the Board’s January 2016 agenda for the Board to consider whether to proceed to a hearing as allowed under the July 2012 settlement agreement. On November 20th, an email describing the Board’s action was emailed to El Centro.

On December 30, 2015, the charter representative informed Board staff that the audit was complete and indicated he was working with the audit firm to issue the audit. With the holiday, he did not know if the audit would be submitted to the Board prior to the agenda being posted, but indicated the Board should receive El Centro’s audit prior to the January meeting.

Luz Academy of Tucson, Inc.

On November 20, 2015, the Board found Luz Academy in noncompliance for its failure to submit the fiscal year 2015 audit and acknowledged that had the bankruptcy filing not prevented it, the Board would have withheld 10 percent of Luz Academy's monthly state aid until the audit is submitted to the Board. Further, if a complete audit has not been received by December 31, 2015, the Board's motion directed staff to place Luz Academy on the Board's January 2016 agenda for the Board to consider whether to proceed to a hearing as allowed under the July 2012 settlement agreement. On November 20th, an email describing the Board's action was emailed to Luz Academy.

On December 30, 2015, the charter representative informed Board staff that the audit was complete and indicated he was working with the audit firm to issue the audit. With the holiday, he did not know if the audit would be submitted to the Board prior to the agenda being posted, but indicated the Board should receive Luz Academy's audit prior to the January meeting.

Board Options

Option 1: The Board may vote to hold a hearing to determine if a breach of the settlement agreements has occurred. The following language is provided for consideration: I move, under the terms of the July 2012 settlement agreements, that a hearing be held to determine whether evidence exists that El Centro for the Study of Primary and Secondary Education and Luz Academy of Tucson, Inc. failed to comply with the terms and conditions of their July 2012 settlement agreements. Pursuant to the settlement agreements, the hearing dates shall be scheduled at least 30 days after the charter operators receive notice of today's action.

- Within 48 hours of receipt of the Notice each charter operator shall notify staff and parents/guardians of registered students of the Notice and provide a school location where the copy may be reviewed;
- Within 20 days of receipt of the Notice each charter operator shall provide copies to the Board of all correspondence and communications used to comply with the preceding provision; and
- Within 20 days of receipt of the Notice each charter operator shall provide the Board with the names and mailing addresses of parents/guardians of all students registered with the school.

Option 2: The Board may decide to take no further action at this time and direct staff to bring this matter back to the Board at its February 2016 meeting for further consideration should the charter holders still not have submitted their fiscal year 2015 audits.