
AGENDA ITEM: Compliance Matters – Civil Penalties (BASIS Schools, Inc.)

Issue

During a December 2011 site visit, BASIS Schools, Inc. was unable to provide evidence that all of its employees had been properly fingerprinted.

- On December 7th, 2011, BASIS Schools, Inc. was unable to provide evidence of a valid fingerprint clearance card or background check for an English teacher. The English teacher was observed on campus during the site visit.
- In accordance with [A.R.S. §15-185\(I\)](#) and the Board’s [Policy Statement on Civil Penalties for Fingerprinting Violations](#), on December 5th, staff issued the “Notification of first time noncompliance with fingerprinting requirements under A.R.S. §15-185.I” letter.
- Within the 48-hour timeframe, BASIS Schools, Inc. did not provide evidence that the Department of Public Safety (DPS) had received a fingerprint clearance card application for the English teacher.

Communications with School

On December 7th, Board staff conducted a first year site visit of BASIS Flagstaff. The school was unable to provide evidence that its English teacher had a valid fingerprint clearance card (FCC) as required by A.R.S. §15-183.C.5.

- On December 7th, during the site visit, staff provided the notification required under A.R.S. §15-185(I).
- In accordance with A.R.S. §15-185(I) and the Board’s Policy Statement on Civil Penalties for Fingerprinting Violations, staff issued the “Notification of first time noncompliance with fingerprinting requirements under A.R.S. §15-185.I” letter and reviewed the letter, the Board’s policy statement and the civil penalty law’s requirements with Head of School Kara Kelty of BASIS Flagstaff.
- The notification letter included a deadline of Friday, December 9th at 11:52 a.m. for BASIS Schools, Inc. to provide evidence to Board office that an application for the appropriate fingerprint check had been received by DPS and thereby avoid a civil penalty of \$1,000.
- On December 8th at 9:43 a.m., staff received a fax including a copy of the English teacher’s fingerprint clearance card application, a copy of a DPS Fingerprint Card Inventory Sheet, and a certified mail receipt addressed to the DPS fingerprint unit, and a copy of the English teacher’s notarized Affidavit, Disclosure, and Consent for Background and Credit Check form. No evidence was provided to the Board that DPS had received the information within the timeframe.
- In a December 19th telephone conversation with Ms. Kelty and BASIS Flagstaff Head of Operations David Hubalik, they stated that the certified mail receipt was not for the application, but was only for the consent form, which was sent under separate cover. Ms. Kelty described how when IVP fingerprints are taken at the City/County facility, the employee retains custody of the fingerprints, and submits the application. A staff member informed Ms. Kelty that, on December 19th, he had called the fingerprinting unit of DPS, and they had no record in their system that the English teacher’s application had been received.
- On December 30, 2011, Ms. Kelty sent by email a copy of the English teacher’s valid FCC, as well as a description of the procedure followed by the English Teacher in applying for the FCC.

A link has been included to the “Notification of first time noncompliance with fingerprinting requirements under “A.R.S. §15-185.I” provided to the school and includes the school’s response. The confidential information provided by the school has not been included in the Board materials.

Board Options

In accordance with the Board’s policy statement, the Board must review all possible first time occurrences and make the final determination as to whether each will count as a first time occurrence.

1. (when imposing a civil penalty) I move, based on the information contained in the Board materials and presented today, that the Board find the following:

- 1) That BASIS Schools, Inc. failed to comply with the fingerprinting requirements prescribed in A.R.S. §15-183(C) for one of its teachers; and
- 2) That for civil penalty purposes under A.R.S. §15-185(I), this constitutes the first time BASIS Schools, Inc. is out of compliance with statutory fingerprinting requirements; and
- 3) That BASIS Schools, Inc. failed to provide proof within the required timeframe of notification that an application for the appropriate fingerprint check has been received by the Department of Public Safety; and
- 4) That, as a result, the Board imposes a civil penalty of \$1,000 for the one occurrence of BASIS Schools, Inc.'s noncompliance with fingerprinting requirements prescribed in A.R.S. 15-183(C).

Further, the Board directs staff to:

- Apprise the charter operator of the Board's findings and decision in this matter and its appeal rights under Arizona law;
- Notify the charter operator that if the Board determines that the charter school subsequently violates the fingerprinting requirements during the next five years, a civil penalty of \$1,000 per occurrence shall automatically be imposed; and
- Timely request the Arizona Department of Education to reduce the amount of state aid that the charter operator would otherwise receive by an amount equal to the civil penalty.

2. (when not imposing a civil penalty) I move, based on the information contained in the Board materials and presented today, that the Board find the following:

- 1) That BASIS Schools, Inc. failed to comply with the fingerprinting requirements prescribed in A.R.S. §15-183(C) for one of its teachers; and
- 2) That for civil penalty purposes under A.R.S. §15-185(I), this constitutes the first time BASIS Schools, Inc. is out of compliance with statutory fingerprinting requirements; and
- 3) That no civil penalty be imposed at this time.

Further, the Board directs staff to:

- Apprise the charter operator of the Board's findings and decision in this matter; and
- Notify the charter operator that if the Board determines that the charter school subsequently violates the fingerprinting requirements during the next five years, a civil penalty of \$1,000 per occurrence shall automatically be imposed.

3. The Board may determine that a first time violation of A.R.S. §15-183(C) has not occurred.

Staff's Recommendation

Staff's recommendation is Option #1.