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**AGENDA ITEM:** Compliance Matters – Back-to-Basics School

**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, Back-to-Basics School has been placed on the agenda for the Board’s consideration for the charter holder’s failure to submit its fiscal year 2010 audit.

In addition to failing to submit their annual financial statement and compliance audit, Back-to-Basics School has also failed to comply with the provision of special education services to its students.

**Annual Financial Statement and Compliance Audit Submission**

On November 19, 2010, the Board approved withholding 10 percent of Back-to-Basics School’s monthly state aid apportionment for failure to submit its fiscal year 2010 annual financial statement and compliance audit.<sup>1</sup> On November 24<sup>th</sup>, a letter describing the Board’s action was emailed to Back-to-Basics School. The November 24<sup>th</sup> 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.”

This is the third consecutive year that Back-to-Basics School has failed to timely submit its annual financial statement and compliance audit. In fiscal years 2008 and 2009, the audits were submitted 4 days and 3 days after the deadline, respectively. In both fiscal years, the audits were submitted prior the Board’s November meeting.

The auditor contracted to complete the audit for Back-to-Basics School has stated there has been limited communication with the school and that audit firm will not begin work on the fiscal year 2010 audit until it is paid the remaining fees that it is owed for the fiscal year 2009 audit and until it receives the down payment for the fiscal year 2010 audit.

**Special Education**

In September 2010, the Arizona Department of Education/Exceptional Services Division (“ADE/ESS”) received a complaint alleging that Back-to-Basics School was in non-compliance with special education requirements at the school. On November 16, 2010, ADE/ESS sent Back-to-Basics School a [Letter of Findings](#) which provides for specific corrective action related to each finding detailed in the letter. ADE/ESS has asked the Board to intervene in this matter because Back-to-Basics School has failed to respond to ADE/ESS as described in its [December 20, 2010 letter](#) to Back-to-Basics School.

**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 March 2011 meeting for further consideration should Back-to-Basics School still not have submitted its fiscal year 2010 annual financial statement and compliance audit. (Under this option, the current 10 percent withholding would continue until all of the items included on the ongoing actions report have been sufficiently addressed.)
2. The Board may find Back-to-Basics School is in noncompliance with state and federal law for its failure to comply with special education requirements and add to the basis of the current 10% withholding of Back-to-Basics School’s monthly State aid apportionment until compliance is demonstrated through the completion of the [corrective action plan](#) required by ADE/ESS.

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<sup>1</sup> Since Back-to-Basics School was already having 10% withheld at the time of the November 19<sup>th</sup> meeting, the Board’s action added failure to submit the fiscal year 2010 annual financial statement and compliance audit to the basis of the withholding. For more information, please see the ongoing actions report.

3. The Board may vote to issue a Notice of Intent to Revoke the charter of Back-to-Basics School for failing to submit the fiscal year 2010 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 state and federal special education requirements. 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.