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**AGENDA ITEM:** Compliance Matters – Bradley Academy of Excellence, Inc.

**Issue**

Bradley Academy of Excellence, Inc. (“Bradley”) has failed to submit to the Board the required documentation to change its charter representative. Additionally, based on conflicting information available to Board staff, Bradley may have failed to submit to the Board the required documentation to change the members of the governing body of the corporate entity.

**Background**

The charter holder is the corporation that has entered into a charter contract with the Board to operate one or more charter schools. The charter representative is the person appointed by the charter holder to act on the charter holder’s behalf with the Board and to be the primary contact for all communications. The “members of the governing body of the corporate entity” are the charter holder’s board members.

**Site Visit by Board Staff**

On June 30, 2015, Board staff conducted an unannounced site visit to the charter school operated by Bradley. The visit was prompted by the receipt of troubling emails and phone calls reflecting significant disagreement among school leadership. During the site visit, Board staff met with the team on site, including Daniel Hughes. Mr. Hughes identified himself as the chief executive officer and statutory agent for Bradley. The charter representative Tanya Burston was not on campus at the time of the visit. During the conversation with Mr. Hughes, Board staff received information regarding the current charter representative and board members conflicting with what is reflected in the charter contract.

Prior to the site visit, Board staff reviewed the officers, directors, members and/or partners (“board members”) reflected in the charter contract to determine if they matched the current documents on file with the Arizona Corporation Commission (“ACC”) and found they did not. The charter contract identified Ms. Burston as the only board member while the ACC identified Mr. Hughes as the only board member. During the site visit, Board staff was unable to confirm that current board membership is reflected in the charter contract or on the ACC website.

**Subsequent Communications and Other Relevant Information**

Subsequent to the site visit, the following occurred:

- On July 9, 2015, Board staff sent a letter to Ms. Burston summarizing the site visit and requesting the items identified below be completed by July 23, 2015. The letter indicated that failure to provide this information could result in the matter being forwarded to the Board at its August 17, 2015 meeting for further action.
  - Submit through ASBCS Online a completed Charter Holder Governance Notification Request to reflect the current board membership.
  - Make the appropriate filing with the ACC and submit verification documentation of the filing.
  - Review the school governing body members and if needed, submit through ASBCS Online a completed School Governing Body Notification Request to reflect the current membership.
  - Review and confirm the current charter representative and if needed, submit through ASBCS Online a completed Charter Representative Notification Request.
- On July 10, 2015, the ACC received a request to remove Mr. Hughes as an officer and director for Bradley and to add Ms. Burston in those roles. The ACC’s website reflects the change as of July 13, 2015.
- On July 17, 2015, the Superior Court website reflects that Bradley filed a Motion for a Temporary Restraining Order against Ms. Burston. On July 20, 2015, the parties appeared in court and the judge set the matter for evidentiary hearing on July 28, 2015.
- On July 20, 2015, counsel for Ms. Burston advised Board staff that pending the evidentiary hearing, the judge ordered that no changes be made, thereby freezing things in place, and, as a result, Ms. Burston would not be able to comply with Board staff’s request to submit the notification requests by July 23.
- On July 30, 2015, counsel for Ms. Burston informed Board staff that:

“The parties to the litigation have recently settled their disputes, dismissed the litigation, and set up a format to provide for the orderly transition of management of the Corporation and the Academy from Ms. Burston to Mr. Hughes and do so in a manner acceptable to, and approved by the Charter Board...The purpose of this letter is to advise you of the foregoing and to inform you that Ms. Burston will be submitting requisite paperwork for the appointment of a new Charter Representative and new Charter Holder Governance.”

- On August 24, 2015, the State Board of Education (SBE) received information regarding Bradley’s compliance with laws applicable to English language learners (ELL). At the meeting, Laura Couret identified herself as Bradley’s new administrator and addressed the SBE. At its meeting, the SBE unanimously voted “to find, for the reasons stated in ADE’s letter of noncompliance dated April 23, 2015, that the Bradley Academy of Excellence is noncompliance with the laws pertaining to ELLs, thereby barring the District from receiving any monies from the Arizona Structured English Immersion Fund established by A.R.S. §15-756.04 for ELLs and from reducing the monies spent on its ELL programs despite the loss of monies caused by its noncompliance.”
- On August 24, 2015, after having received a request from Mr. Hughes to change the bank for Bradley’s state equalization payment deposits, the Office of the State Treasurer (OST) contacted Board staff to determine if our office had received information to change the charter representative from Ms. Burston to Mr. Hughes. Board staff informed the OST that Ms. Burston is currently the charter representative and that at this time the Board had not received a request to change Bradley’s charter representative.
- On August 24, 2015, Board staff contacted counsel for Ms. Burston to determine the timing for submitting the notification requests identified in the Board’s July 9 letter. Ms. Burston’s counsel indicated that the new management had not yet provided all of the documentation for a complete request.
- On September 3, 2015, the OST provided Board staff with a list of 11 charter holders that did not get paid on September 1 and an update on when these charter holders did or would be receiving their payments. Bradley was the only charter holder on the list that had either not already received its September payment or had not already completed the steps necessary for the OST to release the September payment.

As of the writing of this staff report, the Board has not yet received a completed Charter Representative Notification Request or Charter Holder Governance Notification Request for Bradley.

### **Board Options**

Option 1: The Board may approve withholding 10% of the charter holder’s monthly state aid apportionment. The following language is provided for consideration: I move to find Bradley Academy of Excellence, Inc. is in noncompliance with its charter contract for its failure to submit to the Board the required documentation to change its charter representative and to change the members of the governing body of the corporate entity and approve withholding 10% of the charter holder’s monthly state aid apportionment. The withholding shall continue until compliance is demonstrated through:

- The submission of an administratively complete and substantively complete Charter Representative Notification Request that removes and adds the appropriate individuals; and
- The submission of an administratively complete and substantively complete Charter Holder Governance Notification request that removes and adds the appropriate individuals.

Option 2: The Board may decide to take no action at this time.