



Proposed Revisions to the
Policy Statement for
Conducting Compliance
Checks

JUNE 12, 2017

AGENDA ITEM: Proposed Revisions to the Policy for Conducting Compliance Checks

Issue

The public comment period for the policy for conducting compliance checks presented at the May 2017 Board meeting ended on May 30, 2017. The Board received one written comment from an individual. Board staff has addressed the public comment in this report and has included a final recommendation for the Board’s consideration to the proposed revisions made to current policy in place. The revised policy statement is included as an appendix to this report (appendix A: Policy).

Background

The Board conducts compliance checks in its oversight and administrative responsibilities, as it relates to the charter holder’s compliance with its charter, other contractual agreements with the Board, federal and state law, and administrative rule. The Board utilizes the methods of measurement described in the operational performance framework when conducting compliance checks on the schools it sponsors.

The policy for conducting compliance checks was last revised September 2010 and in light of changes to the Board’s performance frameworks and the Board’s rules, revisions to this policy propose to:

- 1) Clarify when a compliance check is conducted,
- 2) Outline what items are reviewed for compliance,
- 3) Describe how compliance is determined, and
- 4) Explain what process takes place when a compliance issue arises.

During the public comment period (May 16 through May 30), Board staff received one comment (see appendix B: May 22 Comment) concerning two items, as described in the table below.

<i>Comment</i>	<i>Board Response</i>
<p>One of the things that schools could easily miss is changing the Arizona Corporation records when adding a new board member. The Corporation Commission only requires an update once a year, with an annual report. I suspect that many charters miss the requirement of updating the ACC files mid-year, and that this probably results in many non-compliance findings – and prolongs the ASBCS’s investigation process. I suggest two possible changes:</p> <ul style="list-style-type: none"> • Option 1: Audit the ACC annual report to make sure it was filed properly and on time, and that it had the correct board members/officers at the time it was filed – eliminating the requirement to update ACC files mid-year. This would help eliminate time and paperwork for both the schools and the Corporation Commission. • Option 2: When the ASBCS sends an email with final approval of the new board member’s application, assist with compliance by adding this to the email: 	<p>Board staff agrees with and will implement option 2. Additional language will be included in the final notification letter to remind the charter holder to update the new board member with the Arizona Corporation Commission.</p>



<p>As per the ASBCS Operational Framework, the final step in processing a new board member is to update the Arizona Corporation Commission records by submitting this form to ACC: <i>(link provided in comment)</i></p>	
<p>Make only the final results of Operational Framework reviews public. Charter detractors are beginning to use the framework against us, and I would like the opportunity to fix minor problems before the results are released to the public.</p>	<p>In 2014, the Board adopted the Operational Performance Framework that marks non-compliance issues on the operational dashboard when a charter holder is not meeting compliance-related expectations. Furthermore, each charter holder’s operational performance dashboard shall be publicly available and represents a charter holder’s operational performance by measure.</p> <p>As part of the Board’s process, when a lender requests a compliance check, staff only mentions whether the charter holder has met the Board’s expectations under the operational framework. It is then up to the lender to review the full operational dashboard.</p>

At the Board’s May 2017 meeting, staff presented substantive changes to the Policy Statement for Conducting Compliance Checks to align with Arizona Administrative Code R7-5-505 (see appendix C: May 2017 Staff Report).

Board Option

Option 1: The Board may vote to adopt revisions to the Policy Statement for Conducting Compliance Checks. The following language is provided for your consideration: I move that the Board adopt the revisions to the Policy Statement for Conducting Compliance Checks and begin implementation August 1, 2017.

Option 2: The Board may vote to adopt revisions to the Policy Statement for Conducting Compliance Checks with modifications. The following language is provided for your consideration: I move that the Board adopt revisions to the Policy Statement for Conducting Compliance Checks, as presented to the Board today, with modifications discussed (may require specific references depending upon whether clarification of discussion is needed).



APPENDIX A



Policy Statement for Conducting Compliance Checks

The purpose of this policy is to outline the process for conducting compliance checks as it relates to the charter holder's compliance with its charter, other contractual agreements with the Board, federal and state law, and administrative rule and to detail the steps for when a compliance check results in non-compliance.

Background

Arizona Revised Statute § 15-182(E)(1) requires the Arizona State Board for Charter Schools ("Board") to exercise general supervision over the charter schools it sponsors.

Policy

Definition

Pursuant to Arizona Administrative Code ("A.A.C.") R7-5-101:

"Principals" means the officers, directors, members, partners, or board of an applicant or charter holder.

Conducting Compliance Checks

In accordance with A.A.C. R7-5-505, Board staff will conduct a compliance check of a charter holder's operational performance when:

1. The charter holder submits a request to amend its charter or makes another request of the Board (e.g. Replication and Transfer applications). (R7-5-505(C)(1))
 - Staff will check compliance upon receipt of request and again prior to its placement on the Board agenda.
2. A lending institution, bond rating agency, or similar entity that has a loan or bond arrangement with the charter holder makes the request to Board staff to discuss the charter holder's current standing with the Board. (R7-5-505(C)(2))

Pursuant to A.A.C. R7-5-505(C), Board staff may conduct a compliance check of a charter holder's operational performance at any time. Board staff will conduct a compliance check of a charter holder's operational performance when:

1. The charter holder appears before the Board for non-compliance or consideration of revocation or a consent agreement, and
2. The charter holder is undergoing a five-year interval review.

When conducting compliance checks, the operational performance of the charter holder as described in the *Operational Performance Framework and Guidance* is reviewed and its current status with the Arizona Corporation Commission ("ACC") and alignment between the Principals identified in the charter contract and with the ACC is assessed.

Board staff may review additional evidentiary documentation if the Board is presented with information that warrants evaluation to ensure the charter holder meets compliance requirements as specified by the Board.

For the purpose of a compliance check, a charter holder is in compliance if:

1. Any measure on its operational dashboard rated 'Does Not Meet Standard' or 'Falls Far Below Standard' in the current year and/or the prior fiscal year has been addressed by either submitting the necessary amendment requests or has come into compliance,
2. The charter holder is in "good standing" with ACC, and
3. The charter holder is maintaining alignment between the Principals identified in the charter contract and with the ACC.

Requirements for Non-Compliance

Pursuant to A.A.C. R7-5-505(E), within 10 days after completing a compliance check, Board staff shall provide the charter holder with written notice of any compliance issues identified and specify a deadline for addressing the issues.

After receiving this notice, the charter holder shall provide the Board with written notice demonstrating that all identified compliance issues have been addressed by the specified deadline (R7-5-505(F)).

Pursuant to A.A.C. R7-5-505(G), the Board shall require a charter holder that fails to provide the notice required or fails to demonstrate that all identified compliance issues have been addressed to appear before the Board and:

- May subject the charter holder's requests to heightened review,
- Shall not place the charter holder's requests on a Board agenda, and
- May subject the charter holder to charter oversight as described in A.A.C. R7-5-601.

Historical Note:

Effective: June 8, 2009

Board Approval Date: June 8, 2009

Revised Date: September 13, 2010/ MONTH, DAY, 2017

APPENDIX B

From: [Charter School Board](#)
To: [Johanna Medina](#)
Subject: FW: Comment on proposed change to compliance checks
Date: Monday, May 22, 2017 12:27:20 PM
Attachments: [image002.png](#)

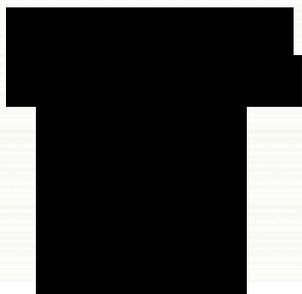
Alexis Gonzalez
Constituent Services Specialist

From: [REDACTED]
Sent: Monday, May 22, 2017 12:12 PM
To: Charter School Board <charterschoolboard@asbcs.az.gov>
Subject: Comment on proposed change to compliance checks

Regarding the comment period for the Operational Framework compliance check:

- One of the things that schools could easily miss is changing the Arizona Corporation Commission records when adding a new board member. The Corporation Commission only requires an update once a year, with the annual report. When asked, the ACC told us “no, you certainly can wait until the annual report to update those directors or officers. That’s what the annual report is for. It’s entirely up to you if you want to do it sooner.” I suspect that many charters miss the requirement of updating the ACC files mid-year, and that this probably results in many non-compliance findings - and prolongs the ASBCS’s investigation process. I suggest two possible changes:
 - Option 1: Audit the ACC annual report to make sure it was filed properly and on-time, and that it had the correct board members/officers at the time it was filed – eliminating the requirement to update ACC files mid-year. This would help eliminate time and paperwork for both the schools and the Corporation Commission.
 - Option 2: When the ASBCS sends an email with final approval of the new board member’s application, assist with compliance by adding this to the email: **As per the ASBCS Operational Framework, the final step in processing a new board member is to update the Arizona Corporation Commission records by submitting this form to ACC:**
<http://www.azcc.gov/Divisions/Corporations/forms/starpas/formsSTPS/C017-Officer-Director-Shareholder-Change.pdf>
- I also suggest making only the final results of Operational Framework reviews public. (I’m not sure whether preliminary results are public currently.) Charter detractors are beginning to use the frameworks against us, and I would like the opportunity to fix minor problems before the results are released to the public.

Thank you for giving us an opportunity to comment.



APPENDIX C



Proposed Revisions to the
Policy Statement for
Conducting Compliance
Checks

MAY 15, 2017

AGENDA ITEM: Proposed Revisions to the Policy for Conducting Compliance Checks

Issue

Consideration of revisions to the policy statement by which the Arizona State Board for Charter Schools (“Board”) conducts compliance checks in its oversight and administrative responsibilities, as it relates to the charter holder’s compliance with its charter, other contractual agreements with the Board, federal and state law, and administrative rule. The Board’s current policy in place to conduct compliance checks was last revised September 2010 and in light of changes to the Board’s performance frameworks and the Board’s rules (Arizona Administrative Code R7-5-505), effective as of May 6, 2017, it should be revised.

Statutory Provisions

Arizona Revised Statute (“A.R.S.”) § 15-182(E)(1) requires the Board to exercise general supervision over the charter schools it sponsors. Further, A.R.S. § 15-183(R) states that the sponsoring entity shall have oversight and administrative responsibility for the charter schools it sponsors. In implementing its oversight and administrative responsibilities, the Board shall ground its actions in evidence of the charter holder’s performance in accordance with the performance frameworks adopted by the sponsor. The Board utilizes the methods of measurement described in the operational performance framework when conducting compliance checks on the schools it sponsors.

For Discussion

Staff proposes substantive changes to the Policy Statement for Conducting Compliance Checks (see attached) to align with the Board’s rules. Revisions to this policy have been proposed to:

- 1) Clarify when a compliance check is conducted,
- 2) Outline what items are reviewed for compliance,
- 3) Describe how compliance is determined, and
- 4) Explain what process takes place when a compliance issue arises.

The table below describes the proposed process for conducting compliance checks.

<p>When is a compliance check conducted?</p>	<p>The charter holder:</p> <ul style="list-style-type: none"> • Submits any amendment and notification request. <ul style="list-style-type: none"> ○ Includes all changes to the charter contract • Submits a replication or transfer application package. • Makes a request of the Board. • Appears before the Board for non-compliance or consideration of revocation or a consent agreement. • Is undergoing a five-year interval review.
<p>What items are reviewed for compliance?</p>	<ul style="list-style-type: none"> • The prior and current fiscal years operational dashboards. • The Principals identified in the charter contract compared to the Principals listed on the Arizona Corporation Commission (“ACC”) website. • The current status of the charter holder with ACC.

<p>How is compliance determined?</p>	<ul style="list-style-type: none"> • Any measure on its operational dashboard rated ‘Does Not Meet Standard’ or ‘Falls Far Below Standard’ in the current year and/or the prior fiscal year has been addressed by either submitting the necessary amendment requests or has come into compliance, • The charter holder is in "good standing" with ACC, and • The charter holder is maintaining alignment between the Principals identified in the charter contract and with the ACC.
<p>If the charter holder is not in compliance what happens?</p>	<ul style="list-style-type: none"> • Within 10 days of the compliance check, Board staff will notify the charter holder of the issue(s) identified and provide a deadline date for addressing them. • If the charter holder fails to demonstrate that the issues have been addressed, the charter holder will be required to appear before the Board and: <ul style="list-style-type: none"> ○ May subject the charter holder’s requests to heightened review, ○ Shall not place the charter holder’s requests on a Board agenda, and ○ May subject the charter holder to charter oversight. (R7-5-601)

As an element of the process for revising policy, staff recommends that this draft be open for public comment between May 16th to May 30th. After all comments have been reviewed, staff will develop a final recommendation of this policy for the Board’s consideration at its June 12th meeting.

Board Option

I move to direct Board staff to incorporate any modifications discussed today to the policy statement concerning Conducting Compliance Checks, have the draft of the policy open for public comment within the specified timeframe in this report, and bring a final recommendation to the June 12th Board meeting.

