

**AGENDA ITEM:** Compliance Matters – Luz Academy of Tucson, Inc.

**Issue**

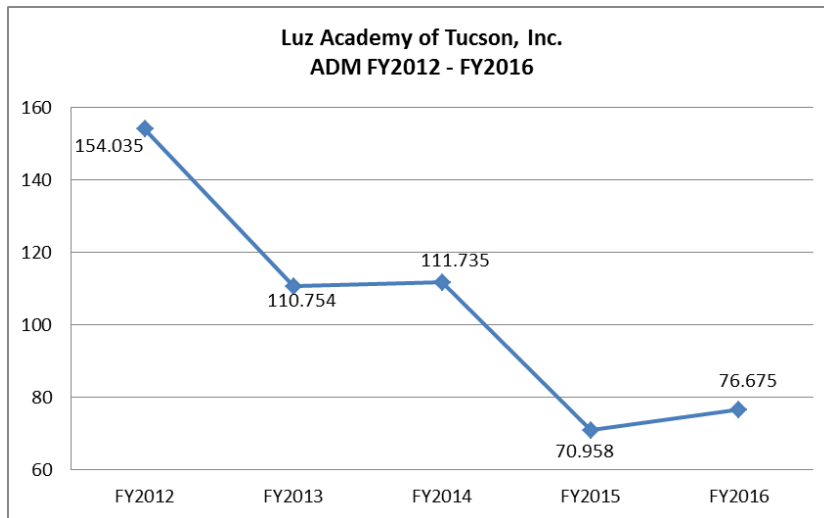
Luz Academy of Tucson, Inc. (“Luz Academy”) has failed to submit its fiscal year 2015 audit reporting package (“audit”). Based on direction provided to staff at the Board’s January 12, 2016 meeting, Luz Academy has been placed on the agenda for the Board to consider whether to proceed to a hearing as allowed under the charter holder’s July 2012 settlement agreement.

**Background – General Information**

Luz Academy operates one school, Pepe Barron Academy, serving grades 9-12 in Tucson. Luz Academy’s performance under the Board’s Performance Framework is summarized below. The Academic Dashboard, Financial Dashboard, and condensed and detailed Operational Dashboards may be found in Appendix A.

Area	Acceptable	Not Acceptable
Academic Framework	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial Framework	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Operational Framework	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The graph below shows Luz Academy’s 100<sup>th</sup> day average daily membership (ADM) for fiscal years 2012 through 2015 and its 40<sup>th</sup> day ADM for fiscal year 2016.



In April 2014, Luz Academy filed for bankruptcy protection. The bankruptcy proceeding prevents the Board from taking action to withhold 10% of Luz Academy’s monthly state aid apportionment until the fiscal year 2015 audit is received.

**Background – Settlement Agreement and Audit Submission History**

As a result of Luz Academy’s past failures to timely submit its audits, in July 2012, the Board approved a Settlement Agreement with the charter holder. Under the Settlement Agreement’s terms, Luz Academy 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 contract and terminate the charter contract.

Based on information showing that it had expended more than \$500,000 in federal awards in fiscal year 2012, Luz Academy was granted an extension to March 31, 2013 for submitting its fiscal year 2012 audit. On April 5, 2013, Luz Academy submitted a financial statement audit to the Board instead of a single audit. As a result, Luz Academy's fiscal year 2012 audit was submitted nearly five months after the applicable deadline of November 15, 2012. In June 2013, the Board approved an amendment to the Settlement Agreement stating that if a similar situation occurred in the future, this would be a breach of the charter, state law, and the terms of the Settlement Agreement and amendment, and the Board could proceed to hearing.

The information below reflects Luz Academy's audit history since the Settlement Agreement has been in place:

Fiscal Year 2012 – Late (Settlement Agreement amended)

Fiscal Year 2013 – On time

Fiscal Year 2014 – Late

Fiscal Year 2015 – Late (Not Yet Received)

### **Board Actions and Recent Communications**

The following is a timeline of activities that have occurred related to Luz Academy's fiscal year 2015 audit:

**November 17, 2015:** Luz Academy was notified that the fiscal year 2015 audit had not been received and that the charter holder would be placed on the Board's November 20, 2015 agenda for possible disciplinary action.

**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 had 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 20<sup>th</sup>, an email describing the Board's action was sent to Luz Academy.

**December 30, 2015:** Luz Academy's 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.

**January 6, 2016:** Luz Academy was notified that pursuant to the Board's November 20<sup>th</sup> motion, Luz Academy has been placed on the Board's Tuesday, January 12, 2016 agenda for the Board to consider whether to proceed to a hearing as allowed under the charter holder's July 2012 settlement agreement for failure to submit the fiscal year 2015 audit. A link was provided in the email to the agenda and meeting materials.

**January 12, 2016:** The charter representative was not in attendance at the Board meeting. After much discussion, the Board directed staff to contact the charter representative and share the Board's concern over Luz Academy's continued noncompliance with the law, its violation of the Settlement Agreement, and lack of responsiveness. The Board directed staff to place this matter on the February agenda should the 2015 audit not be received, so that the Board could make a more informed decision with the charter representative present.

**January 12, 2016:** After the meeting, Board staff contacted Luz Academy's charter representative, conveyed the information requested by the Board and suggested the charter representative listen to the recording once it is posted. The charter representative indicated he had the Board meeting on his calendar for January 18<sup>th</sup> instead of January 12<sup>th</sup>. During the conversation, the charter representative mentioned he had a meeting scheduled with a certain charter holder to see if it would be interested in adding a site to serve the Pepe Barron Academy students beginning next school year.<sup>1</sup>

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<sup>1</sup> The charter representative indicated he would also discuss with this charter holder serving the students from Pepe Barron Middle School, which operates under a separate charter contract with El Centro for the Study of Primary and Secondary Education. El Centro's contract will expire on July 6, 2016.

**January 19, 2016:** Luz Academy's charter representative contacted Board staff. He indicated the charter holder he met with was interested in serving these students next year. If everything worked for this charter holder to serve these students, Luz Academy's charter representative indicated Luz Academy's charter contract would be surrendered effective at the end of this school year. During the conversation, the February Board meeting was also discussed.

**January 27, 2016:** Board staff reached out to the charter representative of the charter holder identified by Luz Academy on January 12<sup>th</sup>. Currently, this Tucson charter holder meets the Board's academic, financial and operational performance requirements. The individual who contacted Board staff stated the charter holder is very interested in serving these students next year<sup>2</sup>, but is still looking into the feasibility. The individual indicated the organization wanted to make sure they would be a good fit for the parents and students and wanted to get a better handle on the logistics involved, especially as they relate to the facility and any improvements that might be necessary. In February, the individual said charter holder officials will be meeting with parents and conducting a walk-through of the facility. According to the individual, the charter holder should know how it plans to proceed by the first week of March.

**January 28, 2016:** Board staff spoke with Luz Academy's charter representative, who stated he has been contacted by another charter holder about serving these students next year. Regarding the fiscal year 2015 audit, Luz Academy's charter representative stated the audit firm has completed the audit. Unless failure to submit Luz Academy's audit would impact the Board approving another charter holder's request to serve these students, the audit will likely not be submitted to the Board. Luz Academy's charter representative indicated it would be easier to pay the audit fee owed to the audit firm over eight months than to come up with a lump sum payment now. At this time, he said he is focused on using the available resources to keep the school operating through the end of the school year. Luz Academy's charter representative said he plans to attend the meeting on February 8<sup>th</sup>.

### **Board Options**

Option 1: Since at its November 20, 2015 meeting the Board found Luz Academy of Tucson, Inc. in noncompliance for failure to submit the fiscal year 2015 audit and since another alternative may be available to resolving this matter without a hearing, staff recommends the Board take no further action today and direct staff to bring this matter back to the Board at its March 2016 meeting to update the Board on the decision made by the Tucson charter holder and any new matters related to Luz Academy.

Option 2: The Board may vote to hold a hearing to determine if a breach of the settlement agreement has occurred. The following language is provided for consideration: I move, under the terms of the July 2012 settlement agreement, that a hearing be held to determine whether evidence exists that Luz Academy of Tucson, Inc. failed to comply with the terms and conditions of its July 2012 settlement agreement. Pursuant to the settlement agreement, the hearing date shall be scheduled at least 30 days after the charter operator receives notice of today's action.

- Within 48 hours of receipt of the Notice the 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 the 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 the charter operator shall provide the Board with the names and mailing addresses of parents/guardians of all students registered with the school.

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<sup>2</sup> The Tucson charter holder is interested in serving the students from Pepe Barron Academy and Pepe Barron Middle School.

## **Appendix A**

- Academic Performance Dashboard (page 5)
- Financial Performance Dashboard (page 6)
- Operational Performance Dashboard (pages 7 and 8)

## Academic Performance

Please see the [charter holder's detailed information page](#) to view the charter holder's financial and operational performance.

### Pepe Barron Academy

		2012 Traditional High School (9 to 12)			2013 Traditional High School (9 to 12)			2014 Traditional High School (9 to 12)		
		Measure	Points Assigned	Weight	Measure	Points Assigned	Weight	Measure	Points Assigned	Weight
<b>1. Growth</b>										
1a. SGP	Math	53	75	7.5	49	50	15	46	50	15
	Reading	56	75	7.5	38	50	15	35	50	15
1b. SGP Bottom 25%	Math	NR	0	0	NR	0	0	NR	0	0
	Reading	67	100	15	NR	0	0	NR	0	0
<b>2. Proficiency</b>										
2a. Percent Passing	Math	43 / 55.5	50	10	57.1 / 49.6	75	10	48.3 / 50.4	50	10
	Reading	78 / 78.6	50	10	90.6 / 71	100	10	80.4 / 74.7	75	10
2b. Composite School Comparison	Math	-8.9	50	7.5	6.9	75	7.5	-2.9	50	7.5
	Reading	2.8	75	7.5	16.3	100	7.5	4.5	75	7.5
2c. Subgroup ELL	Math	27 / 43.2	50	3.75	52.9 / 44.9	75	3.75	57.1 / 43.4	75	3.75
	Reading	61 / 63.4	50	3.75	88.2 / 64.3	75	3.75	92.3 / 59	75	3.75
2c. Subgroup FRL	Math	45 / 46.1	50	3.75	51.1 / 43.1	75	3.75	NR	0	0
	Reading	75 / 70.7	75	3.75	93.5 / 65.7	75	3.75	NR	0	0
2c. Subgroup SPED	Math	NR	0	0	NR	0	0	9.1 / 12.7	50	3.75
	Reading	NR	0	0	NR	0	0	58.3 / 39.7	75	3.75
<b>3. State Accountability</b>		Measure	Points Assigned	Weight	Measure	Points Assigned	Weight	Measure	Points Assigned	Weight
3a. State Accountability		B	75	5	B	75	5	C	50	5
<b>4. Graduation</b>		Measure	Points Assigned	Weight	Measure	Points Assigned	Weight	Measure	Points Assigned	Weight
4a. Graduation		90	100	15	90	100	15	3	25	15
<b>Overall Rating</b>		Overall Rating			Overall Rating			Overall Rating		
Scoring for Overall Rating 89 or higher: Exceeds Standard <89, but > or = to 63: Meets Standard <63, but > or = to 39: Does Not Meet Standard Less than 39: Falls Far Below Standard		72.81			75.62			53.44		
		100			100			100		

## Financial Performance

Luz Academy of Tucson, Inc.

### Near-Term Measures

**Going Concern**

**Unrestricted Days Liquidity**

**Default**

Fiscal Year 2013	
Yes	Falls Far Below
0.10	Falls Far Below
No	Meets

Fiscal Year 2014	
Yes	Falls Far Below
0.00	Falls Far Below
Yes	Falls Far Below

### Sustainability Measures (Negative numbers indicated by parentheses)

**Net Income**

**Fixed Charge Coverage Ratio**

**Cash Flow (3-Year Cumulative)**

(\$144,361)	Does Not Meet
-	
\$31,581	Does Not Meet

(\$264,255)	Does Not Meet
-	
(\$11,322)	Does Not Meet

Cash Flow Detail by Fiscal Year

FY 2013	FY 2012	FY 2011	FY 2014	FY 2013	FY 2012
(\$33,131)	\$46,463	\$18,249	(\$24,654)	(\$33,131)	\$46,463

### Additional Information

The fiscal years 2013 and 2014 audits include combined financial information for three entities, including Luz Academy of Tucson, Inc. The information above reflects the financial performance of Luz Academy of Tucson, Inc. Based on the fiscal years 2013 and 2014 audits, the combined entity does not meet the Board's financial performance expectations.

#### Fiscal Year 2014 Audit

- Going Concern: Yes, Falls Far Below
- Unrestricted Days Liquidity: 0.00, Falls Far Below
- Default: Yes, Falls Far Below
- Net Income: (\$788,019), Does Not Meet
- Fixed Charge Coverage Ratio: (0.18), Does Not Meet
- Cash Flow (3-Year Cumulative): (\$28,724), Does Not Meet [Annual cash flow is \$10,299 in FY 2014, (\$53,648) in FY 2013 and \$14,625 in FY 2012.]

#### Fiscal Year 2013 Audit

- Going Concern: Yes, Falls Far Below
- Unrestricted Days Liquidity: 0.29, Falls Far Below
- Default: No, Meets
- Net Income: (\$735,124), Does Not Meet
- Fixed Charge Coverage Ratio: (1.17), Does Not Meet
- Cash Flow (3-Year Cumulative): (\$10,111), Does Not Meet [Annual cash flow is (\$53,648) in FY 2013, \$14,625 in FY 2012 and \$28,912 in FY 2011.]

### Does Not Meet Board's Financial Performance Expectations

General | Mission Statement | Representatives | Board Members | Schools | Documentation | Complaints | Amendments | **Performance**

Select a dashboard to view:

### Operational Performance Dashboard

Click on any of the measures below to see more information.

Measure	2015	2016
1.a. Does the delivery of the education program and operation reflect the essential terms of the educational program as described in the charter contract?	Meets	--
1.b. Does the charter holder adhere with applicable education requirements defined in state and federal law?	Does Not Meet	--
2.a. Do the charter holder's annual audit reporting packages reflect sound operations?	Does Not Meet	--
2.b. Is the charter holder administering student admission and attendance appropriately?	Does Not Meet	--
2.c. Is the charter holder maintaining a safe environment consistent with state and local requirements?	Meets	--
2.d. Is the charter holder transparent in its operations?	Meets	--
2.e. Is the charter holder complying with its obligations to the Board?	Does Not Meet	--
2.f. Is the charter holder complying with reporting requirements of other entities to which the charter holder is accountable?	Does Not Meet	--
3. Is the charter holder complying with all other obligations?	Meets	--
<b>OVERALL RATING</b>	<b>Meets Operational Standard</b>	--

*Last Updated: 2016-01-20 16:54:07*

General	Mission Statement	Representatives	Board Members	Schools	Documentation	Complaints	Amendments	Performance
Select a dashboard to view: <input type="text" value="Operational Performance Dashboard"/>								
Operational Performance Dashboard								
Click on any of the measures below to see more information.								
Measure	2015	2016						
1.a. Does the delivery of the education program and operation reflect the essential terms of the educational program as described in the charter contract?	Meets	--						
Educational Program - Essential Terms	No issue identified	--						
1.b. Does the charter holder adhere with applicable education requirements defined in state and federal law?	Does Not Meet	--						
Services to Student with Disabilities	No issue identified	--						
Instructional Days/Hours	No issue identified	--						
Data for Achievement Profile	No issue identified	--						
Mandated Programming (State/Federal Grants)	Repayment of Misspent Title Funds Fiscal Review - Race to the Top	--						
2.a. Do the charter holder's annual audit reporting packages reflect sound operations?	Does Not Meet	--						
Timely Submission	No	No - Not Yet Submitted						
Audit Opinion	Unqualified	--						
Completed 1st Time CAPs	CAP Not Yet Completed	--						
Second-Time/Repeat CAP	Federal Payroll Taxes State Payroll Taxes State Unemployment Contributions	--						
Serious Impact Findings	No issue identified	--						
Minimal Impact Findings (3+ Years)	No issue identified	--						
2.b. Is the charter holder administering student admission and attendance appropriately?	Does Not Meet	--						
Estimated Count/Attendance Reporting	No issue identified	--						
Tuition and Fees	No issue identified	--						
Public School Tax Credits	No issue identified	--						
Attendance Records	Audit CAP	--						
Enrollment Processes	No issue identified	--						
2.c. Is the charter holder maintaining a safe environment consistent with state and local requirements?	Meets	--						
Facility/Insurance Documentation	No issue identified	--						
Fingerprinting	No issue identified	--						
2.d. Is the charter holder transparent in its operations?	Meets	--						
Academic Performance Notifications	No issue identified	--						
Teacher Resumes	No issue identified	--						
Open Meeting Law	No issue identified	--						
Board Alignment	No issue identified	--						
2.e. Is the charter holder complying with its obligations to the Board?	Does Not Meet	--						
Timely Submissions	No issue identified	School Site Location Notification Charter Holder Location Notification						
Limited Substantiated Complaints	No issue identified	--						
Favorable Board Actions	Finding of Noncompliance to Withhold 10%	Finding of Noncompliance to Withhold 10%						
2.f. Is the charter holder complying with reporting requirements of other entities to which the charter holder is accountable?	Does Not Meet	--						
Arizona Corporation Commission	No issue identified	--						
Arizona Department of Economic Security	Audit CAP (Second Time)	--						
Arizona Department of Education	No issue identified	--						
Arizona Department of Revenue	Audit CAP (Second Time)	--						
Arizona State Retirement System	No issue identified	--						
Equal Employment Opportunity Commission	No issue identified	--						
Industrial Commission of Arizona	No issue identified	--						
Internal Revenue Service	Audit CAP (Second Time)	--						
U.S. Department of Education	No issue identified	--						
3. Is the charter holder complying with all other obligations?	Meets	--						
Judgments/Court Orders	No issue identified	--						
Other Obligations	No issue identified	--						
<b>OVERALL RATING</b>	<b>Meets Operational Standard</b>	--						
<i>Last Updated: 2016-01-20 16:54:07</i>								