
AGENDA ITEM: Compliance Matters – ECA – Arizona, Inc.

Issue

ECA – Arizona, Inc. (“ECA”) ceased operating its charter school in November 2016. The Arizona Department of Education (ADE) determined that, as a result, ECA had been overpaid \$39,374.75. On January 12, 2017, ADE notified Board staff that it had received a check from ECA in the amount of \$28,000. As of the writing of this report, the balance of \$11,374.75 has not been repaid to the State.

Background

ECA operated one school, The Early Career Academy (“School”), serving grades 11-12 in Tempe on the ITT Technical Institute (“ITT Tech”) campus. The first year of operation under the charter contract was fiscal year 2016. ECA’s 40th day average daily membership (ADM) for fiscal year 2017 was 47.952.

Actions and Recent Communications

The following is a timeline of activities that have occurred:

September 6, 2016: In the morning, Board staff received a call from a parent asking if the School would close due to ITT Tech closing all of its campuses. In addition, the Board received calls from other parents and a school asking how they could obtain students’ withdrawal forms. Board staff reached out to the charter representative and School through emails and voicemail, but was unable to get a response.

September 6, 2016: In the afternoon, the law firm representing ECA called Board staff. Participating on the phone call were two ECA board members, the School’s executive director and three attorneys. They indicated ITT Tech notified them at 3 p.m. on September 2 that they could not operate a school on the premises on September 6. On September 6, they received formal notice that the management contract they had with ITT Tech was terminated. ECA had access to the bank account and the student information system, but most everything else, they indicated, belonged to ITT Tech. They believed the six teachers and guidance counselor would continue on with them. They indicated the ECA board would be meeting that afternoon to discuss next steps. Board staff asked them to provide a board meeting update on September 7 and asked for daily updates on their efforts to find a facility and their ability to equip the facility. ECA also agreed to provide Board staff with an email address for parents, schools and our office to use since all of their existing email addresses were connected to ITT Tech.

September 6, 2016: After the phone call, Board staff sent a follow-up email to the attorneys stating, in part, “Finally, since the charter holder’s board is meeting later today, there is one thing I wanted the board to be aware of that was not mentioned during our earlier phone conversation. For August and September, the charter holder has received \$81,176.24 in fiscal year 2017 state equalization assistance. Should the school be unable to remain open and have to surrender its charter contract, the charter holder will likely be required to pay a portion of that money back. The charter holder would not be required to pay back the full amount because the school was open through September 2, 2016 and did provide 20 or so days of instruction. The amount to be paid back would be determined by ADE and based on attendance data and the number of instructional days provided.”

September 7, 2016: The School’s executive director notified Board staff that the ECA board unanimously voted to continue investigating options for ECA and the School. In addition, Board staff was provided with the email address.

September 8, 2016: The School’s executive director indicated they were able to meet with the owner of the ITT Tech building and negotiate a lease for staying in the facility. The ECA board would be

considering the lease at a meeting on September 9. If the lease is approved by the ECA board, the executive director indicated she believed classes could resume by September 14. She stated ECA would be continuing to look for a long-term facility. Board staff asked the School to provide a revised calendar and bell schedule when it is available and prior to students' first day back.

September 10, 2016: The School's executive director indicated that many of the School staff and one board member previewed three different facilities for a possible future move. The ECA board decided to table the vote of accepting the lease in the current facility until after there can be a parent meeting to gauge parents' commitment level for continuing the School. The parent meeting is scheduled for September 12 with the ECA board expected to vote on September 13.

September 12, 2016: The School's executive director provided an update on the parent meeting. She indicated 70% of enrolled students were present, and that 90% of the 70% indicated they are committed to staying at the School. The owner of the ITT Tech building was also present and indicated that the School could continue to operate in the facility through November 4, which is the end of the School's first trimester. The School's executive director also provided a draft revised calendar, which indicated classes would resume on September 14.

September 13, 2016: In addition to requesting bell schedules, Board staff requested certain information, including the financial report presented to the ECA board showing the feasibility of reopening the School and keeping it open for the entire school year and the steps ECA is taking now to ensure another location, which meets applicable occupancy requirements, is secured before November 4. After receiving Board staff's email, ECA asked to set up a phone call to clarify the information request. The phone call took place on September 13.

September 13, 2016: Following the ECA board meeting, the School's executive director notified Board staff that ECA had voted to continue operations of the School for the remainder of the school year and resume classes on September 14, to approve the lease agreement with the owner of the ITT Tech building and to accept the revised school calendar. The email included financial information and a facility plan.

September 15, 2016: Board staff requested certain information by various deadlines.

- By 11:59 p.m. on September 15, ECA was asked to provide the number of students who attended on September 14 and September 15, confirmation that ECA had revised its estimated count with ADE and the bell schedules. ECA provided this information.
- By September 23, ECA was asked to provide confirmation that it had submitted a Calendar Request Change Form to ADE and to provide an update on who will be serving as charter representative. ECA provided this information.
- By October 7, ECA was asked to provide a financial report that includes ECA's actual revenues and expenses for July 1 through September 30 and projected revenues and expenses for October 1 through June 30, a letter of intent or executed agreement for the facility the School will use beginning November 5, and the timeline to ensure any improvements and work required for this facility are completed and approved by the appropriate entities prior to November 5. ECA provided this information.

October 3, 2016: At ECA's request, Board staff spoke with the School's executive director about options available to ECA and what would be involved in transferring the charter contract to an existing charter holder.

October 11, 2016: Board staff contacted ECA about setting up a meeting to discuss the documentation submitted on October 7.

October 18, 2016: Board staff met with the School's executive director, recently approved second charter representative and ECA's attorney to discuss the documents submitted on October 7 and ECA's efforts to keep the School open. During the meeting, they indicated the ECA board would be making a decision that evening on whether to transfer the charter contract to another entity or surrender it.

October 19, 2016: The School's executive director notified Board staff that ECA's board had decided to surrender its charter contract and that the School's last day of instruction would be November 4, which is the last day of the School's first trimester.

October 20, 2016: Board staff sent an email notifying ADE of ECA's decision. This email also asked about the process for addressing discrepancies between the ADM identified in School and ADE reports and whether additional calendar information needed to be submitted to ADE since ADE's website still reflected the School's original calendar. ECA officials were cc'ed on this email.

October 2016 – December 2016: ECA and ADE worked to finalize the School's ADM and the amount of state equalization assistance earned by ECA. ADE determined ECA had been overpaid \$39,374.75.

November 15, 2016: ECA emailed Board staff about what ECA needs to complete to surrender the charter contract. Board staff responded, "Our office knows ECA's desire to surrender the charter contract. Once ADE finalizes the amount of state equalization assistance ECA is entitled to based on ECA's ADM and the number of instructional days provided, we will be able to determine if ECA was underpaid or overpaid this year. If ECA was either underpaid or overpaid and pays back the amount, then our office will prepare a surrender agreement. If ECA was overpaid and does not pay back the amount, then the matter will go to the Board for possible issuance of a notice of intent to revoke the charter contract."

December 2016: Board becomes the custodian of the School's student educational records.

January 12, 2017: ADE notified Board staff that it had received a check from ECA in the amount of \$28,000, which left a balance owed of \$11,374.75.

February 6, 2017: ADE forwarded to Board staff an email it received on January 18, 2017 from the School's executive director stating, "The Board is aware that they did not pay the full amount due. This is because they don't have the full amount available to pay. They paid the amount they have available."

February 6, 2017: In an email, Board staff informed the two charter representatives that ECA will be on the Board's March 13 agenda for consideration of issuing a notice of intent to revoke the charter contract since ECA has not paid back the full amount owed to ADE. One of the charter representatives responded to the email indicating that she has placed the meeting on her calendar and plans to attend.

Board Options

Option 1: The Board may vote to issue a Notice of Intent to Revoke the charter holder's charter contract. Staff recommends the following language for consideration: I move that the Board issue a Notice of

Intent to Revoke the charter of ECA – Arizona, Inc. on the basis of its failure to comply with its charter contract when it failed to provide educational services to students for 180 days.

Option 2: The Board may direct staff to work with the charter holder on the terms of a surrender agreement that include the circumstances surrounding the closure. The following language is provided for consideration: I move to direct staff to work with ECA – Arizona, Inc. on the terms of a surrender agreement that includes the circumstances surrounding the closure. If such an agreement cannot be reached, staff will provide the Board with documentation to consider a Notice of Intent to Revoke the charter at the next regularly scheduled meeting.