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**AGENDA ITEM:** Compliance Matters – Global Education Foundation, Inc.

**Issue**

Based on its submitted fiscal year 2009 audit, Global Education Foundation, Inc. has violated Classroom Site Fund requirements for the third time in four years and has failed to comply with attendance record retention requirements for the second time in three years. Pursuant to the Board's [Audit & Compliance Questionnaire Follow-up Matrix](#), the charter holder has been placed on the agenda for the Board's consideration.

**Background**

Classroom Site Fund

The Classroom Site Fund (CSF) was established in state statute in fiscal year 2002 and is funded primarily through an increase in the sales tax as a result of Proposition 301 which was passed by the voters to provide, among other things, for teacher salary increases and other specified maintenance and operation purposes. The specific purposes for which CSF monies can be spent are outlined in A.R.S. §15-977. Additional guidance on the proper use and tracking of the monies is outlined in USFRCS Memorandum No. 44 issued by the Office of the Auditor General.

Since the law limits how CSF monies may be spent, if a school does not spend all of the CSF monies it received during the fiscal year, then at the end of the year, the school needs to have enough cash in the bank to cover the unspent portion ("carryover"). The compliance questionnaire, which is completed as part of the annual audit, includes a series of questions relating to CSF monies.

Attendance Records

The number of students attending a charter school during the first 100 days of the school year drives the amount of State funding received by the school. The amount of funding received from the State is affected by the point at which students enroll during that 100-day period, how long they stay enrolled, as well as the attendance patterns of the students while enrolled. Although the funding is based on the first 100 days of the school year, schools must take attendance and report that information to the State for the full year. The attendance records must be retained in accordance with the Public Records Law and the General Retention Schedule for School Districts and Charter Schools published by the Arizona State Library, Archives and Public Records.

**Global Education Foundation, Inc.**

Classroom Site Fund

Based on the charter holder's annual audits, for three of the past four fiscal years, Global Education Foundation has not had sufficient cash to cover its CSF carryover. For fiscal year 2009, the CSF carryover was \$49,820 and the shortfall was \$29,164. Staff is working with the audit firm that conducted the fiscal year 2006 through 2008 audits to obtain the CSF carryover amounts. In fiscal year 2008, Global Education Foundation had sufficient cash to cover the CSF carryover.

On March 22<sup>nd</sup>, staff emailed a letter asking Global Education Foundation to provide certain information by April 21<sup>st</sup>. As of June 3, 2010, the charter holder has not submitted the corrective action plan. (Please see "Communication History" below for more information.)

In response to the noncompliance identified in the 2007 audit, Global Education Foundation's CSF corrective action plan stated, in part, "We have kept a running balance of the Classroom Site Fund payables and are ensuring that cash balances will be adequate to meet those payables... We anticipate that it will take several years to pay out all of the remaining balance of Proposition 301 merit funds unless we remove criteria for exemplary service and achievement from our guidelines. However, we will take appropriate steps to ensure that adequate cash reserves are maintained to pay out the funds should all staff meet eligibility requirements."

Attendance Records

As demonstrated in the table below and based on the charter holder's annual audits, for two of the past three

fiscal years, Global Education Foundation has not complied with attendance record retention requirements.<sup>1</sup>

| <b>Fiscal Year</b> | <b>Attendance Records Not Retained</b>  |
|--------------------|---|
| 2007               | In the audit, the auditor stated, “The complete attendance records were not available for my review.” |
| 2008               | No issues identified regarding attendance record retention.   |
| 2009               | Teacher attendance registers and sign-in/sign-out sheets.   |

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In its 2007 corrective action plan, Global Education Foundation stated that the noncompliance with attendance record retention requirements was “a direct result of the actions of an employee who inadvertently shredded the daily absence/attendance reporting sheets. As a consequence, school attendance records were not available for testing.” To prevent a recurrence, the charter holder stated that it had taken the following steps, among others:

- “All daily reporting of absences and attendance will be created as a PDF file in addition to ‘hard paper copies’ to prevent the inadvertent destruction of data.”
- “All original ‘hard paper copies’ will be filed in a three-ring binder daily. The binder will be clearly labeled ‘PERMANENT RECORDS – DO NOT DESTROY’.”
- “All withdrawal records will be duplicated. One copy will be filed in the student enrollment folder. A second copy will be filed chronologically in a three-ring binder and clearly labeled ‘PERMANENT RECORDS – DO NOT DESTROY’.”

#### Other Audit Issues

In addition to the issues mentioned above, the fiscal year 2009 audit identified first-year noncompliance with federal and state payroll tax requirements, which required the charter holder to submit a corrective action plan. (Please see “Communication History” below for more information.) As of June 3, 2010, the charter holder has not submitted the corrective action plan. Further, the audit stated that as of the testing date, the school did not have on file a fingerprint clearance card for one employee required to have one. A corrective action plan was not requested because the audit indicated that as of the audit report date, the school had obtained a copy of a valid fingerprint clearance card for this employee.

#### Communication History

|         |   |
|---------|---|
| 3/22/10 | Fiscal year 2009 audit letter emailed to charter representative through ASBCS Online. Letter includes deadline of 4/21/10 to submit requested corrective action plan.   |
| 3/22/10 | Separate email sent by staff alerting the charter representative that the audit letter had been sent and notifying the charter representative of the Board’s new system (ASBCS Online).   |
| 4/14/10 | Staff received notification request from Global Education Foundation, Inc. to change the charter representative from Frank DiPietro to Mary Anne Fout.  |
| 4/27/10 | Staff sent a reminder email to the charter representative stating that the corrective action plan had not yet been received. A copy of the 3/22/10 letter was included with this email.   |
| 4/30/10 | Staff sent an email to the Director of Education Services, who has responded on behalf of the charter holder to staff requests in the past. The email stated that the notification request to change the charter representative is on hold until the audit corrective action plan is addressed. |

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<sup>1</sup> Although according to the Board’s matrix, it would not be included in the table, Global Education Foundation’s fiscal year 2004 audit also indicated noncompliance with attendance record retention requirements. The charter holder was required to submit a corrective action plan at that time.

- 4/30/10 The school's principal requested a copy of the audit letter sent to the charter representative. Staff emailed the principal a copy.
- 5/1/10 The Director of Education Services emailed staff asking for clarification regarding what was meant by the phrase "audit cap".
- 5/3/10 Staff provided the clarification and a copy of the fiscal year 2009 audit letter, which included the corrective action plan requirements.
- 5/6/10 The Director of Education Services stated the following in an email to staff: "I am working on removing Frank DiPietro from being the primary contact at Global Education. I thought it was accomplished with the paperwork I submitted for the changes to the board. I recently became aware of this audit CAP so am now deconstructing the letter for understanding and getting to work on what is required."

The "paperwork" mentioned in the email was never approved by the Board. The first submission in August 2009 was eventually rejected in December 2009 due to the charter holder not providing the requested information. The second submission in January 2010 was deemed incomplete and rejected in February 2010. Until April 2010, Board staff had not received a notification request from Global Education Foundation to change its charter representative.

### **Board Options**

1. Based on the information provided by the charter holder, take no action at this time other than to direct staff to place Global Education Foundation, Inc. on the Board's January 2011 agenda for further consideration should the fiscal year 2010 identify continued noncompliance with Classroom Site Fund, attendance record retention, and federal and state payroll tax requirements.
2. The Board may find Global Education Foundation, Inc. is in noncompliance with state and federal law for its failure to comply with Classroom Site Fund requirements found in A.R.S. §15-977, failure to retain student attendance records as required by A.R.S. §39-121.01 and in accordance with the General Retention Schedule for School Districts and Charter Schools published by the Arizona State Library, Archives and Public Records, and failure to comply with federal and state payroll tax requirements as required by 26 U.S.C. §3402 and A.R.S. §§43-401 and 43-1111 and approve withholding 10% of Global Education Foundation's monthly State aid apportionment until compliance is demonstrated. Compliance will be demonstrated as follows:
  - For Classroom Site Fund, either through the fiscal year 2010 audit or through Agreed-Upon Procedures established by Board staff.
  - For attendance records, through the fiscal year 2010 audit. If Global Education Foundation's fiscal year 2010 audit does not demonstrate compliance, the charter holder will be brought back to the Board for consideration of other ways through which the charter holder could demonstrate compliance in order to have the 10% returned.
  - For federal and state payroll taxes, through the satisfactory completion of the corrective action plan requested in the Board's March 22, 2010 audit letter.
3. The Board may vote to issue a Notice of Intent to Revoke the charter contract of Bradley Academy of Excellence for failing to comply with Classroom Site Fund requirements found in A.R.S. §15-977, failing to retain student attendance records as required by A.R.S. §39-121.01 and in accordance with the General Retention Schedule for School Districts and Charter Schools published by the Arizona State Library, Archives and Public Records, and failing to comply with federal and state payroll tax requirements as required by 26 U.S.C. §3402 and A.R.S. §§43-401 and 43-1111.
  - 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 withhold 10% of the charter holder's monthly State aid apportionment (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 #2.