
AGENDA ITEM: Compliance Matters – Civil Penalties

Issue

During a recent site visit, Haven Montessori Children’s House, Inc. was unable to provide evidence that all of its employees had been properly fingerprinted. In accordance with the Board’s [Policy Statement on Civil Penalties for Fingerprinting Violations](#) and in accordance with [A.R.S. §15-185.I](#), the Board must review all possible first time occurrences of violations of fingerprinting requirements and make the final determination as to whether each will count as a first time occurrence.

Background

On October 26th, staff conducted a 1st year site visit of Haven Montessori Children’s House, Inc. As part of the 1st year site visit, staff confirms that all personnel have been appropriately background checked. The following deficiencies were identified:

- The school was unable to provide evidence that an application for fingerprint clearance cards had been submitted to DPS for Danielle Knight.
- The school could not provided evidence that they had completed all of the steps necessary under the Emergency Hire requirements for the teacher without the valid card.

At the time of the visit, a [“Notification of first time noncompliance with fingerprinting requirements under A.R.S. §15-185.I”](#) was provided to the school.

Communications with School

- A call made to the Department of Public Safety (DPS) on October 26, 2009 by Kimberly Avery, in the presence of Board staff, confirmed that DPS had not received the fingerprint clearance card application, dated August 20, 2009, for Danielle Knight.
- On [October 27, 2009 an email exchange](#) occurred between Kimberly Avery, charter representative, and Vicki Morris stating Haven Montessori Children’s House, Inc. had directed Danielle Knight to complete a fingerprint application package on October 26, 2009. The package was mailed to Tucson without a tracking claim and DPS could not confirm receipt. Due to the sensitivity of the 48 hour requirement, Danielle Knight traveled to Phoenix to deliver her fingerprint application package to DPS on October 28, 2009.
- On [October 28, 2009 an email](#) from Cristy Zeller, Haven Business Manager, confirmed that this office had received a fax that DPS had received Danielle Knight’s fingerprint application package on this same date as of 12:18 p.m., 75 minutes beyond the deadline
- On November 10, 2009 Board staff sent a letter notifying Haven Montessori Children’s House, Inc. of the Board meeting to consider imposing a civil penalty under A.R.S. §15-185(I).

Board Options

1. If the Board determines that this a) constitutes the first time that the charter school is out of compliance with the fingerprinting requirements and b) that the school provided timely proof of the required submissions, the motion should include: I move that the (*number*) occurrences, as they have been presented and documented in the Board materials and discussed, constitute Haven Montessori Children’s House, Inc.’s first time for civil penalty purposes under A.R.S. § 15-185.I. This motion is based on the following findings:

- 1) Haven Montessori Children's House, Inc. failed to comply with fingerprinting requirements prescribed in A.R.S. §15-183.C or A.R.S. §15-512.
- 2) Haven Montessori Children's House, Inc. provided proof within the required timeframe of the written notification that an application for the appropriate fingerprint check has been received by the Department of Public Safety.

Further, the Board directs staff to:

- 3) Apprise Haven Montessori Children's House, Inc. of the Board's findings and decision in this matter; and
- 4) Notify the Charter Operator that if the Board determines that the charter school subsequently violates the fingerprinting requirements during the next five years, a civil penalty of \$1,000 per occurrence shall automatically be imposed.

2. If the Board determines that this a) constitutes the first time that the charter school is out of compliance with the fingerprinting requirements and b) that the school failed to provide timely proof of the required submissions, the motion should include: I move to impose a civil penalty of \$1,000 for each of the (number) occurrences as they have been presented and documented in the Board materials and discussed for a total civil penalty of \$XXXX. This motion is based on the following findings:

- 1) Haven Montessori Children's House, Inc. failed to comply with fingerprinting requirements prescribed in A.R.S. § 15-183(C) or A.R.S. § 15-512,
- 2) that written notification was provided to the charter school as required by A.R.S. § 15-185(I),
- 3) this is the first time for civil penalty purposes that the charter school is out of compliance with statutory fingerprinting requirements, and
- 4) that the charter school failed to provide proof within 48 hours of the written notification that an application for the appropriate fingerprint check has been received by the Department of Public Safety.

Further, the Board directs staff to:

- 1) apprise the Charter Operator of the Board's findings and decision in this matter and its appeal rights under Arizona law;
- 2) notify the Charter Operator that if the Board determines that the charter school subsequently violates the fingerprinting requirements during the next five years, a civil penalty of \$1,000 per occurrence shall automatically be imposed; and
- 3) timely request the Arizona Department of Education to reduce the amount of state aid that the charter school would otherwise receive by an amount equal to the civil penalty.

3. The Board may determine that a first time violation of A.R.S. §15-184.C or §15-512 has not occurred.

Staff's Recommendation

Staff's recommendation is Option #2.