

---

## AGENDA ITEM: Compliance Matters – Civil Penalties

### Issue

During a recent site visit, Vechij Himdag Alternative School, Inc., which operates Vechij Himdag MashchamakuD, was unable to provide evidence that all of its employees had been properly fingerprinted.

- On January 23<sup>rd</sup>, Vechij Himdag Alternative School, Inc. was unable to provide evidence of valid fingerprint clearance cards for one teacher.
- In accordance with [A.R.S. §15-185.I](#) and the Board's [Policy Statement on Civil Penalties for Fingerprinting Violations](#), staff issued the "Notification of first time noncompliance with fingerprinting requirements under A.R.S. §15-185.I" letter.
- Within the 48-hour timeframe, staff received evidence that the Department of Public Safety had received fingerprint clearance card applications for the teacher.

### Communications with School

On January 23<sup>rd</sup>, staff conducted a site visit of Vechij Himdag MashchamakuD, in part, to determine the school's compliance with statutory fingerprinting requirements. The school was unable to provide evidence of a valid fingerprint clearance card for special education teacher Jessica Bardo.

- After reviewing ADE's website, the school confirmed through a call to the Arizona Department of Public Safety that Ms. Bardo's fingerprint clearance card had expired.
- In accordance with A.R.S. §15-185.I and the Board's Policy Statement on Civil Penalties for Fingerprinting Violations, staff issued the "[Notification of first time noncompliance with fingerprinting requirements under A.R.S. §15-185.I](#)" letter and reviewed the letter, the Board's policy statement and the civil penalty law's requirements with the charter representative.
- The notification letter included a deadline of Tuesday, January 27, 2009, by 10:45 a.m. for Vechij Himdag Alternative School, Inc. to provide evidence to our office that applications for the appropriate fingerprint checks had been received by DPS and thereby avoid a civil penalty of \$1,000.
- On January 27<sup>th</sup>, [Vechij Himdag Alternative School provided our office with information](#) indicating that DPS had received the fingerprint clearance card application in accordance with A.R.S. §15-183.C.4 for Ms. Bardo prior to 10:45 a.m.

### Board Options

In accordance with the Board's policy statement, the Board must review all possible first time occurrences and make the final determination as to whether each will count as a first time occurrence.

If the Board determines that a civil penalty should not be imposed, but wants to create a record of this being the first time that the charter school is out of compliance with the fingerprinting requirements, the motion should include the statutory reference and basis. (i.e., I move that the (*number*) occurrences as they have been presented and documented in the Board materials and discussed constitute Vechij Himdag Alternative School, Incorporated's first time for civil penalty purposes under A.R.S. §15-185.I. This motion is based on the following findings:

- 1) Vechij Himdag Alternative School, Inc. failed to comply with fingerprinting requirements prescribed in A.R.S. §15-183.C.
- 2) Vechij Himdag Alternative School, Inc. provided 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 Vechij Himdag Alternative School, Inc. of the Board's findings and decision in this matter; and
- 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.

### Staff's Recommendation

Staff's recommendation is the option presented above.