

AGENDA ITEM: Compliance Matters – Desert Springs Academy, Inc.

Issue

Desert Springs Academy, Inc. (“Charter Holder”) is out of compliance with its contract due to a lack of alignment between its corporate board and the Arizona Corporation Commission (“ACC”). Pursuant to A.A.C. R7-5-505(G), the Board shall require a charter holder that fails to demonstrate that all identified compliance issues have been addressed to appear before the Board and may subject the charter holder to additional oversight pursuant to A.A.C. R7-5-601(D).

Background

Board staff conducts a compliance check of a charter holder’s operational performance when the charter holder completes a five-year interval review. The compliance check indicated that the Charter Holder’s corporate board on file in the charter contract did not align with the officers and directors on file with ACC. On March 15, 2018, as part of the five-year interval review process, Board staff conducted a site visit at the school operated by the Charter Holder. At the site visit, staff confirmed that the Charter Holder’s corporate board was out of alignment with its contract, as well as with the officers and directors listed on ACC.

The April 12, 2018 Five Year Interval Review Final Report identified the following:

- Jeff G Capara was listed on ACC, but was not listed in the charter contract as a board member; and
- Board minutes from January 8, 2018 showed that Ellie Wray was serving as a board member. Ellie Wray was not listed as a board member in the charter contract.

Charter Holder’s corporate board information as of October 29, 2018:

Currently listed in charter contract	Currently listed on ACC	Currently listed in the submitted minutes
Lydia Capara	Lydia Capara	Lydia Capara
Katherine Addis	Katherine Addis	Katherine Addis
John Capara	Jeff Capara	John Capara
Mary Spatola	Ellie Wray	Jeff Capara
	Martha Moore	Ellie Wray
		Martha Moore
		Christopher La Rue

Communication Timeline

March 15, 2018	Board staff conducted a Five-Year Interval Review site visit. During the visit, the Charter Holder was notified that the charter contract needed to be updated to accurately reflect the current corporate board, and that the corporate board membership was found to not be consistent between the Charter Holder’s contract and the ACC.
April 12, 2018	Board staff emailed Charter Representatives notifying them that the Five-Year Interval Review Final Report was available in the ASBCS Online system. The report outlined the non-compliance issues and the submissions required to come into compliance. The Charter Holder was given a deadline of May 12, 2018 to submit an administratively complete Charter Holder Governance Amendment Request updating the current board membership as discussed at the site visit.

April 25, 2018	<p>The Charter Holder emailed Board staff asking for assistance in accessing the report in the online system.</p> <p>Board staff responded by email offering assistance with the system, and also attached a copy of the report.</p>
May 23, 2018	<p>Board staff sent a Failure to Submit 30-Day Required Submission to the Charter Representatives by email.</p> <ul style="list-style-type: none"> • The letter stated that the Charter Holder failed to timely submit an administratively complete request by the due date and that the timely submission issue was marked on the Charter Holder’s operational performance dashboard. • The letter provided the Charter Holder an additional opportunity to submit the required request. The Charter Holder was given a deadline of May 31, 2018 (7 calendar days) to submit an administratively complete Charter Holder Governance Request to update the current board members. <p>The letter stated, “Failure to resolve/address the issue(s), as described above, by May 31, 2018 may result in the Charter Holder being placed on a subsequent Board meeting agenda for possible disciplinary action pursuant to A.A.C. R7-5-505(G)”.</p>
May 31, 2018	<p>The Charter Holder submitted a Charter Holder Governance Request</p>
June 1, 2018	<p>The Charter Holder Governance Request submitted on May 31, 2018 was deemed administratively incomplete by Board staff for failure to provide the required support documents.</p> <p>The Charter Holder was given until June 4, 2018 to address the noncompliance issues.</p>
June 7, 2018	<p>Board staff sent a Failure to Submit Final 7-Day Required Submission to the Charter Representatives by email.</p> <ul style="list-style-type: none"> • The letter stated that the Charter Holder failed to timely submit an administratively complete Charter Holder Governance Request by the June 4, 2018 deadline and that the timely submission issue was marked on the Charter Holder’s operational performance dashboard under Measure 2.e.: Timely Submission for Final 7-Day Requirement Failure to Submit. • The letter provided the Charter Holder a final opportunity to submit the required request. The Charter Holder was given a deadline of June 15, 2018 (7 calendar days) to submit an administratively complete Charter Holder Governance Request to update the current members. <p>The letter stated, “Failure to resolve/address the issue(s), as described above, by June 1, 2018 may result in the Charter Holder being placed on a subsequent Board meeting agenda for possible disciplinary action pursuant to A.A.C. R7-5-505(G)”.</p>
June 13, 2018	<p>The Charter Holder submitted a request for an extension so that it could recruit additional board members and gather the needed documentation.</p>
June 13, 2018	<p>During a phone conference with the Board’s Executive Director, the June 13, 2018 extension request was approved and an extension of one month was</p>

	given.
July 18, 2018	The Charter Holder emailed Board staff and attached board minutes showing that changes were being made to the board, and stated that it would “complete paper work as soon as possible”.
July 23, 2018	Board staff responded to the email from the Charter Holder and stated, “Please submit your amendments as soon as you have the necessary fingerprint clearance cards and paperwork”.
August 21, 2018	The Charter Holder uploaded a resignation letter from one of its board members into the online document management system, but no amendment request was submitted.
August 24, 2018	The Charter Holder emailed Board staff and said it had “uploaded most of the requested information” and that it was waiting for a fingerprint clearance card to clear. The Charter Holder asked, “How do I proceed from this point?”
August 27, 2018	Board staff responded to the email from the Charter Holder explaining that board changes require an “administratively and substantively complete amendment request” and that no amendment requests had been filed since May. Board staff clarified that the Charter Holder needed to file a “Charter Holder Governance Request” and that it “must be filed through our online system”.
August 28, 2018	The Charter Holder responded to the email from Board staff stating that it needed to “upload info on asbcs online”.
August 30, 2018	Board staff responded to the Charter Holder’s email and stated, “The Interval Review components cannot be closed out until Administratively Complete requests to update the board have been submitted. If you need guidance for filing these requests, please call our office”.
September 25, 2018	Board staff sent a Failure to Submit Required Submission to the Charter Representatives by email. <ul style="list-style-type: none"> The letter stated that if the Charter Holder did not submit the required documents by 5:00 pm on Monday, October 29, 2018, the Charter Holder will be placed on the November 13, 2018 Board meeting agenda for possible disciplinary action pursuant to A.A.C. R7-5-505(G).
October 24, 2018	The Charter Holder submitted a Charter Holder Governance Request
October 29, 2018	<ul style="list-style-type: none"> At 1:00 p.m. the Charter Holder Governance Request submitted on October 24, 2018 was deemed administratively incomplete by Board staff for failure to provide the required support documents and include all of the individuals listed on ACC. At 2:18 p.m. the Charter Representative responded by email stating, that one of the individuals listed on ACC has “decided to give up her seat on the board” and the other “has not received his fingerprint card” At 3:57 p.m. Board staff emailed the Charter Representative and directed her to include the meeting minutes removing the member and a copy of the other members FCC application in the new submission of the Charter Holder Governance Amendment Request.
October 29, 2018	The Charter Holder submitted two Charter Holder Governance Requests and a Charter Representative Request.

October 30, 2018	<ul style="list-style-type: none"> • At 9:15 a.m. the Charter Representative responded to the email from Board staff stating, the member “will be removed from her position in the November meeting of the board” and for the other member that they do not have a copy of the FCC in their file. • At 9:42 a.m. Board staff notified the Charter Representative that at this time, because the Charter Holder is still unable to align their board with the ACC, Desert Springs Academy, Inc. will be placed on the November 13, 2018 Board meeting agenda for possible disciplinary action pursuant to A.A.C. R7-5-505 as stated in previous emails.
November 1, 2018	<p>The two Charter Holder Governance Requests and Charter Representative Request submitted on October 29, 2018 were deemed administratively incomplete by Board staff for failure to provide the required support documents.</p>