AGENDA ITEM: Compliance Matters – Annual Financial Statement and Compliance Audits

Issue

In accordance with the Board's <u>Policy Statement on Board Notification of Six Months of Non-compliance</u>, staff is to bring charter holders having state equalization assistance withheld for failure to timely submit their annual financial statement and compliance audits to the Board for consideration of an issuance of a Notice of Intent to Revoke the charter after two months of withholding. Pursuant to this policy, Bradley Academy of Excellence, Inc., Graysmark Schools Corporation and StrengthBuilding Partners have been placed on the agenda for the Board's consideration of the charter holders' failure to submit their fiscal year 2016 audit reporting packages ("audit").

StarShine Academy has also not yet submitted its fiscal year 2016 audit to the Board. In November, the Board found the charter holder in noncompliance with state law and its charter contract, but was unable to withhold funds because the charter holder had filed for bankruptcy protection. The bankruptcy filing does not preclude the Board from issuing a notice of intent to revoke the charter.

Bradley Academy of Excellence, Inc. ("Bradley Academy")

On November 21, 2016, the Board approved withholding 10 percent of Bradley Academy's monthly state aid apportionment for failure to submit its fiscal year 2016 audit. On November 21st, an email describing the Board's action was sent to Bradley Academy. The November 21st email also included the following: "Please note that per Board policy staff will bring charter holders having state aid withheld for failure to timely submit their audits to the Board after two months of withholding for consideration of a Notice of Intent to Revoke the Charter." Funds have been withheld from Bradley Academy's December and January payments.

On December 22, 2016, the charter representative indicated he had expected the audit to be submitted by the end of the week. However, he later found out that the auditor left town for the holiday and would not be returning until the next week.

Having reviewed the charter holder's prior compliance with submitting its audits, Board staff found Bradley Academy timely submitted its audits for fiscal years 2011 through 2014. Bradley Academy submitted its fiscal year 2015 audit about one-and-a-half months late. The Board approved withholding 10% of Bradley Academy's state equalization assistance. No funds were withheld as Bradley Academy's audit was submitted before the Arizona Department of Education's deadline to affect the charter holder's next payment.

Graysmark Schools Corporation ("Graysmark")

On November 21, 2016, the Board approved withholding 10 percent of Graysmark's monthly state aid apportionment for failure to submit its fiscal year 2016 audit. On November 21st, an email describing the Board's action was sent to Graysmark. The November 21st email also included the following: "Please note that per Board policy staff will bring charter holders having state aid withheld for failure to timely submit their audits to the Board after two months of withholding for consideration of a Notice of Intent to Revoke the Charter." Funds have been withheld from Graysmark's December and January payments.

On December 16, 2016, the auditor indicated the fiscal year 2016 audit should be completed by the end of December, barring any unforeseen issues.

Having reviewed the charter holder's prior compliance with submitting its audits, Board staff found Graysmark timely submitted its audits for fiscal years 2012 through 2015, which represents Graysmark's first four years of operation.

StarShine Academy ("StarShine")

On November 21, 2016, the Board passed a motion finding StarShine in noncompliance with state law and its charter contract for failure to submit its fiscal year 2016 audit. On November 21st, an email describing the Board's action was sent to StarShine. The November 21st email also included the following: "The motion further indicated that had the bankruptcy filing not prevented it, the Board would have withheld 10% of StarShine Academy's monthly state aid apportionment until the fiscal year 2016 audit was submitted to the Board."

On December 22, 2016, StarShine indicated that it is trying to deal with issues that relate to the bankruptcy filing that are holding up the completion of the audit. StarShine is "diligently trying to work through those issues and as soon as they are resolved we can speedily complete our audit."

Having reviewed the charter holder's prior compliance with submitting its audits, Board staff found StarShine timely submitted its audits for fiscal years 2011 through 2014. StarShine submitted its fiscal year 2015 audit about two months late. Due to the bankruptcy filing, the Board was unable to withhold funds, but the Board did make a finding of noncompliance.

StrengthBuilding Partners ("StrengthBuilding")

On November 21, 2016, the Board approved withholding 10 percent of StrengthBuilding's monthly state aid apportionment for failure to submit its fiscal year 2016 audit. On November 21st, an email describing the Board's action was sent to StrengthBuilding. The November 21st email also included the following: "Please note that per Board policy staff will bring charter holders having state aid withheld for failure to timely submit their audits to the Board after two months of withholding for consideration of a Notice of Intent to Revoke the Charter." Funds have been withheld from StrengthBuilding's December and January payments.

On December 22, 2016, the auditor and charter representative indicated the fiscal year 2016 audit should be completed by the end of the first week of January.

Having reviewed the charter holder's prior compliance with submitting its audits, Board staff found StrengthBuilding did not timely submit its audit for fiscal year 2015, which was StrengthBuilding's first year of operation. StrengthBuilding submitted its fiscal year 2015 audit about two-and-a-half months late. The Board approved withholding 10% of StrengthBuilding's state equalization assistance. Funds were withheld for three months.

Board Options

Option 1: The Board may decide to take no further action at this time and direct staff to bring this matter back to the Board at its February 2017 meeting for further consideration should the charter holders still not have submitted their fiscal year 2016 audits.¹

¹ Under this option, the current 10 percent withholding would continue until Bradley Academy of Excellence, Inc., Graysmark Schools Corporation and StrengthBuilding Partners submit their fiscal year 2016 audits. For StarShine Academy, the Board's previous finding of noncompliance would continue to be in effect.

Option 2: The Board may vote to issue a Notice of Intent to Revoke the charter holders' charter contracts. The following language is provided for consideration: The information contained in the audit is one of the primary means the Board has to meet its statutory oversight and administrative responsibilities for the schools it sponsors. Although this is a matter that could be quickly corrected, it represents a material breach of the charter contract. Therefore, I move to issue a Notice of Intent to Revoke the charter contract of {INSERT CHARTER HOLDER NAME(S)} for failing to timely submit the fiscal year 2016 audit reporting package as required by A.R.S. §15-183(E)(6), A.R.S. §15-914 and the charter contract.

- Within 48 hours of receipt of the Notice the charter operators shall notify staff and parents
 and guardians of registered students of the Notice of Hearing on Intent to Revoke Charter
 and provide a school location where the copy may be reviewed;
- Within 20 days of receipt of the Notice the charter operators shall provide to the Board copies of all correspondence and communications used to comply with the preceding provision; and
- Within 20 days of receipt of the Notice the charter operators shall provide the Board with the names and mailing addresses of parents and guardians of all students registered with the school.