
AGENDA ITEM: Compliance Matters – Annual Financial Audits (Agenda Item C2)

Issue

El Centro for the Study of Primary and Secondary Education and Luz Academy of Tucson, Inc. have failed to timely submit their fiscal year 2015 annual financial audits and compliance questionnaires (“audit”) as required by A.R.S. §15-183(E)(6) and their July 2012 settlement agreements with the Board.

General Background – Audits

[A.R.S. §15-183.E.6](#) and [A.R.S. §15-914](#) require charter schools to annually submit a financial audit and compliance questionnaire. The audit is due 4-1/2 months after the end of the fiscal year – November 15th. Since November 15, 2015 fell on a Sunday, complete fiscal year 2015 audits received by November 16, 2015 were considered timely submitted.

El Centro for the Study of Primary and Secondary Education

As a result of the charter holder’s past failures to timely submit its annual audits, in July 2012, the Board approved a Settlement Agreement with El Centro for the Study of Primary and Secondary Education (“El Centro”). Under the Settlement Agreement’s terms, El Centro agreed to submit a complete fiscal year 2012 audit reporting package and all subsequent fiscal year audit reporting packages by the audit deadline. Pursuant to the Settlement Agreement, if El Centro fails to comply with the terms and conditions of the agreement, the Board, may, on no less than 30 calendar days notice, hold a hearing at which time the Board will receive information to determine whether evidence exists that El Centro failed to comply with the terms and conditions of the agreement. If the Board determines a breach of the agreement has occurred, the Board may revoke El Centro’s charter and terminate its charter contract.

The information below reflects El Centro’s audit history since the Settlement Agreement has been in place:

- Fiscal Year 2012 – Late
- Fiscal Year 2013 – On time
- Fiscal Year 2014 – Late
- Fiscal Year 2015 – Late (Not Yet Received)

Luz Academy of Tucson, Inc.

As a result of the charter holder’s past failures to timely submit its annual audits, in July 2012, the Board approved a Settlement Agreement with Luz Academy of Tucson, Inc. (“Luz Academy”). Under the Settlement Agreement’s terms, Luz Academy agreed to submit a complete fiscal year 2012 audit reporting package and all subsequent fiscal year audit reporting packages by the audit deadline. Pursuant to the Settlement Agreement, if Luz Academy fails to comply with the terms and conditions of the agreement, the Board, may, on no less than 30 calendar days notice, hold a hearing at which time the Board will receive information to determine whether evidence exists that Luz Academy failed to comply with the terms and conditions of the agreement. If the Board determines a breach of the agreement has occurred, the Board may revoke Luz Academy’s charter and terminate its charter contract.

The information below reflects Luz Academy’s audit history since the Settlement Agreement has been in place:

- Fiscal Year 2012 – Late
- Fiscal Year 2013 – On time
- Fiscal Year 2014 – Late
- Fiscal Year 2015 – Late (Not Yet Received)

Bankruptcy Filings

In April 2014, El Centro and Luz Academy filed for bankruptcy protection. The bankruptcy proceedings prevent the Board from taking action today to withhold 10% of El Centro's and Luz Academy's monthly state aid apportionment until the fiscal year 2015 audits are received.

Board Options

Option 1: The Board may acknowledge that the charter holders are not in compliance with state law and their charter contracts and that the Board would have withheld funding from the charter holders had the bankruptcy filings not prevented it. Staff recommends the following language for consideration: I move to find El Centro for the Study of Primary and Secondary Education and Luz Academy of Tucson, Inc. are in noncompliance with state law and their charter contracts for their failure to submit their fiscal year 2015 annual financial statement and compliance audits and for the record acknowledge that had the bankruptcy filings not prevented it, the Board would withhold 10% of the charter holders' monthly state aid apportionment until the fiscal year 2015 audits are submitted to the Board. Further, if complete fiscal year 2015 audits have not been received by December 1, 2015, I direct staff to place El Centro and Luz Academy on the Board's December 2015 agenda for the Board to consider whether to proceed to a hearing as allowed under the July 2012 settlement agreements.

Option 2: The Board may vote to hold a hearing to determine if a breach of the settlement agreements has occurred. The following language is provided for consideration: I move, under the terms of the July 2012 settlement agreements, that a hearing be held to determine whether evidence exists that *{INSERT CHARTER HOLDER NAMES}* failed to comply with the terms and conditions of their July 2012 settlement agreements. Pursuant to the settlement agreements, the hearing dates shall be scheduled at least 30 days after the charter operators receive notice of today's action.

- Within 48 hours of receipt of the Notice each charter operator shall notify staff and parents/guardians of registered students of the Notice and provide a school location where the copy may be reviewed;
- Within 20 days of receipt of the Notice each 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 each charter operator shall provide the Board with the names and mailing addresses of parents/guardians of all students registered with the school.

Option 3: The Board may decide to take no action at this time.