

**AGENDA ITEM: Compliance Matters – New Destiny Leadership Charter School**

**Issue**

In accordance with the Board’s [Policy Statement on Board Notification of Six Months of Non-compliance](#), staff is to bring charter holders having state equalization assistance withheld for failure to timely submit their annual financial statement and compliance audit 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, New Destiny Leadership Charter School has been placed on the agenda for the Board’s consideration for the charter holder’s failure to submit its fiscal year 2011 audit. In preparation for the January meeting, Board staff completed a full compliance check for New Destiny Leadership Charter School. The charter school is not performing at the Board’s level of adequate academic performance. No issues of operational noncompliance were identified.

**Annual Financial Statement and Compliance Audit Submission**

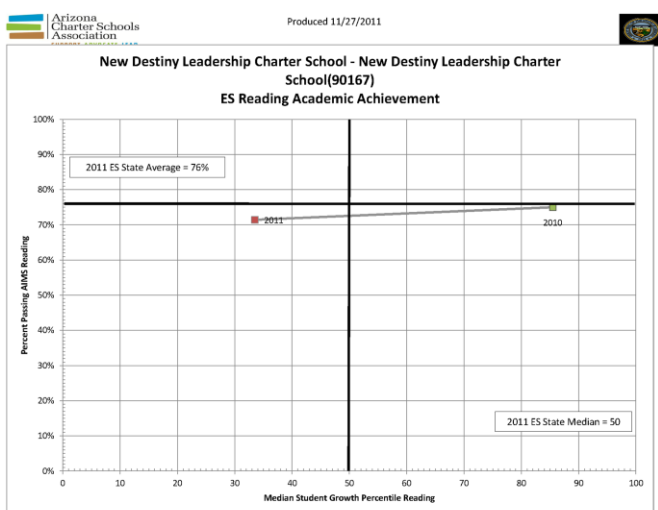
On November 21, 2011, the Board approved withholding 10 percent of New Destiny Leadership Charter School’s monthly state aid apportionment for failure to submit its fiscal year 2011 annual financial statement and compliance audit. On November 22<sup>nd</sup>, a letter describing the Board’s action was emailed to New Destiny Leadership Charter School. The November 22<sup>nd</sup> letter 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.”

Having reviewed the charter holder’s prior compliance with submitting its annual financial statement and compliance audit, Board staff found that New Destiny Leadership Charter School timely submitted its audit for fiscal year 2010, which was the charter holder’s first year of operation.

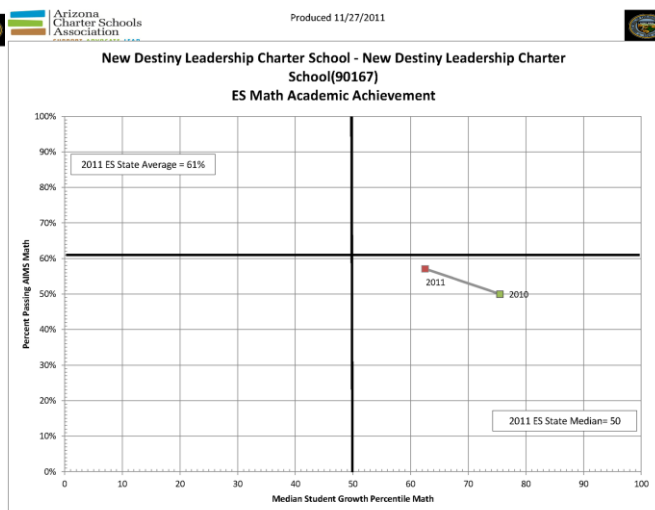
Based on information provided by the audit firm and charter holder, the audit for New Destiny Leadership Charter School is expected to be released during the week of January 9<sup>th</sup>.

**Compliance Check Results**

In preparation for the January meeting, Board staff completed a full compliance check for New Destiny Leadership Charter School. The graphs below are representations of the academic performance for New Destiny Leadership Charter School.



Note: This chart is based on data obtained from the ADE in Oct. 2011. Proficiency and growth percentiles are only reported for FAY students.



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In addition to reviewing the academic performance, the compliance check included determining whether the charter holder is:

- In compliance with special education, No Child Left Behind, federal grants, and Arizona State Retirement System requirements, as applicable; and
- In good standing with the Arizona Corporation Commission as required by the charter contract.

No issues of operational noncompliance were identified through the compliance check.

### **Board Options**

1. The Board may decide to take no further action at this time and direct staff to bring the matter back to the Board at its February 2011 meeting for further consideration should New Destiny Leadership Charter School still not have submitted its fiscal year 2011 annual financial statement and compliance audit. (Under this option, the current 10 percent withholding would continue until the fiscal year 2011 audit is submitted.)
2. Because the charter holder does not have a history of late audit submissions and work on the audit is progressing, Board staff is directed to bring the matter back to the Board at its February 2011 meeting for further consideration should New Destiny Leadership Charter School still not have submitted its fiscal year 2011 audit. Additionally, since charter schools were created to provide a learning environment where pupil achievement would improve and because the information available does not support that pupil achievement is improving at the school as measured with the Board's level of adequate academic performance, I move to find New Destiny Leadership Charter School is in noncompliance with state law and its charter contract for its failure to provide a learning environment that will improve pupil achievement in accordance with A.R.S. §15-181(A) and to add to the basis of the current 10% withholding of New Destiny Leadership Charter School's monthly State aid apportionment until compliance is demonstrated through the submission of a written rationale for the decrease in growth in reading from fiscal year 2010 to fiscal year 2011. At a minimum, the rationale must address why the decrease occurred and what improvement efforts have occurred.
3. The Board may vote to issue a Notice of Intent to Revoke the charter of New Destiny Leadership Charter School for failing to submit the fiscal year 2011 annual financial statement and compliance audit as required by A.R.S. §15-183(E)(6), A.R.S. §15-914 and the charter contract and failing to provide a learning environment that will improve pupil achievement in accordance with A.R.S. §15-181(A) and the charter contract. The motion should also require that:
  - Within 48 hours of receipt of the Notice the charter operator shall notify staff and parents/guardians of registered students of the Notice of Intent to Revoke and the Notice of Hearing and provide a school location where the copy may be reviewed;
  - Within 20 days of receipt of the Notice the 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 the charter operator shall provide the Board with the names and mailing addresses of parents/guardians of all students registered with the school.
4. The Board may choose to add to the basis of the 10% withholding (Option #2) and to issue a Notice of Intent to Revoke the charter holder's charter contract (Option #3).

### Staff's Recommendation

Staff's recommendation is Option 2.