
AGENDA ITEM: Compliance Matters – Civil Penalties

Issue

During a recent site visit, US Mental Math Federation Incorp was unable to provide evidence that all of its employees had been properly fingerprinted. In accordance with the Board’s [Policy Statement on Civil Penalties for Fingerprinting Violations](#) and in accordance with [A.R.S. §15-185.I](#), the Board must review all possible first time occurrences of violations of fingerprinting requirements and make the final determination as to whether each will count as a first time occurrence.

Background

On October 8th, staff conducted a 1st year site visit of US Mental Math Federation Incorp. As part of the 1st year site visit, staff confirms that all personnel have been appropriately background checked. The following deficiencies were identified:

- The school provided evidence that applications for fingerprint clearance cards had been submitted to DPS for two teachers, Chunling He and Alex Kolodin, but was unable to provide evidence of the issuance of valid fingerprint clearance cards.
- The school could not provided evidence that they had completed all of the steps necessary under the Emergency Hire requirements for the teachers without the valid cards.
- The school was unable to provide evidence of a background check conducted in accordance with A.R.S. §15-512 for Administrative Assistant, Alyssa Yingling.

At the time of the visit, a [“Notification of first time noncompliance with fingerprinting requirements under A.R.S. §15-185.I”](#) was provided to the school.

As of October 29, 2009, the school provided staff with copies of the fingerprint clearance cards issued by DPS for Chunling He and Alex Kolodin. The school also provided evidence of compliance with A.R.S. §15-512 for Alyssa Yingling.

Board Options

1. If the Board determines that this a) constitutes the first time that the charter school is out of compliance with the fingerprinting requirements and b) that the school provided timely proof of the required submissions, the motion should include: I move that the (*number*) occurrences, as they have been presented and documented in the Board materials and discussed, constitute US Mental Math Federation Incorp’s first time for civil penalty purposes under A.R.S. § 15-185.I. This motion is based on the following findings:
 - 1) US Mental Math Federation Incorp failed to comply with fingerprinting requirements prescribed in A.R.S. §15-183.C or A.R.S. §15-512.
 - 2) US Mental Math Federation Incorp provided proof within the required timeframe 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:
 - 3) Apprise US Mental Math Federation Incorp of the Board’s findings and decision in this matter; and
 - 4) 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.

2. If the Board determines that this a) constitutes the first time that the charter school is out of compliance with the fingerprinting requirements and b) that the school failed to provide timely proof of the required submissions, the motion should include: I move to impose a civil penalty of \$1,000 for each of the (number) occurrences as they have been presented and documented in the Board materials and discussed for a total civil penalty of \$XXXX. This motion is based on the following findings:
 - 1) US Mental Math Federation Incorp failed to comply with fingerprinting requirements prescribed in A.R.S. § 15-183(C) or A.R.S. § 15-512,
 - 2) that written notification was provided to the charter school as required by A.R.S. § 15-185(I),
 - 3) this is the first time for civil penalty purposes that the charter school is out of compliance with statutory fingerprinting requirements, and
 - 4) that the charter school failed to provide 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 the Charter Operator of the Board's findings and decision in this matter and its appeal rights under Arizona law;
 - 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; and
 - 3) timely request the Arizona Department of Education to reduce the amount of state aid that the charter school would otherwise receive by an amount equal to the civil penalty.
3. The Board may determine that a first time violation of A.R.S. §15-184.C or §15-512 has not occurred.

Staff's Recommendation

Staff's recommendation is Option #1.