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August 18, 2021

Dear ARTEC/ARTEI Board of Directors,

The Office of the State Board of Education (OSBE) and the State Department of Education (SDE) were informed earlier this year that ARTEC and ARTEI (ARTEC/ARTEI) had reported attendance and enrollment data in a manner that did not conform to Idaho law. Since that time, staff of OSBE, SDE, and the Division of Career Technical Education (IDCTE), have met with the ARTEC/ARTEI Board of Directors, the President of the ARTEC/ARTEI Board of Directors, and the staff for ARTEC/ARTEI to help ARTEC/ARTEI come into compliance with Idaho law. At a meeting held on August 11, 2021, in Boise between ARTEC/ARTEI's staff, board member, and legal counsel; OSBE staff and legal counsel; SDE staff and legal counsel; and Representative Lance Clow, ARTEC/ARTEI requested a list of compliance issues with corresponding statutes and rules. This letter details the compliance issues discovered by OSBE and SDE to date in response to ARTEC/ARTEI's request. It is possible that there are additional compliance issues which have not yet come to light. In general, charter schools, such as ARTEC/ARTEI, must be in compliance with all provisions in chapter 52, title 33, Idaho Code; IDAPA 08.02.04; and other state laws that apply to all public schools to operate as a public charter school in Idaho.

School Enrollment: Idaho Code § 33-202 only authorizes a parent or guardian to enroll a student in a public school or public charter school. Further, only a "parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child in this state, may make a request in writing for such child to attend a public charter school." IDAPA 08.02.04.203(4). There is no statutory authorization for a school district or public charter school to enroll a student in a public charter school without parental consent. Idaho Code § 33-203 authorizes the parent or guardian of a student to dual enroll the student in a public school and a public charter school. However, Idaho Code § 33-5206(5) provides that "[n]o board of trustees shall require any student enrolled in the school district to attend a public charter school." Each public charter school is required to have an admissions and application process for enrollment of students. *See Idaho Code § 33-5206(11)* This process typically includes notification to parents and students of rights regarding school data, vaccinations, and school consent forms. IDAPA 08.02.04.203.03 requires public charter schools to "establish an enrollment admissions deadline, which shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received" and mandates that the enrollment deadline not be changed once the enrollment information is disseminated. Only students who have been enrolled by the parents or guardians in writing prior to the start of the school year may be included in student enrollments. IDAPA 08.02.04.203.04; *see Idaho Code § 33-5206(11)(a)*. ARTEC/ARTEI have not provided any documentation verifying any students have been enrolled at ARTEC/ARTEI.

Daily Attendance Reporting: Only attendance for enrolled students may be reported for purposes of obtaining state funding. See Idaho Code §§ 33-1001(4), -1002. If a student is enrolled in only one local education agency (LEA), that LEA would report all of the student's attendance and courses. If a student were primarily enrolled in one LEA, and dual enrolled at another LEA (e.g., ARTEC/ARTEI), each LEA would report enrollment, but would only be credited for purposes of state funding to the extent of the student's participation in the LEA's programs. Idaho Code § 33-203(3). Such data must be reported based on the half-day (not less than 2.5 hours) or full-day (not less than 4 hours) requirements established in IDAPA 08.02.01.250. Further, Idaho Code § 33-5215(4) requires that a career technical regional public charter school "provide assurances in state attendance reports that it has verified attendance reports, which generate ADA with its participating school districts, to make certain that the districts and the charter school do not duplicate enrollment or ADA claims." ARTEC/ARTEI have reported students as attending for a half day even if the students' participation in the program was for less than 2.5 hours.

Staff Reporting: Only staff hired and compensated by ARTEC/ARTEI may be reported as ARTEC/ARTEI staff. See Idaho Code § 33-1004(6)(e). *But see* Idaho Code § 33-1004(6)(a) (public schools may count contracted non district employees to offset funding that would be lost under Idaho Code § 33-1004(2); however, Idaho Code § 33-5208(6) exempts public charter schools from provisions of Idaho Code § 33-1004 related to offsetting funding that would be lost under Idaho Code § 33-1004(2)). Staff contracting requirements are set forth in Idaho Code § 33-515. Idaho Code § 33-5215(3)(a) authorizes a career technical regional public charter school to use its salary-based apportionment to contract for services or to directly hire staff; however, only staff hired and contracted (when applicable) by the school may be reported as employees of the school. See Idaho Code § 33-1004(6)(e). ARTEC/ARTEI have reported staff who were not employed by ARTEC/ARTEI. ARTEC/ARTEI may contract for services and those services could include instructors, however, contracted services cannot be reported as hired staff.

CTE Course Reporting: Only career technical education (CTE) programs approved by IDCTE may be reported as being provided by ARTEC/ARTEI. See Idaho Code § 33-1002G; IDAPA 55.01.03. No documentation has been discovered or provided which would indicate that ARTEC/ARTEI have requested or received approval of any CTE courses or programs. School districts with which ARTEC/ARTEI are associated have received approval for the CTE programs and courses which they are delivering with their employed staff. ISEE reporting requirements provide that courses that are delivered through another public school must be reported as delivered off site by the public school providing the course (e.g. facilities and staff).

Public Charter School Requirements: ARTEC/ARTEI must meet all of the statutory requirements governing charter schools as established in chapter 52, title 33, and IDAPA 08.02.04, Rules Governing Charter Schools. In particular, Idaho Code § 33-5208(5) allows a public charter school to receive facility funds "for each enrolled student in which a majority of the student's instruction is received at a facility that is owned or leased by the public charter school. Such funds shall be used to defray the purchase, fee, loan or lease costs associated with payments for real property used by the students or employees of the public charter school for educational or administrative purposes." SDE records show ARTEC and ARTEI both submitted reimbursement requests for facilities for FY21. However, as noted above, ARTEC/ARTEI have not provided any documentation verifying that they have any enrolled students, much less costs for real property used by students or employees for educational or administrative purposes. Additionally, Idaho Code § 33-5205B requires each public charter school to execute a valid performance certificate to operate as a public charter school. Neither ARTEC nor ARTEI appear to have a valid performance certificate.

Career Technical Regional Public Charter School: ARTEC/ARTEI's website states, "ARTEC Regional Professional Technical Charter School (ARTEC RPTCS) is a regional professional-technical charter school." Idaho Code § 33-5202A(8) defines a career technical regional public charter school as "a public charter secondary school authorized under this chapter to provide programs in career technical education that meet the standards and qualifications established by the division of career technical education." No documentation has been provided that would indicate that ARTEC's charter was reviewed by IDCTE as required by Idaho Code § 33-5215(3). An email chain was found indicating ARTEI was reviewed by IDCTE, and the charter was not supported.

Data Reporting: As explained in detail above, in order for a public charter school to receive the appropriated funds as ARTEC/ARTEI has received, the school must have enrolled students, accurately report attendance data, only report CTE courses and programs approved by IDCTE which it offers, have costs for real property used by students or employees for educational or administrative purposes, and either contract for the services of certificated and noncertificated personnel or hire staff to provide those courses. Based on records reviewed and numerous meetings between SDE, OSBE, IDCTE and ARTEC/ARTEI representatives, it does not appear that ARTEC/ARTEI have received approval for CTE courses, incurred costs for real property used by students or employees for educational or administrative purposes, enrolled students, or hired or contracted for staff to teach CTE courses. The high schools at which students are taking CTE classes have enrolled those students in their CTE programs. Those high schools have obtained approval of the CTE classes and programs. Those schools have hired the staff teaching the courses. The CTE courses are taught in the facilities of those high schools. Idaho Code § 33-1009 provides "[a]ny apportionments in any year, made to any school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding additions to apportionments to any school district to which under-apportionments may have been made or received." At this time, OSBE and SDE are requesting that ARTEC/ARTEI resubmit its data reported to the state for FY21 in accordance with applicable state law. Further state funding will not be distributed until such data corrections have been verified. Once such data corrections are verified, funding for FY22 and beyond will be reduced based on the corrected data by the amount of the over-apportionments received by ARTEC/ARTEI for FY21.

Minimum requirements that would need to be met for ARTEC/ARTEI to continue as a charter school during the 2021-2022 school year:

Correct reported data and comply will all data reporting requirements moving forward.

- Enrollment data – only report attendance and course information for properly enrolled students.
- Attendance data – only report attendance based on 2 ½ hours or 4 or more hours of actual instruction provided by the applicable charter school.
- Course data – properly report courses offered at the charter schools as on-site courses and only report as offering CTE courses/programs that have been approved by the Division of Career Technical Education.
- Staff data – only report as staff (certificated or classified) that have been hired by the charter school and hold the applicable certificated staff contracts with the charter school. Staff included as part of a professional services contract or service contract cannot be reported as direct hires of either charter school.
- Facilities data – only report costs for real property used by students or employees for educational or administrative purposes.

Charter Schools have a number of state transparency requirements where information must be posted on the individual schools or districts website. All required information must be posted, examples include:

- School Budget (Idaho Code § 33-357) – Year posted 2018-2019
- Revenues and Expenditures; supporting contracts and performance reports, master labor agreements (Idaho Code § 33-357) – redirects to Minidoka SD information – 2018-2019 most recent posted data
- Current copy of policies governing data collection, access, security and use (Idaho Code § 33-133) – website redirects to Minidoka SD data policy not ARTEC or ARTEI’s policy.
- Annual performance report (Idaho Code § 33-5209C)
- School Accountability Report Card (federal requirement)
- Admission and enrollment requirements and timelines (IDAPA 08.02.04.203)

Submit to the State Department of Education

- School calendar reflecting the days in session for the school year and required minimum instructional hours. (Idaho Code § 33-512 and IDAPA 08.02.01.250)

Compliance with all other provisions in chapter 52, title 33, Idaho Code; IDAPA 08.02.04; and other state laws and administrative rules that apply to all public schools.

OSBE and SDE staff collaborated in the drafting of this letter and are united in the approach stated in the letter to addressing ARTEC/ARTEI’s compliance issues. OSBE and SDE appreciate ARTEC/ARTEI’s willingness to work with OSBE and SDE staff to address these issues.

Sincerely,



Matt Freeman
Executive Director

Cc: Sherri Ybarra, State Superintendent of Public Instruction
Chairman Lance Clow, House Education Committee
Dr. Joel Wilson, Deputy Superintendent of Operations, Idaho Department of Education
Dr. Clay Long, Administrator, Idaho Division of Career Technical Education