

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF OSCEOLA COUNTY ACADEMIES OF EXCELLENCE MIDDLE SCHOOL
APPLICATION DENIAL

APPLICANT: ACADEMIES OF EXCELLENCE, INC. D/B/A OSCEOLA COUNTY ACADEMIES OF
EXCELLENCE MIDDLE SCHOOL

SCHOOL BOARD: THE SCHOOL BOARD OF OSCEOLA COUNTY, FLORIDA

INTRODUCTION

On October 21, 2003, The School Board for the School District of Osceola County (hereinafter "School Board") voted to deny the application for Osceola County Academies of Excellence Middle School (hereinafter "Charter Application") made by Academies of Excellence, Inc. (hereinafter "Applicant"). Written notice of denial was provided to the Applicant in a letter dated October 28, 2003 (hereinafter "Denial Letter"). The Applicant filed an undated appeal of the application denial to the State Board of Education (hereinafter "Notice of Appeal") and the School Board filed a response to the Notice of Appeal with the State Board of Education on January 6, 2004 (hereinafter "Appeal Response").

There are three issues in dispute. Based upon the available evidence presented by the parties, the following is a summary of the research findings in relation to the issues raised.

ISSUE ONE:

WHETHER APPLICANT FILED ITS APPEAL IN A TIMELY MANNER

- The Appeal Response states, and provides United States Postal Service receipts that the Applicant received the Denial Letter on October 30, 2003.
- The Appeal Response states that the Applicant filed the Notice of Appeal to the State Board of Education on December 8, 2003.
- Applicant filed an undated appeal with the Department of Education which was received on December 8, 2003.
- Applicant presented no evidence to show that its Charter Application was filed in a timely manner, as required by F.S. §1002.33(6)(c).
- The pertinent part of F.S. §1002.33(6)(c) states:

“An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the district school board's decision or failure to act and shall notify the district school board of its appeal.”

ISSUE TWO:

WHETHER AN APPEAL THAT IS NOT FILED WITHIN 30 DAYS OF THE NOTICE OF DENIAL BY THE SCHOOL BOARD SHOULD BE DENIED FOR A FAILURE TO TIMELY FILE

- In the School Board's Appeal Response it states that the State Board of Education must reject the appeal as it was submitted after the statutory deadline had passed.

- The pertinent part of F.S. §1002.33(6)(c) states:

“The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements of State Board of Education rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the district school board’s denial of the charter application” (emphasis added).

ISSUE THREE:

WHETHER THE SCHOOL BOARD MAY DENY APPLICANT’S CHARTER APPLICATION BASED ON PERCEIVED INADEQUATE CHARTER SCHOOL FUNDING BY THE STATE OF FLORIDA.

- The School Board determined that present levels of state funding for capital expenses were inadequate to meet the needs of the already existing charter schools in Osceola County.
- The School Board asserts that under Florida Law it has the authority to operate, control and supervise all public schools, which the School Board determines also includes all charter schools, within its school district. That authority permits the School Board to exercise any power, except those specifically prohibited by the State of Florida’s Constitution or general law, for the improvement of its school district in carrying out the objectives of the Education Code.
- The School Board states that in reviewing Applicant’s charter application, it must look at the effect of a new charter school within its district on all of the other public schools in its district.
- The School Board argues that approving the applications for any additional charter schools would further dilute and reduce the amount of capital funds available per school in its district, and would then force all of the charter schools within the district to spend operating funds for capital expenses thus threatening their financial viability.
- The School Board determined that the expenditure of operating funds for capital expenditures was not in the best interests of the students of Osceola County.
- The School Board provides no other basis for denial in its Denial Letter dated October 28, 2003.

- The Appeal Response states that Applicant received a score of 51.1 out of a possible 60 on the School Board's Charter Application Rating Form. There is no indication in the filing whether this is a "passing" score.