

STATE BOARD OF EDUCATION

May 18, 2004

SUBJECT: Charter School Appeal Commission Recommendations

PROPOSED BOARD ACTION

Approve the recommendations of the Charter School Appeal Commission related to the review of appeals heard on April 23, 2004.

AUTHORITY FOR STATE BOARD ACTION

Section 1002.33, Florida Statutes, requires the Charter School Appeal Commission to make written recommendations to the State Board of Education to accept or reject the decision of a district school board to deny a charter school application.

BACKGROUND INFORMATION

The Charter School Appeal Commission was created pursuant to s. 1002.33(6), Florida Statutes, to assist the Commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charters have been denied or whose charter contracts have not been renewed by their sponsors.

The Commission is responsible for providing a "written recommendation" to the Commissioner of Education stating whether the appeal should be upheld or denied and including the reasons for the recommendation being offered. The State Board must consider the Commission's recommendation but is not bound by the recommendation. By majority vote, the State Board must accept or reject the decision of the district school board no later than 90 calendar days after an appeal is filed.

The State Board must remand the application to the school board with its written decision that the school board approve or deny the application. The school board must implement the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review.

The Charter School Appeal Commission met on April 23, 2004, to consider two charter school appeals filed during 2003 and 2004, and has since provided its recommendations to the Commissioner of Education (attached). The following statements summarize the actions taken relative to each of the appeals:

Appeal Commission Recommends Denying the Charter School Appeal (i.e., accept the school board decision)

- Sunshine Academy for Positive Learning v. Orange County (final vote: 9:0)
Commission decision: The district DID NOT violate statutory requirements under Section 1002.33(6), Florida Statutes, during the review and denial of the Applicant's charter application.

Appeal Commission Recommends Granting the Charter School Appeal (i.e., deny the school board decision)

- Kreative Kids Youth Foundation, Inc. v. Duval County (final vote: 10:0)
Commission decision: The School Board's failure to provide 90 day notice in violation of the statute prejudiced the charter school in a way that required overturning the district's denial of the renewal application. The Commission decided that the above referenced violation prevented them from being able to fairly evaluate the district's "good cause" reasons for denial.

Supporting Documentation Included: Recommendation letter to Commissioner Horne from the Charter School Appeal Commission; and Technical Assistance Papers for considered appeals.

Facilitators/Presenters: Michael Kooi, Assistant General Counsel

Dr. Kim McDougal, Commissioner's Designee as Chair
Charter School Appeal Commission

Dr. Theresa Klebacha, Executive Director
Office of Independent Education and Parental Choice