

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF FLAGLER ACADEMIES OF EXCELLENCE HIGH SCHOOL
APPLICATION DENIAL

January 25, 2005

APPLICANT: FLAGLER ACADEMIES OF EXCELLENCE, INC

SCHOOL BOARD: FLAGLER COUNTY SCHOOL BOARD

INTRODUCTION

On October 19, 2004, the School Board for the School District of Flagler County (hereinafter "School Board") voted to deny the charter application for Flagler High School (hereinafter "Charter Application") made by Academies of Excellence, Inc. (hereinafter "Applicant"). Written notice of the denial was provided to the Applicant in a letter dated October 20, 2004 (hereinafter "Letter of Denial"). Applicant filed an appeal of the application denial to the State Board of Education on November 18, 2004 (hereinafter "Notice of Appeal"). The School Board filed a Response to the Notice of Appeal on December 20, 2004 (hereinafter "Appeal Response").

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 SCHOOL BOARD FAILED TO PROVIDE WRITTEN SPECIFIC REASONS FOR AND APPROPRIATE NOTICE OF DENIAL OF CHARTER APPLICATION, AS REQUIRED BY FLORIDA STATUTE §1002.33(6)(b)(3).

- School Board's Letter of Denial provided to Applicant was a single sentence paragraph stating solely that "this letter will serve to notify the Academies.....that the application.....was deniedon October 19, 2004. An attachment was noted but apparently not transmitted with the Letter of Denial. No other information is provided.
- In its Notice of Appeal, Applicant, citing School Board's Letter of Denial, argues that the letter is generic, does not contain specific reasons for denial and is wholly insufficient under Florida law.
- In its Notice of Appeal, Applicant states that it was copied on a letter from School Board sent to the Florida Department of Education, notifying FDOE of the denial (Applicant Exhibit 3), stating "Denial was based upon a thorough review of the application by a committee of reviewers. I have attached a summary for your information." The "review summary" referenced was not enclosed with the Applicant's copy of this letter. Applicant states it has not received a copy, after two separate requests, as of the Notice of Appeal.
- In its Notice of Appeal, Applicant argues that School Board's Charter Application Review Form is incomplete, and, therefore, is insufficient notice under Florida law. Applicant states that the document delineates guidelines for the Education Plan, Business Plan and Governance Plan sections of the application, and appears to assign a numerical rating system for the evaluation of each of the areas, but contains no explanation of the rating system. Applicant cites evidence that no explanatory information is where it could be expected. (Applicant Exhibit 4)

- In its Appeal Response, School Board argues that it sufficiently notified Applicant that Charter Application was denied, claiming:
 1. The law does not specify the form of written notice, nor does the DOE require any particular format.
 2. A copy of Letter of Denial was sent to DOE, explicitly incorporating the review summary as the good cause reason for denial, with a copy to Applicant who disputes receipt.
 3. Applicant had a copy of the review summary detailing the reasons for denial as evidenced by Exhibit 4 in the Appellant's Notice of Appeal.
 4. Applicant had the transcript of the entire School Board Meeting proceedings, specifying word-for-word what School Board members found based upon the evidence presented.

- In its Appeal Response, School Board argues that its staff used an application review form developed from DOE criteria and benchmarks. School Board further states that the form, and the scoring contained therein, was discussed at a meeting of the parties on October 7, 2004. Additionally, School Board states that the final version of the review summary provided to DOE with copies to Applicant (rather than the working draft provided by Applicant as Exhibit 4) is complete and contains the information sought by Applicant as appropriate notice.

- Florida Statute §1002.33(6)(b) provides, in pertinent part:

“3....If an application is denied, the district school board shall, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the charter application.” [emphasis added]

ISSUE TWO:

WHETHER SCHOOL BOARD HAD COMPETENT, SUBSTANTIAL EVIDENCE TO SUPPORT ITS DENIAL OF CHARTER APPLICATION, CONSISTENT WITH FLORIDA LAW.

- School Board's Application Review Forms show that on a scale of "1" to "4" Applicant's Charter Application received a score of "1" (fails to meet standards for minimal acceptance) in :
 - 1) Academic Design
 - 2) ESE/ESOL Education Plan
 - 3) Finances
 - 4) Facilities
 - 5) Audit and Accountability
 - 6) Recruiting and Marketing

- 7) Transportation
- 8) Governance and Management. (Applicant Exhibit 4)
[See matrices in appeal and appeal response for details]

- In its Notice of Appeal, Applicant argues that School Board’s denial was not based on good cause. Applicant states that every section of the Charter Application meets or exceeds the requirements set forth in charter law, including DOE’s own “Standard Application Format.” (Applicant Exhibit 5) Those standards describe necessary elements of and review criteria for charter applications. While stating that School Board’s Review forms are inadequate notice of grounds of denial, Applicant provides a response to each of the School Board’s “scores” in matrix form.
- In its Appeal Response, School Board argues that it had good cause to deny Charter Application, “as nearly every section of the application was deficient and lacking in information required under State guidelines.” School Board replies to each of Applicant’s responses, also in matrix form, to conclude that there was competent, sufficient and substantial evidence on which to base their denial, citing, as well, staff’s application review, comments, ratings and summaries. (School Board Exhibit 1)