

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF LIFE SKILLS CENTER POLK COUNTY, INC.
APPLICATION DENIAL

January 25, 2005

APPLICANT: LIFE SKILLS CENTER POLK COUNTY, INC.
SCHOOL BOARD: THE SCHOOL BOARD OF POLK COUNTY

INTRODUCTION

On October 26, 2004, The Polk County School Board (hereinafter “School Board”) voted to deny the charter application for the Polk Life Skills Center (hereinafter “Charter Application”) made by Life Skills Center Polk County, Inc. (hereinafter Applicant). Written notice of denial was provided to the Applicant in a letter dated November 5, 2004 (hereinafter “Denial Letter”). Applicant filed an appeal of the application denial (hereinafter “Notice of Appeal”) to the State Board of Education, which was received on December 2, 2004. The School Board filed a Response to the Notice of Appeal which was received on January 12, 2005.

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 THE SCHOOL BOARD’S APPEAL RESPONSE SHOULD BE STRUCK AS UNTIMELY.

- The pertinent part of Florida Statute §1002.33(6)(c) states:

“Any response of the district school board shall be submitted to the State Board of Education no later than 30 calendar days after the notification of Appeal.”

- The findings show that School Board filed its Response with the State Board of Education on January 12, forty-one (41) days by the calendar after Applicant filed its Notice of Appeal with the State Board of Education, December 2, 2004.
- School Board contends that it did not receive the appeal until December 14, 2004.

ISSUE TWO:

WHETHER THE SCHOOL BOARD’S DENIAL OF THE CHARTER APPLICATION, BASED UPON A CONCERN THAT THE SCHOOL’S STUDENT POPULATION COULD NOT MEET THE STANDARDS OF FLORIDA’S A+ GRADING SYSTEM, IS STATUTORY GOOD CAUSE FOR DENIAL UNDER FLORIDA STATUTE §1002.33(6)(b)(3).

- On August 23, 2004, Applicant submitted a Charter Application to the School Board proposing a school for at-risk high school students who had already dropped out of school.
- At a School Board Meeting on October 26, 2004, concerns were raised by Board members regarding the approval of a charter school that they believed probably would receive an “F” under the State public grading system, because the students

served are former dropouts. Board members also expressed concern that more than one “F” could cause the school to close. The Board then voted to deny the Charter Application.

- As evidenced by the School Board Meeting transcript (Applicant Exhibit C), several Board members at the October 26, 2004, School Board Meeting spoke in support of the Applicant’s Charter Application; however, they stated their intention to deny the Application based on a concern that the school’s students could not meet the rigorous standards of the Florida A+ grading system.
- School Board, at the October 26, 2004, meeting, encouraged Applicant to appeal the application denial. (Applicant Exhibit C)
- The School Board sent a letter dated November 5, 2004 notifying the Applicant of its decision to deny the Charter Application, attaching Desegregation Oversight Advisory Committee and Charter School Proposal Review Committee recommendations.
- In its Notice of Appeal, Applicant argues that it has provided a thorough Charter Application, based on a proven program, and that the Charter Application was not rejected based upon the Applicant’s failure to satisfy all criteria in the statute. Applicant asserts:
 - (1) The School Board denied the application because it presumed, without any evidence, that the school would not earn points sufficient to score a high grade under Florida’s A+ Plan.
 - (2) Statistics from the Applicant’s nationwide programs demonstrate the program’s academic success, with 65% of their graduates currently enrolled in colleges or universities.
 - (3) “Denial cannot be based on speculative or unrelated grounds but must rest firmly on an applicant’s inability or unwillingness to meet the strict statutory requirements for charter approval.
- In its Appeal Response, the School Board states that alternative education programs targeting at-risk students are graded under the A+ plan, using the same evaluative process as traditional schools. The School Board argues that based upon the goals and objectives contained in the Charter Application (Applicant Exhibit A), “it is statistically improbable that the proposed school will receive anything other than a grade of “F” during its first two years.”
- In its response, School Board presents as evidence historical student performance data from several schools with at-risk student populations, which they cite as a benchmark for the level of performance to be expected from the Applicant’s target student population. (School Board Exhibit A)

- Florida Statute §1002.33(2) provides in, in pertinent part:

“(b) Charter schools shall fulfill the following principles:

- (1) Improve student learning and academic achievement.
- (2) Increase learning opportunities for all students, with special emphasis on low-performing students and reading.
- (3) Increase learning opportunities for all students, with special emphasis on low performing students and reading.”

- Florida Statute §1002.33(10) provides, in pertinent part:

“(e) A charter school may limit the enrollment process only to target the following student populations:

- (2) Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.”

ISSUE THREE:

WHETHER THE SCHOOL BOARD’S DENIAL OF THE CHARTER APPLICATION BASED UPON CONCERNS RELATING TO INADEQUATE TRANSPORTATION AND TRANSPORTATION FUNDING IS STATUTORY GOOD CAUSE FOR DENIAL UNDER FLORIDA STATUTE §1002.33(20)(c).

- In its Denial Letter, School Board argues that “according to the Charter Application, students who reside within a radius of one to three miles of the school will be transported and it appears that FTE transportation dollars will be collected for these students.” School Board asserts that students transported from 1 to 2 miles are not fundable and would be considered courtesy riders which, in turn, would reduce the average bus occupancy for the district as a whole, resulting in decreased funding for the district schools and other charter schools.
- In the Notice of Appeal, Applicant states that nowhere in the Charter Application does it assert or imply that it intends to collect FTE monies for the transportation of students from less than two miles away and that no FTE funds were budgeted for use in transporting such students. Applicant states that it has allocated \$12,000 out of its own capital to fund bus passes and other transportation costs for those students, as contained in the October 13, 2004, response to questions raised by the Charter School Review Committee.

- Applicant also states that the demographics of its students include student parents, pregnant students, and students with disabilities for whom transportation is a related service on their IEP. All such students seeking transportation, whether they live less than two miles away or not, would be eligible for transportation funding.
- Applicant argues School Board has put misplaced emphasis on the collection of FTE monies, and that “the statute does not authorize the School Board to even consider FTE monies, except as part of a comprehensive budget, and if, as here, the Applicant is not relying on certain FTE monies in its budget (and the budget is acceptable, as it was here), concerns over whether or not the Applicant (or anyone else) will receive that money is not a basis for denial.”
- In its Appeal Response, the School Board states that it is a matter of law that students living within a two-mile radius of the school will not be funded for transportation, absent extenuating circumstances. Applicant argues that if it proposes to transport students living closer than two miles, and intends to collect funding for these students, School Board’s concern is valid. If, as Applicant asserts, funds are not collected for transporting those students, School Board states that this is not an issue.
- Florida Statute §1002.33(20)(c) provides, in pertinent part:

“(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of subpart I.E. of chapter 1006 and s.1012.45. The charter school and the sponsor shall cooperate in making arrangements that ensure the transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined by the charter.”
- Florida Statute §1011.68 provides the formula and guidelines for awarding state funds for transportation of public school children, including charter school children. Allocation is made for students who live two miles or more from the school and certain others who fall within one of the distance exceptions, such as student parents, pregnant students, students with disabilities or those enrolled in a teenage parent program, students whose Individual Education Plan (IEP) stipulates attendance, among others.
- Florida Statute §1002.33(17) provides, in pertinent part:

“Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or special program, the same as students enrolled in other public schools in the school district.”
- Florida Statute §1002.33(17)(b) provides, in part:

“Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation.”

- In its Letter of Denial, School Board states the Applicant’s defined three-mile transportation zone is inadequate when compared to the transportation zones for other high schools in Polk County.
- In its Notice of Appeal, Applicant argues that School Board’s assertion that the proposed 3-mile radius school transportation zone is “inadequate” when compared to transportation zones for other Polk County high schools, is not a valid ground for denial. Further, the issue was not raised at the October 26, 2004 School Board meeting.
- In its Appeal Response, School Board continues to assert that the three-mile transportation radius is inadequate. School Board reiterates that traditional Polk County high school transportation zones extend far beyond this distance and states that the Charter Application lacks substantial evidence that the school would have any realistic hope of recruiting the number of students to serve within the three-mile radius.