

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF VOLUSIA ACADEMIES OF EXCELLENCE ELEMENTARY SCHOOL
APPLICATION DENIAL

January 25, 2005

APPLICANT: ACADEMIES OF EXCELLENCE, INC.

SCHOOL BOARD: THE SCHOOL BOARD OF VOLUSIA COUNTY

INTRODUCTION

On October 26, 2004, School Board of Volusia County (hereinafter “School Board”) voted to deny the Charter Application for Volusia Elementary School (hereinafter “Charter Application”) made by Academies of Excellence, Inc. (hereinafter “Applicant”). Written notice of denial was provided to Applicant in a letter dated November 8, 2004 and received on November 10, 2004 (hereinafter “Letter of Denial”). Applicant filed an appeal of the application denial to the State Board of Education on December 9, 2004 (hereinafter “Notice of Appeal”). School Board filed a Response to the Notice of Appeal on January 11, 2005 (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 GOOD CAUSE REASONS FOR DENIAL IN A TIMELY MANNER, AS REQUIRED BY FLORIDA STATUTE §1002.33(6)(b)(3).

- In its Notice of Appeal, Applicant argues that School Board failed to provide it with written notice of denial of Charter Application within ten (10) calendar days. Applicant further asserts that Letter of Denial did not include certain documents referenced in School Board’s denial, and criticisms included in the referenced documents were not part of the written denial. Applicant alleges violation of charter law and denial of Applicant’s rights to procedural due process, as provided under Florida law.
- School Board’s Letter of Denial was dated November 8, 2004, thirteen (13) calendar days after the October 26, 2004 School Board meeting at which Applicant’s Charter Application was denied. (Applicant Exhibit 3)
- In its Appeal Response, School Board points to an offer made in June to assist Applicant in developing a satisfactory Charter Application. School Board also references a workshop on October 12, 2004, at which School Board discussed with Applicant concerns about deficiencies in Charter Application. School Board further states that Applicant was provided an articulation in writing of the specific reasons, based on good cause supporting the denial, at a hearing on October 26, 2004, in the form of DOE approved *Charter School Criteria Standards and Review Process* document, otherwise known as the “Rubric,” which was made a part of the record and extensively discussed. School Board states that this articulation was commented on by counsel for Applicant at the October 26, 2004 hearing. School Board argues that the written Rubric, at a minimum, is sufficient to comply with the requirements of Florida Statute §1002.33(6)(b)(3) and

procedural due process. A delay of three days to provide voluntarily a written verbatim transcript and further written documentation of the bases for denial caused no prejudice or harm to Applicant.. School Board does not respond to concerns about documents referenced but not transmitted with Letter of Denial.

- Florida Statute §1002.33(6)(b)(3) provides, in pertinent part:

“ (b)(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’S DENIAL OF APPLICANT’S CHARTER APPLICATION BASED UPON “STYLISTIC CRITICISMS” IS CONSISTENT WITH STATUTORY REQUIREMENTS, UNDER FLORIDA STATUTE §1002.33(6)(b)(3).

- In its Letter of Denial, School Board states that the submission of Applicant’s Charter Application with a high number of errors and conflicting information indicates a substantial problem in Applicant’s planning process, and raises serious questions as to the ability of Applicant to successfully operate the school.
- In its Notice of Appeal, Applicant states that School Board’s denial of Charter Application based upon the document being a “cut and paste exercise,” full of typographical and grammatical errors, bears no relationship to the substance of Charter Application. Applicant argues that the typographical and grammatical errors neither void nor invalidate the substance of the document. Applicant asserts that the substance of Charter Application meets or exceeds all statutory standards for a charter application. In addition, Applicant points out that School Board’s Letter of Denial contains the same types of errors for which Applicant has been criticized.
- In its Appeal Response, School Board asserts Charter Application was filled with a litany of errors. School Board asserts that while it did not rely exclusively on these errors to establish good cause for the denial of Charter Application, the serious omissions and internal inconsistencies, which go to the substance and heart of the document, raise serious questions about Applicant’s planning and operational capabilities, thus establishing good cause for denial.

ISSUE THREE

WHETHER SCHOOL BOARD'S DENIAL OF CHARTER APPLICATION WAS BASED UPON GOOD CAUSE, AS REQUIRED BY FLORIDA STATUTE §1002.33(6)(b)(3).

- In its Letter of Denial, School Board explains its use of state approved rubric and guidelines for its review of Charter Application, finding that on a rating scale of “1 to 4, ”Charter Application received a score of “1” (fails to meet the standards for minimal acceptance) in the following areas:
 - 1) ESE Program
 - 2) Student Assessment/Accountability Design
 - 3) Application Group and Management Team
 - 4) School Governance
 - 5) Length of Charter and Implementation Timetable
 - 6) Planning and Establishment
 - 7) Facilities
 - 8) Finances
 - 9) Human Resource Information
 - 10) Transportation.

School Board states these findings as good cause basis for denial of Charter Application.

- 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 and the DOE approved “Standard Application Format” (Applicant Exhibit 4), which expands upon application requirements and standards of review. Applicant further states that many of School Board’s comments bear no relationship to the standards for review provided by Florida law and the Florida Department of Education, and other criticisms offered “ignore the substance of the Charter Application or are based on conjecture (such as some of the financial assumptions).” Applicant provides specific responses in matrix format.
- In its Notice of Appeal, Applicant has provided responses, in a matrix format, to School Board’s assertions in each of these areas.
- In its Appeal Response, School Board argues that it had good cause to deny Charter Application based upon the results of an informed evaluation, supported by a DOE approved Rubric scoring each area, supported by explanations and reviewed by professionals in the areas of school finance, law and curriculum. This evaluation identified a multitude of deficiencies resulting in Charter Application receiving a score of “1” (failed to meet standards for minimal acceptance) in ten areas. School Board has addressed the relevant and substantial grounds which constitute good cause for denial. The basis of School Board’s

denial is those areas with a score of “1,” as set out in the transcript of the October 26, 2004, proceedings and the Letter of Denial.

- Florida Statute § 1002.33(2) sets forth guiding principles for charter schools.
- Florida Statute §1002.33(6)(a) sets forth the requirements of an application.
- Florida Statute §1002.33(7) provides requirements for the charter and criteria for approval of the charter and, in pertinent part:

The major issues involving the operation of a charter school shall be considered in advance.....[requirements follow in paragraphs (1)-(16)]

- Florida Statute §1002.33(9) provides charter school requirements.