

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

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

February 24, 2005

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

INTRODUCTION

On November 16, 2004, the Hillsborough County School Board (hereinafter “School Board”) voted to deny the charter application for the Hillsborough Life Skills Center (hereinafter “Charter Application”) made by Life Skills Center Hillsborough County, Inc. (hereinafter “Applicant”). Written notice of denial was dated November 22, 2004 in the form of a letter from School Board (hereinafter “Letter of Denial”). Applicant filed an appeal of the application denial (hereinafter “Notice of Appeal”) to the State Board of Education on December 22, 2004. School Board filed a Response to the Notice of Appeal (hereinafter “Appeal Response”) on January 22, 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 SCHOOL BOARD’S DENIAL OF THE CHARTER APPLICATION ON THE BASIS THAT SCHOOL WILL OPERATE IN A DEFICIT FROM ITS START IS STATUTORY GOOD CAUSE UNDER FLORIDA LAW.

- In its Letter of Denial, School Board finds that Applicant “will be in debt to the management company beginning the first year. Inability to repay the debt across years of contract will increase if population is not realized. The school will operate in a deficit from onset.”
- In its Notice of Appeal, Applicant states that School Board fails to explain how or why the advance from a management company in the first year is grounds for denial. Applicant wonders why federal start up funds (for which Applicant has not relied in its budget) would be acceptable but that an interest free loan, repaid “as it can, over the subsequent three to four years, if possible,” is not acceptable. Applicant questions why it should be penalized—and how it can be denied—merely on the grounds that it has a well-financed management company to advance start-up funds and because it has a donor providing school facilities. Applicant asserts it has provided “a very strong financial plan, well supported by sufficient assets to make the school financially solvent,” and that there are more than sufficient candidate enrollees to meet its population goals.
- In its Appeal Response, School Board asserts that its primary concern is the initial \$500,000 debt with which Applicant will begin its school. School Board claims the terms of the loan provide no incentive to repay it during the term of the charter. If Applicant is unable to make its enrollment targets, School Board claims repayment—and therefore operating with a deficit—are even more problematic. School Board claims that “this initial and prolonged indebtedness” violates the intent of charter school funding and fiscal responsibility requirements.

School Board does not comment on how receipt of federal start up funds could be used as an offset against the loan from the management company.

- Florida Statute §1002.33(2) provides, in pertinent part:
“(a) Charter schools in Florida shall be guided by the following principles:
.....
“(2) Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.”
- Florida Statute §1002.33(6) provides, in pertinent part:
“(a) A person or entity wishing to open a charter school shall prepare an application that:
.....
“(5) Contains an annual financial plan for each year requested by the charter for operation of the school up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.”
.....
“(b)(2) In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and a expense projection that includes full accounting of the costs of operation, including start-up costs.”
- Florida Statute §1002.33(9)(b) provides, in pertinent part relevant to all issues set out herein:

“(3)...If an application is denied, the district school board shall...articulate in writing the specific reasons based upon good cause supporting its denial of the charter application.”

ISSUE TWO:

WHETHER SCHOOL BOARD’S DENIAL OF THE CHARTER APPLICATION ON THE BASIS OF CONCERNS ABOUT MANAGEMENT FEES IS STATUTORY GOOD CAUSE FOR DENIAL UNDER FLORIDA LAW.

- In its Letter of Denial, School Board finds that the “school pays \$149,000 to the management company (\$500 per student) in management fees.”
- In its Notice of Appeal, Applicant states that the purpose of the management fee is to cover direct administrative expenses of school management, and that such fees are used by the Hillsborough School District at a similar rate per student.

Applicant states that School Board does not allege the fee is excessive, simply that it exists. Merely charging a fee is not good cause for denial.

- In its Appeal Response, School Board claims that the management fee is too high a percentage of Applicant's revenue if initial student populations are not achieved and can double as the population increases, exceeding fees used by School Board. That results in excessive and unreasonable fees, according to School Board.
- Florida Statute §1002.33(6) is set out in pertinent part above.

ISSUE THREE:

WHETHER SCHOOL BOARD'S DENIAL OF CHARTER APPLICATION ON THE BASIS OF LACK OF FLORIDA EXPERIENCE IN MANAGEMENT OR FUNDING IS STATUTORY GOOD CAUSE FOR DENIAL UNDER FLORIDA LAW.

- In its Letter of Denial, School Board finds that the "management company has no experience in Florida or with Florida's funding program."
- In its Notice of Appeal, Applicant points out that experience in operating charter schools in Florida is not required by charter applicants, and that to do so would thwart the purpose and effectiveness of charter schools as educational innovators. Applicant further points out its substantial experience and success in operating similar types of charters elsewhere in the country, with considerable experience with a variety of funding models. Applicant also observes that it employs an individual with substantial Florida charter school management experience and a financial consultant with significant experience with Florida charter schools and the statewide Finance Officers' Association.
- In its Appeal Response, School Board asserts that, despite its comments about experience elsewhere and experience of employees and consultants, Applicant itself has no experience managing charter schools in Florida or dealing with Florida's funding models. This lack of experience "raises questions by the School Board about the potential for the success of Applicant's fiscal plan."
- Florida Statute §1002.33(3) provides, in pertinent part:
 - “(a) An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of Florida.”
- Florida Statute §1002.33(6)(a) and (b) set forth requirements for the content of the charter applications.

- Florida Statute §1002.33(9) sets forth in entirety the requirements for charter schools.

ISSUE FOUR

WHETHER SCHOOL BOARD'S DENIAL OF CHARTER APPLICATION ON THE BASIS OF CONCERNS REGARDING ONLINE CURRICULUM IS STATUTORY GOOD CAUSE UNDER FLORIDA LAW.

- In its Letter of Denial, School Board states two concerns related to the online curriculum proposed for use by Applicant, specifically that:
 1. The “majority of curriculum is computer-based instruction in a lab setting where teacher acts as a facilitator.”
 2. The “only access to curriculum is online access at the school.”

SUBISSUE ONE: COMPUTER BASED CURRICULUM AND TEACHER ROLE

- In its Notice of Appeal, Applicant claims that only a portion of one (academic) of its three areas of instruction is computer based, and that that area uses individual and text resources as well as computers. Applicant further states that the exact proposed computer-based instruction is widely recognized, effective, meets statutory curriculum standards and is aligned with Sunshine State Standards. Five teachers and assistants are available for student assistance and clarification with the computer-based curriculum. Further, it is used in School Board's schools. Applicant contends that charter law encourages the use of new, innovative methods of instruction.
- In its Appeal Response, School Board does not contend that the computer-based curriculum is a deficit, but rather that the majority of core curriculum is computer-based, which tends to minimize the importance of teachers. School Board also questions whether the selected computer-based curriculum is “most appropriate to successfully serve the Applicant's stated target population,” comprised of individuals who have not been successful in more traditional educational experiences.

SUBISSUE TWO: CURRICULUM ACCESSIBLE ONLY AT SCHOOL

- In its Notice of Appeal, Applicant claims that charter law does not require that students must be able to complete their assignments outside the classroom, only that the program be accessible to the greatest number of students. Applicant provides computers for each student and uses computer materials requiring use in schools with teachers available to complete assignments. Curriculum materials are effective, tested and widely used.

- In its Appeal Response, School Board further reiterates its concern that computer-based curriculum is inaccessible at home, even to those with home computers.

- Florida Statute §1002.33 provides, in pertinent part:

“(a) Charter schools in Florida shall be guided by the following principles:

- (1) Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.
- (2) Promote enhanced academic success...”

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

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

.....

“(3) Encourage the use of innovative learning methods.”

- Florida Statute §1002.33 (5)(b) provides, in pertinent part:

.....

“(5) A sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s.1000.03(5).”

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

“(a) A person or entity wishing to open a charter school shall prepare an application that:

....

“(2) Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.”