

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF DISCOVERY ACADEMY OF SCIENCE
DENIAL OF CHARTER CONTRACT

APPELLANT: DISCOVERY ACADEMY OF SCIENCE

SCHOOL BOARD: OF ORANGE COUNTY

INTRODUCTION & HISTORY

On September 1, 2006, Discovery Education Services, Inc. d/b/a Discovery Academy of Science, (hereinafter the “Charter School Applicant”) submitted its charter application to the Orange County School Board (hereinafter the “School Board”) for approval as a charter school. The application proposed to offer educational services to children in grades 6-12 living in Orange County starting in the 2007-2008 school year. The application also proposed to offer a liberal arts curriculum with a special emphasis on math and science. The Charter School Applicant submitted an application to the School Board for the 2006-2007 school year, but withdrew the application after being informed that it would likely be denied. The School Board committed to work with the Charter School Applicant to submit another application for the next school year.

The Charter School Applicant re-worked its application over the course of the following year. On May 26, 2006, the Charter School Applicant submitted its first draft to the School Board. On June 26, 2006, the School Board returned the first draft to the Charter School Applicant along with a list of issues and corresponding suggestions for improvement. Additional handwritten comments were also provided by the School Board.

On July 28, 2006, the Charter School Applicant submitted its second draft incorporating the comments, suggestions, and recommendations of the School Board. Upon receipt of the second draft, the School Board again reviewed the document and made further comments. The Charter School Applicant then incorporated these comments into its final draft.

On September 13, 2006, four members of the School Board interviewed several members of the Charter School Applicant’s board members in an attempt “to determine the capacity the applicant possessed to open and operate a school as described in the application.”

On September 18, 2006, the School Board held a work session in which the Charter School Applicant made a fifteen-minute presentation. Following the presentation the School Board engaged in a question and answer session about the application. Several issues were expressed as a concern.

On October 24, 2006, the School Board, at its regular meeting, voted to deny the charter application of the Charter School Applicant.

On November 2, 2006, the School Board sent a letter of denial to the Charter School Applicant. The denial letter was postmarked November 6, 2006, and was received by the Charter School Applicant on November 9, 2006. In addition to supplying the tables of Indicators Results showing the assessments of the review committee and of the Interview committee, the denial letter enunciated twenty-three reasons for the denial of the application.

On December 11, 2006, the State Board of Education received notice of the Charter School Applicant’s Appeal (hereinafter “Appeal”).

On January 22, 2006, the School Board filed a response to the Appeal with the State Board of Education (hereinafter “Response”).

ISSUE ONE

WHETHER THE SCHOOL BOARD HAD GOOD CAUSE TO DENY THE CHARTER SCHOOL'S APPLICATION BASED UPON:

A. Inadequate Financial Plan Predicated on Unrealistic Enrollment Projections and Under Budgeted Costs

- The Charter School Applicant states that it submitted a five-year financial plan for the operations of the school, including a 3-month start-up budget used to show the Charter school Applicant's sources of income (FTE revenue, start-up grants, a line of credit, and lunch fees). The application categorizes and itemizes major expenses, and it provides a revenue estimate worksheet detailing the Charter School Applicant's projected budget at different capacity percentages should the school initially run at less than full capacity. The application also includes a spreadsheet of the numbers and grade levels of planned students, revenue estimate worksheet details for all five school years, and a spending plan that shows the projected revenue and expenses and incorporates them into proposed budgets for each of the five years. (Appeal page x).
- The Charter School Applicant further states that the application describes budgetary controls through the use of internal accounting procedures, and it is based on daily activity with monthly reconciliation. The application also acknowledges that the financial activity of the school is subject to directives from the state through rule, or policy, which can hereby be addressed in the charter agreement with the sponsor to ensure compliance. There are also other opportunities to generate capital or to supplement the per-pupil allocation – including federal, state, local, and foundation grants. One key element of the application is the line of credit that the school obtained to ensure the financial well-being of the school before reaching full capacity. The line of credit was obtained upon the recommendation of a School Board staff in the event the school did not obtain a start-up grant. (Appeal page xi).
- The Charter School Applicant then argues that the School Board provided limited feedback to the Charter School Applicant regarding the “weakness” of its application, despite two preliminary draft applications and a member of the School Board stating she would ask the School Board's budget specialist if there was any feedback regarding the proposed finances. The Charter School Applicant contends it did not receive budgetary feedback in some instances. The only feedback received related to certain budgeted items, and the Charter School Applicant amended its application accordingly. Without a more specific indication of what part of the financial plan is weak, the Charter School Applicant can not intelligently respond to this reason for denial. (Appeal page 13).
- The School Board states that one of the fundamental areas of review for a charter school application is finances. As set forth in F.S. 1002.33 (b) (1) (b) and (c), (b) (6) (a) (5) and (b) (1) and (2), and (b) (6) (g), financial stability and adequate financial planning are essential to a successful charter school. Moreover, such financial plans must not only be thorough and well thought out, but must be predicated on justifiable calculations of known and reasonably predicted revenue and costs. The Charter School Applicant budgeted enrollment of 198 students in its first year, and a growth to over 600 students by its third year. Such a projection is overly optimistic and an aggressive prediction for a new charter school in Orange County. The Charter School Applicant is dependent upon reaching its enrollment goals to meet its budget. However, failure to meet its enrollment expectations would topple the school's balanced budget and would not allow for any contingency cushion. The School Board looks for a five-percent contingency and the

Charter Applicant only had three- percent in the first year and declined thereafter until the fifth year. The Charter School Applicant's budget has no room for either increased cost or decreased revenue. (Response page 12 and page 13).

- The School Board further argues that the Charter School Applicant intends to rely on a line-of credit to cover start-up expenses and to cover shortfalls in the budget. Yet, this loan must be repaid which adds additional strain on the school during its initial years, and further tightens the already constricted budget. Moreover, the School Board contends that the Charter School Applicant received assistance from School Board personnel on the financial aspects of the application. However, very few of the issues raised were resolved. For example, the Charter School Applicant was told that its allocation for the cost per student supplies was exceptionally low. Yet, the application budget only reflected an increase of only \$65.00 per student. (Response page 14 and page 17).
- The School Board therefore argues in sum, that the Charter School Applicant's financial plan did not demonstrate financial viability and stability, which not only justified but required denial. (Response page 18).

ISSUE TWO

WHETHER THE SCHOOL BOARD HAD GOOD CAUSE TO DENY THE CHARTER SCHOOL'S APPLICATION BASED UPON:

B. Inadequate Curriculum, Assessment, and Advancement Placement: Overall Deficient With Above Grade Reading Ability. Goals and Objectives Are Not Measurable. An Inadequately Developed ESE and ESOL Program. Failure to Provide Plans to Identify Students in the Lowest Quartile and to Raise This Group's Achievement Level.

- The Charter School Applicant states that applications describes in great detail the core competency focus, curriculum, and the specialized instructional programs that it proposes to use. The Charter School Applicant will use the Orange County Public School's curriculum as its base curriculum, and its plan incorporates the Sunshine State Standards and No Child Left Behind legislation to ensure that high standards of student achievement will be met. The Charter School Applicant will offer similar classes as the Orange County Public School including most of the exploratory courses described in the Orange County Board of Education Handbook. In addition to traditional teaching strategies, the Charter School Applicant will utilize a combination of traditional and newer, research-proven instructional approaches to give a broad spectrum of learning opportunities for all students and to set the Charter School Applicant apart from other schools in the district. (Appeal page vi, page vii, page viii, and page ix).
- The Charter School Applicant further argues it searched for programs that would improve performance levels and learning methods in the classroom, such as Connected Math (CMP); College Preparatory Mathematics (CPM); Foundational Approaches in Science Technology (FAST); and the LANGUAGE! and Read XL. These programs reflect best teaching practices and their use will help the Charter School Applicant achieve the Sunshine State Standards in math, science, and reading. Furthermore, LANGUAGE! is comprised of three levels, allowing for effective strategies to teach students of different skill levels. One of LANGUAGE!'s strengths is that it is highly structured and individualized, offering each student a step-by-step progression through the curriculum at the appropriate pace to maximize his or her learning experience. The Charter School Applicant's will screen each student at the beginning of the school year to access

their reading ability. Comprehensive diagnostic reading measures will be utilized. Those students who read on or above grade level will receive specialized instruction, focusing on vocabulary, maintaining and improving fluency, and comprehension, through methods such as SIM, Thinking Maps, and the Orange County Public Schools Reading Teacher Curriculum. (Appeal page vii- page ix, page 7 and page 8).

- The Charter School Applicant also argues that the application is complete with requiring the measurement of outcomes for students. The Charter School Applicant will implement all statewide assessments required including the FCAT. It will then rely on FCAT cluster scores, district benchmark assessments, and other informal assessments to drive instruction. In addition, several instructional programs, such as LANGUAGE !, include their own assessment tools and the Charter School Applicant will incorporate into its annual school progress other data indicating whether the school is fulfilling its mission to provide quality education. It should also be noted that the Charter School Application will identify numerous indicators of the school's and students' success, including comparing FCAT test results of the schools students with those of other students in the Orange Count Public Schools. Other data, such as college-based placement tests, drop-out rates, college acceptance rates, school safety rates, and student, parent, and teacher satisfaction will be used. (Appeal page ix and page x).
- Moreover, the Charter School Applicant contends its application demonstrates its plan to teach Limited English Proficient (LEP) students. The application describes its plan to follow basic guidelines and accommodations recommended and/or required by law or by the School Board's policy. It also discusses additional treatment of gifted LEP students through various strategies, including peer mentoring, multi-sensory experiential activities, modeling and tutoring cooperative learning, and use of media and visuals to provide effective oral language, literacy, and content area instructions. The Charter School Applicant will also utilize both traditional and newer, research-proven instructional approaches and strategies to give a broad spectrum of learning opportunities for all students with specialized focus on low-performing students and below-grade level readers. It will also incorporate, and yet build on, the state-and district-mandated programs to ensure an extraordinary educational environment. (Appeal page 3 and page 9).
- The School Board states that every charter applicant must provide a comprehensive curriculum that adequately provides for advancement in reading, as well as providing measurable academic goals and objectives. The Charter School Applicant has failed to meet these requirements. The application has failed to provide a detailed curriculum outside of math and science for middle school students. Further, the Applicant believes it can state that it will follow the Orange County Public School's curriculum and course offerings and this will be enough. Not only is this a further example of a lack of innovation, but it does not provide any curriculum details, as required by statute. The application does not explain how the school's students will be educated as required in F.S. 1002.33 (6)(a)(2). (Response page 18).
- The School Board also argues that the Charter School Applicant does not contain a language arts program (defined) and no specific high school curriculum. The application instead includes vague reference to the Orange County Public Schools curriculum and various duplicative teaching methods; as though it applies equally to 6th grade students as to 12th grade students. Moreover, instead of developing a curriculum, the Charter School Applicant's application contains lengthy explanations of the history of various teaching programs and methodologies. Yet many of these programs are mutually exclusive. For example, LANGUAGE! and Read XL would each be used separately but not together. To offer them together would appear to be logistically difficult, ineffective, and unnecessarily expensive, which would be a drain on the budget. Moreover, a history of a well-known teaching method does not explain how these

programs would be implemented at the school and what the Charter School Applicant would expect from each program. (Response page 18 and page 19).

- Moreover, the School Board argues that a central purpose of the Charter School Statute is to advance the reading skills of Florida’s children. To that end, the Charter School Statute is unequivocal that there must be clearly “differentiated strategies that will be used for students reading at grade level or higher and separate curriculum and strategies for students reading below grade level- F.S. 1002.33 (6)(a)(4). The statute also requires that the application “ describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level.” In fact, the statute expressly provides that, “[a] sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent and effective strategies that are grounded in scientifically based reading research.” Although there is no doubt that both LANGUAGE! and Read XL are well developed reading strategies that are grounded in scientifically based reading research , listing both programs reflects a lack of understanding or development of the reading curriculum. Moreover, there is no description of how these programs would be implemented at the school, and there is no description of a reading program for students reading above grade level, particularly the high school level. (Response page 19 and page 20).
- The School Board further argues that the application also lacks development of assessment and progress for monitoring high school students and is poorly developed for grades 6th and 7th. It fails to mention, let alone describe interventions for students struggling in those grades. Although applying for a charter for both middle and high school, the application merely states that in subsequent years “measurable objectives will be developed that target student achievement and success at these grade levels.” Moreover, it vaguely references graduation rates and readiness for 11th and 12th grades as possible factors that might be considered. This does not meet the requirements of the Charter School Statute which states that an application, “ must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and specific results to be attained through instruction” – F.S. 1002.33(6)(a)(3). (Response page 20 and page 21).
- The School Board then argues that the application was also lacking in its development of an ESE and ELL program. The Charter School Applicant once again is failing to provide intervention when those students are struggling with their studies. The Charter School Applicant was given input from School Board personnel on the proposed curriculum, however, subsequent versions of the application reflected only minimal changes that failed to address the root concerns. Instead changes to the application reflected a failure to comprehend the nature of concern and simply attempted to include language the Charter School Applicant believed the School Board wanted to hear. For example, upon being told that the application must have a researched-based reading program, the Charter School Applicant included two entirely separate, expensive, and mutually exclusive reading programs- LANGUAGE! and Read XL. There is no rationale to include both of these programs in the application. Furthermore, very few constructive changes were made to the final application, which remained deficient in various ways.
- In sum, the Charter School Applicant was significantly deficient in addressing the statutory curriculum requirements for its proposed high school. In addition, it failed to provide measurable goals and objectives for all of its students or to provide clearly defined reading strategies for students reading above level. (Response page 21 and page 22).

ISSUE THREE

WHETHER THE SCHOOL BOARD HAD GOOD CAUSE TO DENY THE CHARTER SCHOOL'S APPLICATION BASED UPON:

C. Failure to Adequately Address How The School Will Meet the Prescribed Purpose of A Charter School

- The Charter School Applicant argues that the application outlines the entire plan to open the charter school. The Charter School Applicant will use the Orange County Public School's curriculum as its base curriculum, and its plan incorporates the Sunshine State Standards and No Child Left Behind legislation to ensure that high standards of student achievement will be met. The Charter School Applicant will offer similar classes as the Orange County Public School including most of the exploratory courses described in the Orange County Board of Education Handbook. In addition to traditional teaching strategies, the Charter School Applicant will utilize a combination of traditional and newer, research-proven instructional approaches to give a broad spectrum of learning opportunities for all students and to set the Charter School Applicant apart from other schools in the district. (Appeal page vi, page vii, page viii, and page ix).
- The Charter School Applicant also argues that that the application is complete with requiring the measurement of outcomes for students. The Charter School Applicant will implement all statewide assessments required including the FCAT. It will then rely on FCAT cluster scores, district benchmark assessments, and other informal assessments to drive instruction. In addition, several instructional programs, such as LANGUAGE !, include their own assessment tools and the Charter School Applicant will incorporate into its annual school progress other data indicating whether the school is fulfilling its mission to provide quality education. It should also be noted that the Charter School Application will identify numerous indicators of the school's and students' success, including comparing FCAT test results of the schools students with those of other students in the Orange Count Public Schools. Other data, such as college-based placement tests, drop-out rates, college acceptance rates, school safety rates, and student, parent, and teacher satisfaction will be used. (Appeal page ix and page x).
- Subsequently, the Charter School Applicant argues that not only would granting the school's charter would give Orange County parents a new school choice, but the Charter School Applicant demonstrates that the proposed school will meet high standards of student achievement. As described in the statement of facts (pages vi through x), the application describes in detail the Charter School Applicant's core competency focus, specialized instructional programs, course offerings, expected outcomes, and how those are similar to, and yet expand on, the Sunshine State Standards, No Child Left Behind program, and the Orange County Public School's reading program. To criticize the Charter School Applicant's curriculum and instructional program it to criticize the Orange County Public School's curriculum and the highly acclaimed research-based programs proposed by the Charter School Applicant. (Response page 1 and page 2).
- The School Board argues that a charter school must clearly articulate how it will meet the prescribed guiding principles and purposes of a charter school, as set forth in statute. Charter Schools are:

To meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.
F.S. 1002.33 (2) (a) (1)

To fulfill certain purposes, including encouraging innovative learning methods and measuring learning outcomes of the teaching methods used. F.S. 1002.33 (2) (b)

To utilize innovative measurement tools. F.S. 1002.33 (2) (c) (Response page 22).

- The School Board further argues that the Charter School Applicant created a mission statement that was vague and generic (Exhibit A – Charter School Applicant’s Application). There is nothing unique or innovative about the purpose of the school nor does it seek to fill an unfilled need in the community. (Response page 19).
- The School Board also argues the Charter School Applicant application provides that it is innovative in that 1) it uses “a variety of proven instructional methods, 2) it sets “high but realistic academic expectations and goals, and 3) provides students with the means to reach those expectations and goals.” The application also states that the Charter School Applicant will use gifted and Advanced Placement curricula for gifted and AP students. To be promoted to the next grade level, a student must demonstrate a mastery of their current grade-level work. Standard and mandatory tests would be used to assess student progress. Yet, this does not demonstrate any “innovative” teaching or assessment methods or even an innovative concept. It is simply the same program currently utilized by every public school in the state. Furthermore, the application acknowledges that it does not adopt any innovative teaching strategies. In fact, it will adopt the Orange County programs that comply with the Sunshine State Standards. In sum, the Charter School Applicant intends to open another public school in Orange County offering exactly the same curriculum and teaching methods used in all existing Orange County Public Schools. Thus the application does not meet the letter or spirit of the Charter School Statute. (Response page 23 and page 24).

ISSUE FOUR

WHETHER THE SCHOOL BOARD HAD GOOD CAUSE TO DENY THE CHARTER SCHOOL’S APPLICATION BASED UPON:

D. Lack of Community Support or Input

- The Charter School Applicant stated it submitted sixteen support letters taken from among various letters submitted by parents, teachers, professionals and other community members- all whom reside in Orange County. In addition, a survey of two hundred people was conducted to determine whether the school was supported by sufficient interest. The survey determined that many children were excited about the school and that they would attend if and when it opened, depending on the grade levels currently being accepted. Upon consultation, a member of the School Board recommended that the Charter School Applicant only attach ten of the surveys to the application and provide the remaining surveys upon request. One survey filled out by a parent in Seminole County inadvertently was included with the application. The Charter School Applicant then included a petition of sixteen children who were interested in attending the school, seven who reside in Seminole County. (Response page 11 and page 12).
- The School Board asserts that the Charter School Applicant has offered little relevant community support for its application. Community support is important as evidence of compliance with statutory principals and financial viability of the application. Little relevant evidence of

community support for the school undermines its enrollment estimates and demonstrates that the application is in violation of a statutory guiding principle. Moreover, despite the fact that in the work session, a substantial portion of the community support provided in the application fell outside of Orange County, the Charter School Applicant argues that School Board's concern over a perceived lack of relevant community support is misplaced. The Charter School Applicant asserts that there is substantial community support demonstrated in sixteen letters included in the application from Orange County residents. However, the Charter School Applicant failed to address the other fact raised at the work session- that virtually all of the letters that mention potential students are not in the proper age group for the first crucial years of the charter. There are parents of senior in high school, a large number of juniors in high school, ninth graders, even a fourth grader and a kindergartener, but almost no 6th and 7th graders- the target age group for the first year. In fact, there are very few 8th graders among the potential students. In addition, there are a series of letters from individual on company letterhead that attest to the benefit of charter schools and raise general concern over the math and science education of children in America today. (Response page 24 and page 25).

- The School Board further states that the statutory purpose for charter schools is to provide a viable alternative educational option to members of the community. Therefore, evidence that the purpose will be served is necessary for a successful charter school application. The Charter School Applicant did not provide this evidence but instead provided generic letters of praise or compliant, along with references to a number of interested parents from a local survey, virtually all of which do not have students that could enroll in the school, at least for several years, if at all. This is not the demonstrated community support for a new public charter school that is required under Charter School Statute. (Response page 25 and page 26).