

THE FLORIDA DEPARTMENT OF EDUCATION
CHARTER SCHOOL APPEALS COMMISSION

Technical Assistance Paper

APPEAL OF PADAH'S ACADEMY
DENIAL OF CHARTER CONTRACT

APPELLANT: PADAH'S ACADEMY

SCHOOL BOARD: OF HILLSBOROUGH COUNTY

INTRODUCTION & HISTORY

On September 1, 2006, Padah's Academy (hereinafter the "Charter School Applicant") submitted its charter application to the Hillsborough County School Board (hereinafter the "School Board") for approval as a charter school. The application proposed an at risk/or low performance high school (for grades 9-12th) with an emphasis on vocational skills using a simulation (problem based) mode, standards-based individualized learning system and by using an adaptive instruction model. The Charter School Applicant is to provide equitable opportunities for at-risk and/or low performing students to receive an education, vocational training, and career education to prepare them for the workforce challenges today and to provide an innovative model of high quality public education, which ensures equal access to an excellent experiential learning program in a healthy, safe, caring, enjoyable, and integrated environment so that each student is helped to reach his or her highest potential and is prepared to successfully and confidently meet the realities and responsibilities of adult life.

On September 8, 2006, the Charter School Applicant received an email notifying it of the School Board's interview date of September 25, 2006 from 2:45- 3:30 p.m.

On September 25, 2006, the Charter School Applicant presented its application to the School Board. The presentation was delayed (approximately 12 minutes) as more time was given to the applicant ahead of the Charter School Applicant.

On October 16, 2006, the School Board (via the superintendent's office) notified the Charter School Applicant that its recommendation would be for the application to be denied.

On October 18, 2006, the School Board, in a special called session, denied the application, and thereafter by letter dated October 20, 2006, notified the Charter School Applicant of its decision to deny the application. The School Board's denial was based upon the school failing to meet the statutory criteria for charter schools set forth in F.S. 1002.33 (2) and 1002.33 (6)(a).

On October 25, 2006, the Charter School Applicant received the School Board's letter of denial.

On November 15, 2006, the Charter School Applicant appealed the decision of the School Board to the State Board of Education.

ISSUE ONE

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

A. Failure to Meet Section 1002.33 (2), F.S.

- The Charter School Applicant states that it submitted its application to the School Board on September 1, 2006. The School Board notified the Charter School Applicant that its interview date would be on September 25, 2006 from 2:45 – 3:30 p.m. The interview was delayed twelve minutes as extra time was given to the applicant ahead. The Charter School Applicant's interview lasted only fifteen minutes. (Appeal page 1).
- The Charter School Applicant further states on October 13, 2006, the School Board attempted to contact the applicant to inform it of the superintendent's recommendations. The School Board did not however reach the Charter School Applicant until October 16, 2006. The Charter School Applicant was then notified of the superintendent's decision to not recommend the application. No information was given as to why the application was being denied, and on October 18, 2006, the School Board voted to deny the application. (Appeal page 1).
- The Charter School Applicant also states the reason for denial is that in 2003, a body of the Charter School Applicant founded and operated Wilbesan Charter School (hereinafter Wilbesan) and the School Board, which was the sponsor, maliciously, recklessly and illegally sabotaged the operations of the school. The main reason being a member of the School Board had a big problem with race and blocked a black male teacher from being certified as a vocational teacher. The School Board member also became angered when the school administration wrote another member of the School Board to seek a waiver. Threats and attempts then ensued to close down the school and subsequently Wilbesan was closed down by the School Board on August 9, 2005. A law suit in Federal Court was filed for the illegal closure of Wilbesan and a violation of constitutional rights. (Appeal page 1- page 9).
- The Charter School Applicant further argues that the School Board had a discriminatory intent and purpose that was retaliatory in nature, inequitable, selective and disparate with the law to deny the Charter School Applicant's application. (Appeal page 10).
- The Charter School Applicant further states that the letter of denial from the School Board contained misrepresentation of statutory language found in F.S. 1002.33 (2)(c) and F.S. 1002.33 (6)(a)(4) as grounds for the denial. F.S. 1002.33 (2) (c) states specifically "Charter Schools may fulfill the following purposes; - yet it does not state in the language that it requires "how the school will meet the prescribed purposes of a charter school found in F.S. 1002.33(2) (c). The Florida Charter School Standard Application Format declared- "If applicable describe how the charter school will fulfill the Optional Purposes (create innovative measurement tools, provide rigorous competition..., expand the capacity of the public school system) of charter schools found in F.S. 1002.33 (2) (c). Therefore the School Board maliciously, knowingly, negligently and recklessly misrepresented F.S. 1002.33 (2) (c) by stating the following: "The application does not describe how the school will meet the prescribed purpose of a charter school found in F.S. 1002.33 (2) (c) in a clear and consistent manner that demonstrates that the purpose of the school

is based on a philosophy of education or theory of teaching and is free of education jargon. Practices described in the purpose, such as professional development and integrated technology, are not evident elsewhere in the application.” There is no requirement language found in F.S. 1002.33 (2) (c) for the purpose of the school to be based on a philosophy of education or theory of teaching and is free of education jargon, or practices described in the purpose, such as professional development and integrated technology, are not evident elsewhere in the application. (Appeal page 12 and page 13).

- The School Board argues that any discussion or argument with respect to Wilbesan is irrelevant to the instant appeal. Moreover, the State Board of Education upheld the termination of Wilbesan’s charter on December 9, 2005, and subsequently on September 1, 2006, the Second District Court of Appeal of Florida affirmed the State Board of Education’s decision. (Response page 2).
- The School Board also states that while the executive summary mistakenly cites to F.S. 1002.33 (2) (c), it is clear that F.S. 1002.33 (2) (b) and not(c) should have been cited, as (b) contains the prescribed purpose of a charter school. The application review summary and the October 20, 2006, letter of denial correctly refer to subsection (b) rather than (c). (see Exhibit 8 – Response to Appeal). Furthermore, the application did not describe how the Charter School Applicant would meet the prescribed purposes of a charter school , found in F.S. 1002.33 (2) (b) in a clear and consistent manner that demonstrated that the purpose of the school was based on a philosophy of education or theory of teaching and is free of education jargon. Moreover, practices described in the purpose, such as professional development and integrated technology, are not evident elsewhere in the application. (Response page 3 and page 4).
- The School Board further states that after review of the Charter School Applicant’s application, it decided unanimously to deny the application because it failed to meet the statutory criteria for charter schools as set forth in F.S. 1002.33(2) and (6)(a). The application did not sufficiently demonstrate how the Charter School Applicant would utilize the guiding principles found in F.S. 1002.33 (2)(a) in a clear and consistent manner that assured the School Board that the school could maintain a commitment to high standards of achievement, and promote academic success and financial efficiency. Moreover, although the Charter School Applicant claims that it was only interviewed for 15 minutes, thus demonstrating that the School Board denied its application based on race, there is no statutory requirement to interview applicants. Nevertheless, the interview with the Charter School Applicant may have been different than other interviews because of the overall weakness of the application. (Response page 3).

ISSUE TWO

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

A. Failure to Meet Section 1002.33 (6) (a)

- The Charter School Applicant states that the School Board failed to comply with the statutory requirements of F.S. 1002.33 (5) (b) (3) - “within 10 calendar days, articulate in writing the *specific reasons* for its denial of the charter application and shall provide the letter of denial and **supporting documentation** to the applicant and to the Department of Education supporting those

reasons.” in denying the application. The Charter School Applicant received a denial letter; however, supporting documentation was not received within 10 calendar days. (Appeal page 10, page 11 and page 13).

- The Charter School Applicant also states that the School Board posed delays in producing public records request that the Charter School Applicant requested. This is violation F.S. 119. On October 27, 2006, the Charter School Applicant contacted the School Board’s attorney and the Florida Department of Education. At 4:27 p.m. on October 27, 2006, the Charter School Applicant received an email indicating the documents would be ready for pick-up on Monday, October 30, 2006. Once retrieved, the Charter School Applicant discovered the School Board deliberately withheld specific documents that were requested. Consequently, the Charter School Applicant on October 30, 2006, made a subsequent request for these documents and they have not been provided to date. (Appeal page 14 and page 15).
- Also, the Charter Applicant states that F.S. 1002.33 (6)(a)(4) requires the following: “ A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with ***effective teaching strategies*** that are grounded in scientifically based reading research, “ not a “ scientifically research based reading ***curriculum recognized by the Florida Center for Reading Research.***” There is no evidence of a scientifically research based reading ***curriculum recognized by the Florida Center for Reading Research.*** Therefore, the School Board knowingly and intentionally concealed this material fact in their letter of denial to the Charter Applicant. (Appeal page 14).
- Furthermore the Charter School Applicant argues that the School Board violated F.S. 1002.33 (6) (a) (1-5), the Fourteenth Amendment of the US Constitution and Florida Constitution Article 1& 2, by employing disparate treatment, selective enforcement and inequitable application thereof, and by holding the Charter School Applicant to a higher standard than other applicants.
- The School Board states that pursuant to F.S. 1002.33(6) (b) 3, it notified the Charter School Applicant on October 20, 2006 by letter of its decision of denial and the specific reasons for the denial. Fourteen specific issues or concerns contributing to the School Board’s decision to the deny the application was listed. (see Exhibit 8 – Response to Appeal). Enclosed with the letter was also a copy of the application review summary containing a list of the numerous weaknesses identified in the Charter School Applicant’s application. This letter and its enclosures fully complied with the statutory requirement that upon its decision to deny the application, the School Board, within 10 calendar days, articulated in writing the specific reason for denying the application and provided the letter of denial and supporting documentation to the Charter School Applicant. (Response page 12 and page 13).
- The School Board further argues that in respect to the Charter School Applicant’s claim that it posed delays in producing public records request that the Charter School Applicant requested, is without merit. The Charter School Applicant readily admits that the requested executive summary is available online (Appellant Brief – page 15) and is readily available for review. Also in this matter, the State Board of Education’s role is to “accept or reject the decision” of the School Board’s denial of the Charter School Applicant’s application and is not to determine whether or not the School Board has complied with public records law. F.S. 1002.33 (6) (c). Accordingly, the State Board of Education’s review is limited to whether or not the Charter School Applicant’s application complied with the requirements set forth in F.S. 1002.33 (6) (a). Nonetheless, if the State Board of Education is to determine the issue relevant as to the appeal, the claim is without merit as the School Board has made every attempt to comply with the Charter School Applicant’s public records request in a timely manner as evidenced by the Charter

School Applicant's own appellant brief (Appellant's Brief Exhibits 29 and 31). (Response page 13 and age 14).

- The School Board also argues that in reason number six for the denial of the application, it states that “[t]here is no evidence of a scientifically research based reading curriculum recognized by the Florida Center for Reading Research as required in F.S. 1002.33 (6)(a)(4).” Whereas the letter of denial simply states “[t]here is no evidence of a scientifically research based reading [curriculum] as required in F.S. 1002.33(6) (a) (4). (See Exhibit 6 and Exhibit 8- Response to Appeal). However, the Charter School Applicant’s claim of “concealment” is irrelevant since the application undeniably fails to contain a scientifically research based reading curriculum as required by statute, thus supporting the School Board’s decision to deny the application. (Response page 13).

- The School Board argues that the Charter School Applicant’s application was denied because it failed to comply with the requirements set forth in F.S. 1002.33 (6) (a) and not the Charter School Applicant’s race. Moreover, the Charter School Applicant makes this accusation without any evidence that the School Board members or staff made any racist remarks or comments at anytime before, after, or during the charter school application process. Also, the accusation that other charter applications were granted, even though they contained weaknesses, and the Charter School Applicant was denied so race must be an issue is unfounded. The Charter School Applicant makes this claim without evidence of the other applicant’s application documents and materials or proposed make-up (including the race of the board members) of the applicants. Moreover, the School Board is without knowledge as to the race of the proposed board members for each of the charter applicants as it is likely that these proposed board members are of the same race as the Charter School Applicant. Furthermore, this shows that the School Board does not decide whether to grant or deny applications based on race, but based upon whether the application fulfills the requirements set forth in charter school law. (Response page 14 and page 15).