

THE FLORIDA DEPARTMENT OF EDUCATION  
CHARTER SCHOOL APPEAL COMMISSION

# Technical Assistance Paper

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APPEAL OF: NEW ALTERNATIVE EDUCATION HIGH SCHOOL OF  
HERNANDO COUNTY, INC. CHARTER APPLICATION DENIAL

APPELLANT: NEW ALTERNATIVE EDUCATION HIGH SCHOOL  
OF HERNANDO COUNTY, INC.

SCHOOL BOARD: THE SCHOOL BOARD OF HERNANDO COUNTY, FLORIDA

**DISCLAIMER: THIS TAP IS INTENDED TO PROVIDE A BRIEF SUMMARY OF THE SCHOOL DISTRICT'S REASONS FOR DENYING THE CHARTER SCHOOL APPLICATION AND THE PARTIES' POSITIONS REGARDING SUCH REASONS. THIS TAP DOES NOT REPLACE OR SUPERSEDE THE RECORD ON APPEAL. TO THE EXTENT INCONSISTENT, THE RECORD ON APPEAL SHALL GOVERN. INTERESTED PERSONS SHOULD READ THE FULL RECORD ON APPEAL.**

Appeal of New Alternative Education High School of Hernando County, Inc.

- July 9, 2008 - New Alternative filed an application with the Hernando County School board to open a charter high school for the 2009-2010 school year.
- August 14, 2008 – The District’s Review Committee conducted an interview with the school governing board and management company.
- September 2, 2008 – The District held a Workshop Meeting and allowed the school to submit a revised charter application addressing the deficiencies noted by the Review Committee.
- September 26, 2008 – The school submitted its Revised Application.
- October 21, 2008 – The District held a Workshop Meeting and requested that the school supplement its application with a survey addressing enrollment issues and provide amended financial reports.
- November 4, 2008 – The Review Committee recommended that the School Board approve the application. The School Board voted to deny the application.
- November 5, 2008 – The School Board advised the school of the denial of the application. The letter was postmarked November 7, 2008, and received by the school on November 10, 2008.
- December 5, 2008 – Charter School appealed the denial to the State Board of Education.
- December 29, 2008 – District School Board response filed with the State Board of Education.

## ISSUE ONE

**The letter of denial provided to Mavericks High D. Wade's School of Hernando County, Inc., charter school application from the School District of Hernando County indicated that the application was denied for:**

- 1. The revised charter application does not contain an adequate financial plan for each year requested by the charter for operation of the school up to 5 years.**

### **The Applicant States:**

- The School Board's denial of New Alternative Application for an alleged failure to more fully incorporate an accounting of projected expenses should the school have a more limited enrollment was not supported by competent and substantial evidence and not a valid statutory basis for denial.

The School Board discussed the potential issue that the school could possibly have a lower than ideal enrollment, and the Board specifically requested that New Alternative supplement its charter school application with a survey addressing the enrollment issues suggested by the Review Committee. Additionally, during the October 21, 2008, Workshop Meeting, the School Board asked New Alternative to submit a revised budget to show how the school could still thrive should the school's projected enrollment of 350 students fall short.

The Applicant hired SRA Research Group, Inc., a nationwide research firm, to perform a community survey in Hernando County to address the need for a charter school targeted at students who have dropped out of or are at risk of dropping out of traditional schools. The survey discusses the potential for a large enrollment at the school as it relates to the number of at-risk students in the Hernando community, as well as the percentage of citizens in the county that will utilize such a school if available. The School Board chose not to consider the very favorable information provided in the survey since it was not discussed at all within the School Board's denial of the charter application.

New Alternative charter school was designed to manage purchase and operating expenses in conjunction with enrollment to ensure its viability. There is no hard data provided by the School Board to contradict New Alternative's projected enrollment rates. The budget will be adjusted based upon the actual student enrollment. In the event the enrollment is lower than anticipated in the first year, the school will not only be financially viable, New Alternative is confident that the school enrollment will grow to meet the projected enrollment.

The denial of the application simply because New Alternative's proposed student enrollment is more than the number the school board believes it could have, was not competent and substantial good cause for denial nor is it consistent with the intent of the Charter Statute.

The School Board's denial of the Application for an alleged failure to account for potential, but not actual, funding cuts was not supported by competent and substantial evidence and was not a valid basis for denial.

New Alternative's Application provided its budget as required by the Charter School Statutes. The initial 2% reduction of the FTE revenue projections, already confirmed and supplemented, was originally included within New Alternative's school budget. The Charter School Statutes do not require a charter school to forecast unofficial and unannounced budget cuts.

The School Board's denial of the Application for New Alternative's alleged failure to describe sufficient safeguards relating to the Governing Board's supervision of the school's finances was not supported by competent and substantial evidence and was not a valid statutory basis for denial.

The school's governing board will approve a monthly and annual budget specifying how funds will be disbursed to operate the school. Following the month of disbursement, the governing board will receive detailed monthly reports from the management company showing that the funds have been accounted for and dispersed in accordance with the budget. The management company is not authorized to expend monies without the governing board's approval, as accomplished through the annual budget adoption process. Accordingly, no monies may be expended on behalf of the school outside of the budget approved by the governing board.

The Applicant states that it has already addressed the issue raised by the Review Committee and the School Board regarding the "net result" of unspent funds. As addressed in the Revised Application, the "net result" of unspent funds will be carried forward in the year to year budget to demonstrate that any surplus of funding is not retained by the management company, but is built back into the budget for the school's subsequent years so that it would be easy to see the net result for each year. Any assets purchased with school funds or grant funds will be the property of the school, and the school is required to adhere to all accounting procedures and safeguards necessary for the proper operation of the school.

The Applicant clearly states in the management agreement, and it is shown in the budget, any suggestion that the management company will not be accountable fully for the disbursement of school funds is inaccurate and assumes that the school will not adhere to the generally recognized accounting standard to which they are subject to, as are all schools within the State.

The Application states New Alternative will establish a financial system that provides fiscal control and accounting procedures and an annual independent financial audit will be conducted that are in accordance with the "generally accepted accounting principles" and the Office of Management and Budgets.

The Charter School will maintain all financial records in an accounting system in accordance with the accounts and codes prescribed in the most recent issue of Financial and Program Accounting and Reporting for Florida Schools (“Redbook”) pursuant to the Charter School Statute.

The School Board’s denial of the Application for the inclusion of the implementation grant and the start-up grant as revenue in two fiscal years was not supported by competent and substantial evidence and was not a valid statutory basis for denial.

The issues with the implementation grant and start-up grant were corrected by New Alternative in the Revised Application, as well as the revised budget provided to the School Board at its request. The management company is providing a loan in the amount of \$59,225.00. These funds are sufficient to cover almost all of the pre-opening budget expenses that are listed in the revised six (6) month Pre Operation Budget. The balance of the start-up costs is included in the first year budget.

**The School District States:**

- The School Board found good cause to deny the Charter School Application. The deficiencies noted in the denial letter centered on the “financial plan.” The deficiencies fell into three broad categories: 1) insufficient and/or unrealistic revenue and expense projections; 2) inadequate “controls” for safeguarding the flow of public funds to the Applicant’s designated management company/educational service provider; and, 3) errors in the budget regarding start up funds and reserves.

The School District states that the application at issue at the time of the School Board’s denial was the “revised” application that was filed as of September 26, 2008. The revised application was accepted by the School Board by agreement. While the Applicant has included with its Appendix copies of “revised financials” and a community survey, both of which were filed on October 30<sup>th</sup>, these are not a part of the official application. There was no agreement with or request of the School Board to make these filings an official part of the application that was under review. And, even though there was discussion by two School Board members during the October 21<sup>st</sup> workshop concerning the budget and student projections as well as community interest in a charter school such as that proposed by the Applicant, there was no formal agreement or vote by a majority of the School Board for such information to become part of the application.

The School District states that in addition to the problem with the Applicant’s enrollment projections, there were also concerns with the budget projections for expenses and revenues that were simply not addressed in the revised application. The revised budget submitted with the revised application did not take into account additional reduction in revenue that was anticipated by DOE.

The School District's major concern with the Applicant's revised application was the lack of controls accounting for the expenditure of public funds in relation to the Applicant's proposed management company. Of greatest concern was the fact that the expenditure of funds based upon the budget was a split of the revenues with 97% of the revenues going to the management company without any direct accounting on how the monies will be distributed. The management company is a private for-profit entity with motivation in this enterprise to make and maximize profits. The School Board's concern with regard to this split is clearly good cause in and of itself to deny the application.

The pertinent Florida Statutes on this issue read as follows:

1002.33(6)(a)5

(6) APPLICATION PROCESS AND REVIEW.--Charter school applications are subject to the following requirements:

(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 for 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.