

**STATE BOARD OF EDUCATION**

**Action Item**

October 18, 2017

**SUBJECT:** Parrish Charter Academy vs. School Board of Manatee County

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**PROPOSED BOARD ACTION**

Accept Recommendation of the Charter School Appeal Commission to Grant the Appeal

**AUTHORITY FOR STATE BOARD ACTION**

Section 1002.33, Florida Statutes

**EXECUTIVE SUMMARY**

This is an appeal by Parrish Charter Academy of the decision of the School Board of Manatee County to deny the charter application submitted by the Applicant.

**ISSUE:**

Whether the School Board had good cause to deny the application based on the Applicant's failure to comply with Section 1002.33, Florida Statutes.

**STANDARD OF REVIEW:** Competent substantial evidence

The School Board's determination must be based on good cause. The standard by which the State Board is to review the School Board's decision is whether the School Board had competent substantial evidence to make that determination. The question, therefore, is whether the evidence upon which the School Board based its determination is sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. If so, the School Board's decision must be upheld.

**SCHOOL BOARD'S GROUNDS FOR DENIAL:**

The School Board of Manatee County based its denial on the following pursuant to Section 1002.33, Florida Statutes:

- Application failed to meet the requirements of the Educational Plan
  - Target Population and Student Body: Section 1002.33(10), Florida Statutes
  - Educational Program Design: Section 1002.33(7)(a)2., Florida Statutes
  - Curriculum Plan: Sections 1002.33(6)(a)2., 1002.33(6)(a)4., 1002.33(7)(a)2., 1002.33(7)(a)4., Florida Statutes
  - Student Performance, Assessment and Evaluation: Sections 1002.33(6)(a)3., 1002.33(7)(a)3., 1002.33(7)(a)4., 1002.33(7)(a)5., Florida Statutes
  - English Language Learners: Section 1002.33(10), Florida Statutes
  - School Culture and Discipline: Sections 1002.33(7)(a)7., 1002.33(7)(a)11., Florida Statutes

**CSAC CONCLUSION:**

The School Board did not have good cause to determine that the Applicant failed to meet the requirements of Section 1002.33, Florida Statutes, for failure to:

Meet the requirements of the Educational Plan.

**CSAC RECOMMENDATION:**

The Charter School Appeal Commission recommends overturning the decision of the School Board of Manatee County by granting the appeal of Parrish Charter Academy.

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**Supporting Documentation Included:** Charter School Appeal Commission Recommendation. Appeal of Charter School, Response, CSAC Transcript, Proposed Exceptions by Manatee County, Motion to Strike by Parrish Charter Academy, Opposition to Motion to Strike by Manatee County, Order on Motion to Strike Proposed Exceptions (under separate cover)

**Facilitator/Presenter:** Adam Miller, Executive Director, Office of Independent Education and Parental Choice

STATE OF FLORIDA  
STATE BOARD OF EDUCATION

PARRISH CHARTER ACADEMY,

Applicant/Appellant,

v.

SCHOOL BOARD OF MANATEE COUNTY,

School Board/Appellee.

RECOMMENDATION OF THE  
CHARTER SCHOOL APPEAL COMMISSION

This is an appeal regarding the denial by the School Board of Manatee County (“School Board”) of an Application by Parrish Charter Academy, Inc. (“Applicant”), to establish and operate a new charter school. For such appeals, section 1002.33(6)(e)1., Fla. Stat., directs the Charter School Appeal Commission (“Commission”) “...to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied....” The Commission “... may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, [and] gather other applicable information regarding the appeal....” S. 1002.33(6)(e)2. The Commission must include a fact-based justification in this recommendation to the State Board. Sch. Bd. of Palm Beach County v. Fla. Charter Ed. Found., Inc., 213 So. 3d 356 (Fla. 4<sup>th</sup> DCA 2017).

The Commission held a hearing on August 25, 2017, in Tallahassee, Florida, and a telephone conference on September 28, 2017. After review of the Application, the appeal brief filed by the Applicant, the response brief filed by the School Board, other documents submitted by the parties, argument by the parties, and other applicable information regarding the Application gathered by the Commission, the Commission makes the following recommendation regarding this appeal of the School Board’s denial of the Application.

Standard of Review

Section 1002.33(6)(b)3.a., Fla. Stat., provides that if a school board denies a charter school application, the school board, “...shall ... articulate in writing the specific reasons, based upon good cause, supporting its denial of the application....” The specific reasons for denial must be based upon the statutory requirements for charter school applications, Sch. Bd. of Osceola County v. UCP of Central Fla., 905 So. 2d 909 (Fla. 5<sup>th</sup> DCA 2005), and must constitute good cause for denial, Sch. Bd. of Volusia County v. Academies of Excellence, Inc., 974 So. 2d 1186 (Fla. 5<sup>th</sup> DCA 2008). The decision of the State Board, and this recommendation by the Commission, must

be based upon competent, substantial evidence. Imhotep-Nguzo Saba Charter Sch. v. Dept. of Ed., 947 So. 2d 1279 (Fla. 4<sup>th</sup> DCA 2007). The Commission "... may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, [and] gather other applicable information regarding the appeal...." S. 1002.33(6)(e)2. The Commission must include a fact-based justification in this recommendation to the State Board. Sch. Bd. of Palm Beach County v. Fla. Charter Ed. Found., Inc., 213 So. 3d 356 (Fla. 4<sup>th</sup> DCA 2017).

The Florida Charter School Application Evaluation Instrument, Form IEPC-M2 adopted by Fla. Admin. Code R. 6A-6.0786, provides three main issues for evaluation of a charter school application: Education Plan, Organizational Plan, and Business Plan. The School Board denied the Application and identified in its letter of denial six subsections from the Education Plan section, and one subsection from the Business Plan section as the reasons for its denial of the application. Prior to the Commission hearing, the parties agreed to withdraw the Business Plan issue, leaving the six Education Plan subsections for consideration by the Commission and the State Board of Education.

#### Issue: Education Plan

- **Target Population and Student Body**

The Applicant plans to use Differentiated Instruction in the proposed charter school. The School Board's denial letter stated that the Application only partially met this subsection because the Applicant failed to discuss how Differentiated Instruction would work and what it would look like in a classroom, and that alignment of the targeted student body with the overall mission of the school was not evident.

The Target Population and Student Body subsection of the application form asks the Applicant to "describe the anticipated target population of the school and explain how the school will be organized by grade structure, class size and total student enrollment over the term of the school's charter." This subsection does not seek information on the type of instruction that the Applicant plans to offer, therefore the lack of this information in this section cannot be a basis for denial.

Moreover, the Application contains numerous examples of the types of differentiated instruction that will be used at the Charter School.

- **Educational Program Design**

The School Board's denial letter stated that the Charter School did not show how the students' experiences would develop the academic capacity to demonstrate mastery of the Florida Standards. At the August 25<sup>th</sup> hearing, the School Board asserted that the Experiential Learning

Model has not previously been used in Florida, is used by only a few schools in the United States, and therefore is difficult to evaluate.

The charter school statute provides that one of the purposes of a charter school is to “encourage the use of innovative learning methods.” S. 1002.33(2)(b)3. Indeed, school districts often urge this Commission to deny a charter school application because it is not innovative enough. The Application in this case contains a discussion of the creation of Professional Learning Community curriculum teams among the school staff that will meet over the summer and during common planning throughout the school year to collaborate in preparing teaching units and daily lessons and address academic issues. The Application also outlines the extensive research supporting Experiential Learning and its success with populations similar to the anticipated population of students the Charter School will serve.

- **Curriculum Plan**

The School Board’s denial letter stated that a clear and coherent vision was not provided to demonstrate how teachers will align the Experiential Learning model of instruction to support remediation. The School Board believed that the Applicant’s plan for professional development is insufficient, and that the teaching staff will not be provided with adequate time to learn the course materials and to develop them in a scope and sequence format.

The Application clearly explains how these tasks will be accomplished during pre-planning and throughout the school year through the use of the Expeditionary Learning curriculum. The curriculum for all grades served by the school has been released by Expeditionary Learning and will be aligned to the Florida Standards.

- **Student Performance, Assessment and Evaluation**

The School Board’s denial letter stated that the Charter School planned to rely on a test bank for their baseline and midyear assessments; however, the test bank was not available after June 2017. Therefore, the Application did not include a comprehensive and effective plan to use student achievement data to inform decisions about and make adjustments to the educational program. The School Board’s denial letter also stated that credit recovery for students in middle school was not addressed.

The unavailability of the test bank was not apparent when the Application was prepared. The Charter School committed to adopt the district’s Student Progression Plan and seek an alternative resource to replace the assessment test bank that is no longer available.

- **English Language Learners**

The School Board's denial letter expressed concerns over the plan to mainstream students and have only one ESOL endorsed teacher per grade level.

The school's staffing plan calls for recruiting teachers with ESOL endorsements. The minimum standard in the staffing plan is at least one teacher per grade level with an ESOL endorsement, but it provides a strategy for hiring more teachers with an ESOL endorsement. The Application states that if there are not enough ESOL students to create a single class within a specific grade, ESOL students will be placed with an ESOL-endorsed teacher in their grade.

- **School Culture and Discipline**

The School Board's denial letter stated that the Application did not include a clear and coherent plan on the rights of students with disabilities regarding Code of Conduct violations. The Application states that the Charter School will adopt the District's Policies and Procedures for Exceptional Student Education and the District's Student Conduct Code and references the rights of students with disabilities in the disciplinary context. The school's Student Handbook references students with disabilities covered under Section 504.

#### Recommendations

The Commission recommends that the State Board of Education find that the Application meets the requirements of the target population and student body section of the application, the educational program design is innovative, the curriculum plan is substantially addressed, there is an appropriate assessment plan, adequate, alternate assessment models are identified, the curriculum lends itself to the education of English Language Learners, and the school has an adequate plan for discipline.

#### Overall Recommendation

Based upon the foregoing, the Charter School Appeal Commission recommends that the State Board issue a final order granting the appeal of the Charter School.

September 28, 2017



Lois Tepper, Chair  
Charter School Appeal Commission