

STATE BOARD OF EDUCATION

Action Item

July 18, 2018

SUBJECT: Renaissance Charter School, Inc. and Renaissance Charter High School of Palm Beach v. School Board of Palm Beach County, Florida

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 Renaissance Charter School, Inc., and Renaissance Charter High School of Palm Beach of the decision of the School Board of Palm Beach County to deny the charter application submitted by the Applicants. This Action Item was previously before the State Board and was appealed; the Fourth District Court of Appeal remanded the case back to the Charter School Appeal Commission to make factual justifications supporting its recommendation.

ISSUE:

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

STANDARD OF REVIEW:

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 Palm Beach County based its denial on the following pursuant to section 1002.33, Florida Statutes:

- Application filed to meet the requirements of the Educational Plan
 - Mission, Guiding Principles and Purpose: Sections 1002.33(2)(a); 1002.33(2)(b); 1002.33(2)(c); 1002.33(6)(a)1.; 1002.33(7)(a)1., Florida Statutes.
 - Exceptional Students: Section 1002.33(16)(a)3., Florida Statutes.
 - English Language Learners: Section 1002.33(10)(f), Florida Statutes.
- Application failed to meet the requirements of the Organizational Plan
 - Student Recruitment and Enrollment: Sections 1002.33(7)(a)7.; 1002.33(7)(a)8.; 1002.33(1), Florida Statutes.
- Application failed to meet the requirements of the Business Plan
 - Budget: Sections 1002.33(6)(a)5.; 1002.33(6)(b)2., Florida Statutes.

CSAC CONCLUSION:

The School Board did not have good cause to determine that the Applicants failed to meet the requirements of section 1002.33, Florida Statutes, for failure to meet the requirements of the Educational Plan, the Organizational Plan, or the Business Plan.

CSAC RECOMMENDATION:

The Charter School Appeal Commission recommends overturning the decision of the School Board of Palm Beach County by granting the appeal of Renaissance Charter School, Inc., and Renaissance Charter High School of Palm Beach.

Supporting Documentation Included: Charter School Appeal Commission Recommendation. Appeal of Charter School, Response, CSAC Transcript, DOAH Order, Fourth District Court of Appeal Mandate (under separate cover)

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

**STATE OF FLORIDA
CHARTER SCHOOL APPEAL COMMISSION**

RENAISSANCE CHARTER SCHOOL, INC. and
and RENAISSANCE CHARTER HIGH SCHOOL
OF PALM BEACH,

Appellants/Applicants,

v.

DOE No. 2015-3244

SCHOOL BOARD OF PALM BEACH COUNTY,
FLORIDA,

Appellee/School Board.

RECOMMENDATION OF THE CHARTER SCHOOL APPEAL COMMISSION

This is an appeal regarding the denial by the School Board of Palm Beach County (“School Board”) of an Application by Renaissance Charter School, Inc. and Renaissance Charter High School of Palm Beach (“Applicants”), to establish and operate a new charter school. For such appeals, section 1002.33(6)(e)1., Florida Statutes, 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.” § 1002.33(6)(e)2., Fla. Stat. 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. 4th DCA 2017).

The Commission held a hearing on June 13, 2018, in Tallahassee, Florida. After review of the Application, the appeal brief filed by the Applicants, 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.

I. Standard of Review

Section 1002.33(6)(b)3.a., Florida Statutes, 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. 5th DCA 2005), and must constitute good cause for denial. Sch. Bd. of Volusia County v. Academies of Excellence, Inc., 974 So. 2d 1186

13

(Fla. 5th 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. 4th 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.” § 1002.33(6)(e)2., Fla. Stat. 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. 4th DCA 2017).

II. Fact-Finding and Analysis

a. Brief Background

Section 1002.33(6)(b) requires a school board to review all charter school applications that were timely submitted to it by using the evaluation instrument (“Evaluation Instrument”) that was developed by the Department. The Evaluation Instrument was adopted by Florida Administrative Code Rule 6A-6.0786. The Evaluation Instrument incorporates the statutory requirements for a charter school application and provides three main issues for evaluation of a charter school application: Education Plan, Organizational Plan, and Business Plan. Once the Evaluation Instrument is complete, the school board shall vote to approve or deny the application and then, if denied, articulate in writing the specific reasons, based upon good cause, for the denial, and provide a copy to the applicant and the Department along with the supporting documentation.

In a letter dated November 13, 2015, the School Board advised the Applicants that their Application had been denied based on its evaluation of the Application using the Florida Charter School Application Evaluation Instrument. As explained in more detail below, the School Board identified in its letter of denial five sections in which the Application “Partially Meets the Standard” and one section “Does Not Meet Standard.”

The Applicants timely filed this appeal. The Applicants contend that the School Board improperly denied the Application based on its erroneous imposition of its own definition of innovation and that its Application is legally sufficient. The School Board asserts that it had good cause to deny the Application because the Application was found to be deficient in six sections of the Evaluation Instrument; however, the School Board conceded in its Response to the Notice of Appeal that the issues in Section 19, Action Plan, were clarified at the interview and that Section 19 should have been rated as “meeting the standard.”

b. Issue One: Educational Plan

i. Mission, Guiding Principles, and Purpose

The School Board’s denial letter stated that the Charter School’s Application failed to meet sections 1002.33(2), 1002.33(6)(a), and 1002.33(7)(1)1., Florida Statutes, because it determined that “the learning methods were not using new ideas or methods or new ideas about how learning can be done in this District.”

Section 1002.33(6)(a)1., Florida Statutes, requires charter school applications to demonstrate how the charter school will use the statutory guiding principles and meet the statutory purpose of a charter school. Section 1002.33(2), Florida Statutes, describes the guiding principles and purpose applicable to charter schools. Pertinent to the present appeal, the statute provides that charter schools **shall** encourage the use of innovative learning methods. § 1002.33(2)(b)3., Fla. Stat. (emphasis supplied). Additionally, section 1002.33(2) lists the creation of innovative tools as a purpose the charter school **may** fulfill. § 1002.33(2)(c)1., Fla. Stat.

Here, the Application states that “the School will encourage the use of innovative learning methods and deliver educational best practices to students within the framework of a research-based education model.” It asserts that the Applicants will use innovative learning methods, processes, and tools, such as:

- Student-centered learning, where students will participate in a seven step learning process;
- Blended learning and educational technology, where students will be able to experience different blended learning models and take courses that are offered in other CSUSA schools;
- A data-driven instructional model, where student performance data will assist in instructional decisions made within the classroom;
- A restorative justice system, allowing students an adult advocate and participation in the decision-making process related to misconduct;
- A unique grading philosophy, removing penalties for non-academic aspects; and
- Personalized learning plans, where students are involved in the decision-making related to their academic goals by utilizing their data and measurement tools.

In addition to the aforementioned learning methods and processes detailed in the Application, the Applicants will have access to an “Innovations Team” with Charter Schools USA to continue to adapt and learn instructional strategies.

At the hearing, the Applicants provided additional information regarding some of its methods, including its Innovation Team, Personalized Learning Plans, and Career Academy.

The school board’s evaluators found that the section regarding “Mission, Guiding Principles, and Purpose” did not meet the standard because the “applicant failed to meet indicators of School Board Policy 2.57 innovative rubric.” However, since the Application provides information regarding how the Applicants will encourage the use of innovative learning methods, the Application has met the requirements for approval based on sections 1002.33(6)(a)1. and 1002.33(2)(b)2., Florida Statutes. Additionally, though not required, the Application also demonstrates the creation of innovative tools.

ii. Exceptional Students

The School Board’s denial letter stated that the Application only partially met the standard with respect to Exceptional Students and that it failed to comply with section 1002.33(16)(a)3., Florida Statutes.

Section 1002.33(16)(a)3., Florida Statutes, specifies that a charter school must be in compliance with the statutes that pertain to providing services to students with disabilities. The Evaluation Instrument details six criteria for the Application in order to meet this standard. The School Board found one out of the six criteria as not meeting the standard:

- A realistic enrollment projection (SWD) and a staffing plan that aligns with the projections.

The denial letter provides that the Applicants’ projection of students with disabilities is low, compared to the District percentage (10% versus 14%); it questions the staffing qualifications; and states that it is unclear whether certain positions are supported by the budget, i.e., gifted-certified/endorsed teachers or contracted therapists.

The Application provides that its projected enrollment is based on the experience of the Governing Board and the Education Service Provider, and a review of the average ESE population of the feeder schools. The Applicants confirmed this information at the hearing.

iii. English Language Learners

The denial letter stated that the Application did not comply with section 1002.33(10), Florida Statutes, because the Application only partially met the standard. It stated that the Application must reference compliance with the District agreement with the U.S. Department of Justice dated February 26, 2013.

Section 1002.33(10)(f), Florida Statutes, states that “[s]tudents with disabilities and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.” The Evaluation Instrument requires, in pertinent part, that the Applicants demonstrate the capacity to meet legal obligations (federal and state) regarding the education of English Language Learners.

In the September 22, 2015 meeting, School Board representatives advised the Applicants that their main concerns with including reference to the DOJ agreement was that documents be provided in the specific languages, including Portuguese, and that students cannot be asked to provide immigration documents—which were apparently issues that the School Board had with some of its existing charter schools. The Applicants stated at the hearing that they will comply with the DOJ agreement.

iv. Conclusion as to Issue One

Based on the Application and information presented in response to questions by members of the Appeal Commission, the Application addresses areas of innovation, encourages the use of innovative learning methods, the Applicants used historical data to project enrollment of ESE students, the Application stated that adjustments could be made based on the actual enrollment of ESE students, and the capacity interview discussion was sufficient to meet the criteria regarding English Language Learners. Therefore, the Application met the criteria for the Educational Plan section of the Evaluation Instrument (and the related statutory provisions), and the School Board did not have good cause to deny the Application based on the Applicants' alleged failure to meet the standards for the Educational Plan.

c. Issue Two: Organizational Plan, Student Recruitment and Enrollment

The School Board's denial letter stated that the Application did not fully comply with sections 1002.33(7)(a)7., 1002.33(7)(a)8., and/or 1002.33(10), Florida Statutes, because the Applicants stated that parents will be required to volunteer a minimum number of hours per school year, depending on the number of children enrolled per household, but did not explain the consequence or enforcement mechanism if parents fail to volunteer for the required number of hours.

Section 1002.33(7)(a)7. requires that a charter school address the admissions procedures and dismissal procedures, including the code of student conduct, and requires that admission or dismissal not be based upon academic performance. Section 1002.33(7)(a)8., Florida Statutes, requires that the charter school address the ways by which the school will achieve a racial/ethnic balance reflective of the community it serves, or within the racial/ethnic range of other public schools in the district. Section 1002.33(10) sets forth requirements for determining which students are eligible to attend the school.

The evaluation criteria set forth in the Evaluation Instrument include that the school must have a student recruitment plan that will enable the school to attract its targeted population and that it must have an enrollment and admissions process that is open, fair, and in accordance with applicable law.

At the hearing, the Applicants provided information regarding the volunteer hours, including how the process is explained to parents at enrollment and how parents can fulfill volunteer hours.

Based on the plan in the Application for parents to volunteer, options to fulfill the volunteer requirement, and that the process is explained to parents at enrollment, the Application met the criteria for the "Student Recruitment and Enrollment" section of the Evaluation Instrument (and the related statutory provisions), and the School Board did not have good cause to deny the Application based on the Applicants' alleged failure to meet the standard.

d. Issue Three: Business Plan, Budget

The denial letter stated that the Application did not comply with sections 1002.33(6)(a)5. and/or 1002.33(6)(b)2., Florida Statutes, because the Application only partially met the standard, as explained more fully below. Overall, the School Board found that the budget lacks consistency with parts of the application and does not represent a realistic assessment of the projected sources of revenues and expenditures.

Section 1002.33(6)(a)5., Florida Statutes, requires that an application contain “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.” Section 1002.33(6)(b)2. provides that “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 an expense projection that includes full accounting of the costs of operation, including start-up costs.”

The Evaluation Instrument criteria include: budgetary projections which are consistent with all parts of the Application, a realistic assessment of the sources of revenue and expenses, and a sound plan to monitor the budget and make adjustments.

The School Board stated that the average teacher salary for Palm Beach County charter schools is \$39,500.00 and the district salary is \$49,300.00. Average teacher salaries for Charter Schools USA operating in Palm Beach County is \$38,670.00. Therefore, the School Board contends the proposed average salary is well below that of other charters in the area as well as other schools operated by Charter Schools USA. In addition, the School Board found that average benefits for charter schools are at 25%, not the 17% reported in the Application. As a result, the School Board found that the lower salaries and benefits would lead to high teacher turnover and fewer certified teachers.

At the hearing, the Applicants offered information regarding the history of hiring and retaining teachers at charter schools run by this provider and which averages they used to determine their projections.

Based on the Application, including the fact that the Application provided a balanced budget at the time of the Application and sufficient reserves, and information presented in response to questions by members of the Appeal Commission, the Application met the criteria for the Business Plan section of the Evaluation Instrument (and the related statutory provisions), and the School Board did not have good cause to deny the Application based on the Applicants’ alleged failure to meet the standard.

III. Recommendation

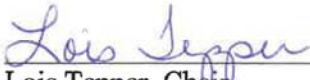
Based on the factual justifications provided above, the Commission recommends that the State Board of Education find that:

1. the Application meets the requirements of the Mission, Guiding Principles and Purpose section of the Evaluation Instrument;
2. the Application meets the requirements of the Exceptional Students section of the Evaluation Instrument;
3. the Application meets the requirements of the English Language Learners section of the Evaluation Instrument;
4. the School Board did not have good cause to deny the Application based on the Applicants' alleged failure to meet the standards for the Educational Plan;
5. the Application meets the requirements of the Student Recruitment and Enrollment section of the Evaluation Instrument;
6. the School Board did not have good cause to deny the Application based on the Applicants' alleged failure to meet the standards for the Organizational Plan;
7. the Application meets the requirements of the Budget section of the Evaluation Instrument; and
8. the School Board did not have good cause to deny the Application based on the Applicants' alleged failure to meet the standards for the Business Plan.

IV. Overall Recommendation

Based on the foregoing, the Charter School Appeal Commission recommends that the State Board issue a final order overturning the School Board's denial of the Application by granting the appeal of Renaissance Charter School, Inc., and Renaissance Charter High School of Palm Beach.

June 26, 2018



Lois Tepper, Chair
Charter School Appeal Commission

