California Department of Education
Charter Schools Division
Revised 5/2018
accs-aug23item01

**ADVISORY COMMISSION ON CHARTER SCHOOLS**AN ADVISORY BODY TO THE STATE BOARD OF EDUCATION

# August 2023 AgendaItem #01

## Subject

Appeal of the Denial of a Petition for the Establishment of a Classroom-Based Charter School Pursuant to California *Education Code* Section 47605(k)(2): Consideration of Evidence to Hear or Summarily Deny the Appeal of Vista Legacy Global Academy, which was denied by the Los Angeles Unified School District and the Los Angeles County Board of Education.

## Type of Action

Action, Information, Public Hearing

## Background

Pursuant to California *Education Code* (*EC*) Section 47605(a), Vista Legacy Global Academy (VLGA) submitted its petition, which proposes a new grade nine through grade twelve charter school, to the Los Angeles Unified School District (LAUSD or District). LAUSD denied the petition on November 15, 2022, by a vote of five to one, citing the following findings:

* Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition (*EC* Section 47605[c][2]).
* The petition does not contain reasonably comprehensive descriptions of all of the required elements set forth in *EC* (*EC* Section 47605[c][5]).
* The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate (*EC* Section 47605[c][7]).

VLGA appealed the District’s denial to the Los Angeles County Board of Education (LACBOE or County), pursuant to *EC* Section 47605(k)(1)(A)(i), which states that if the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. LACBOE denied the petition on March 14, 2023, by a vote of four to three, citing the following findings:

* Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition (*EC* Section 47605[c][2]).
* The petition does not contain reasonably comprehensive descriptions of all of the required elements (*EC* Section 47605[c][5]).
* The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate (*EC* Section 47605[c][7]).

Pursuant to *EC* Section 47605(k)(2), if the county board of education denies a petition to establish a charter school, the petitioner may appeal that denial to the California State Board of Education (SBE). VLGA submitted its petition to the SBE on April 13, 2023.

## Recommendation

The California Department of Education (CDE) recommends that the Advisory Commission on Charter Schools (ACCS) issue a recommendation to the SBE to hear the VLGA appeal. This recommendation is based upon the CDE’s review of the documentary record, which sets out sufficient evidence to hear the appeal.

## Role of the Advisory Commission on Charter Schools

Pursuant to statute, the ACCS’ defined role is to make a recommendation to the SBE whether there is sufficient evidence for the SBE to hear the appeal or summarily deny review of the appeal.

Specifically, *EC* Section 47605(k)(2)(D), states the following:

The ACCS will hold a public hearing to review the appeal and documentary record. Based on its review, the ACCS shall submit a recommendation to the SBE whether there is sufficient evidence to hear the appeal or to summarily deny review of the appeal based on the documentary record. If the ACCS does not submit a recommendation to the SBE, the SBE shall consider the appeal, and shall either hear the appeal or summarily deny review of the appeal based on the documentary record at a regular public meeting of the SBE.

At its September 2023, meeting, the SBE will determine whether to hear VLGA’s appeal or summarily deny review of the appeal.

## Appeal Submission

Pursuant to *EC* Section 47605(k)(2)(A), VLGA submitted the following items as a part of its appeal:

* Written submission of VLGA’s appeal, which includes allegations of abuse of discretion by the governing board of the LAUSD and LACBOE (Attachment 1)
* VLGA’s charter petition (Attachment 2)
* Documentary record from LAUSD (Attachment 3)
* Documentary record from LACBOE (Attachment 4)
* Supporting documentation from VLGA (Attachment 5)

## Summary of Appeal

Pertaining to LAUSD’s denial of its petition, VLGA alleges the following in its written submission (Attachment 1, pp. 16–18):

* “The factual findings adopted by the District Board are not supported by substantial evidence in light of the entire record” (Attachment 1, p. 16).
* “The District abused its discretion by acting unlawfully and in a procedurally unfair manner, by using an unlawfully burdensome definition of ‘community impact,’ and by imposing requirements found nowhere in the Charter Schools Act” (Attachment 1, p. 17).

Pertaining to LACBOE’s denial of its petition, VLGA alleges the following in its written submission (Attachment 1, pp. 9–16):

* “Statutory finding (c)(2) was arbitrary and capricious, in that the factual findings are not supported by evidence in the record. The County Board erroneously concluded, without substantial evidence, that Vista is unlikely to successfully implement the program. The evidence that the county board appears to have relied upon was demonstrably incorrect, and/or not contained in or supported by the record, including incorrect conclusions about the board of directors, financial impact to LAUSD, and curriculum” (Attachment 1, p. 9).
* “The County Board acted in an arbitrary manner without evidentiary support when it adopted statutory finding (c)(5). Evidence in the record shows that the petition does contain reasonably comprehensive descriptions of all required elements” (Attachment 1, p. 12).
* “The County Board acted unlawfully when it failed to provide a de novo review and relied on undue deference to LAUSD in adopting statutory finding (c)(7). The county board did not adopt independent findings on community impact and has certified a record without evidence supporting this statutory finding” (Attachment 1, p. 12).
* “LACBOE’s hearing was procedurally infirm and unfair. The County Board failed to proceed in a manner required by law when it did not allow a board member to obtain action on her effort to amend the motion to deny the petition” (Attachment 1, p. 15).

## Conclusion

VLGA has submitted all required documents and met all timelines, pursuant to *EC* Section 47605(k)(2)(A).

Based on the CDE’s review of VLGA’s written submission, and the findings and documentary record from LAUSD and LACBOE, the CDE finds that the appeal presents sufficient evidence for the ACCS to issue a recommendation to the SBE to hear the appeal, pursuant to *EC* Section 47605(k)(2)(D).

## Attachments

* **Attachment 1:** Vista Legacy Global Academy Written Submission (24 Pages)
* **Attachment 2:** Vista Legacy Global Academy Petition, as denied by the Los Angeles Unified School District and the Los Angeles County Board of Education (240 Pages)
* **Attachment 3:** Documentary Record from the Los Angeles Unified School District (2,266 Pages)
* **Attachment 4:** Documentary Record from the Los Angeles County Board of Education (201 Pages)
* **Attachment 5:** Vista Legacy Global Academy Supporting Documentation (3,205 Pages)
* **Attachment 6:** Written Opposition from the Los Angeles Unified School District (26 Pages)
* **Attachment 7:** Written Opposition from the Los Angeles County Board of Education (39 Pages)