



CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2004 AGENDA

General Waiver

<p>SUBJECT</p> <p>Request by Eagles Peak Charter School to waive portions of Title 5 CCR Section 11960(c)(A) and (B), related to charter school attendance, to be able to enroll new students over age 20 and to serve students that have reached 23 years and older, while continuing to receive K-12 apportionments for these students.</p> <p>Waiver Number: 122-4-2004</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input type="checkbox"/> Consent</p>
--	---

RECOMMENDATION

Approval Approval with conditions Denial

On the basis of *Education Code* (EC) 33051(a)(6), the request would substantially increase state costs.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On May 13, 2004, the State Board of Education denied a similar waiver request from Del Norte Office of Education on behalf of Castle Rock Charter School.

SUMMARY OF KEY ISSUES

EC Section 47612(b) places a limitation on the claiming of individuals over 19 years of age as K-12 average daily attendance (ADA) by charter schools. Prior to the formulation and approval of new regulations, the limitation was expressed as an administrative interpretation, which had not been put into regulations, thus the issue was in need of clarification.

The SBE modified the regulations and clarified the age of attendance allowed for K-12 apportionment purposes for charter schools. The new regulations clarified when apportionment can be claimed from students who are 20 years of age and over. These students can only be claimed as K-12 average daily attendance by charter schools if they were first enrolled in a charter school at the age of 19 or younger, have stayed continuously enrolled in public school since that time, and are maintaining satisfactory progress toward award of a high school diploma. Under the new regulations, no apportionment can be claimed once the student reaches the age of 23.

Eagles Peak Charter School is requesting a waiver of these new regulations when they go into effect on July 1, 2004 so that they can continue to enroll new students who are 20 years old and older, and serve students who are 23 years old and older. The rationale for this waiver request is that the school serves adult students who are in court-mandated, substance abuse recovery programs that are not served by conventional adult school programs.

As an independent study charter school authorized by the Julian Union High School District in San Diego county, Eagles Peak Charter School serves students in Imperial, Orange, Riverside, and San Diego counties. A large number of educational programs, including high school diploma programs, are available to adult students in these counties through adult schools, community and faith-based organizations, and community college non-credit programs. Adult education programs in these counties can also provide services to adult students who are in court-mandated substance abuse recovery programs.

During the initial notice period of January 31, 2003 through the public hearing on April 9, 2003, the State Board of Education (SBE) fully considered the effects of the proposed regulations and realized that many adult students would no longer be able to attend charter schools. While particular charter school programs serving adult students may be meritorious, regulatory changes were necessary to clarify provisions of statute that were subject to multiple and varying interpretations. In addition, the SBE also considered the fact that adult education programs are available to adult students throughout the state to provide these types of educational services. The fact that many adult educational programs are under funded and oversubscribed should be addressed separately by the Legislature. Charter schools are designed to be K-12 programs and not adult education programs. Additionally, charter school average daily attendance is funded by the state at approximately twice the amount as adult education average daily attendance.

The charter has only been on the Academic Performance Index (API) since 2002, but appears to have decreased in that time period. The report for Eagles Peak Charter School shows a Base API of 691, a Statewide Rank of 5, and a Similar Schools Rank of 2. The 2003 Academic Performance Index (API) Report shows a Base API of 691, a Statewide Rank of 4 and a Similar Schools Rank of 1

Based on the availability of adult education services, and the fact that charter school average daily attendance is funded by the state at approximately twice the amount as adult education average daily attendance, the department recommends denial of the waiver based on EC 33051(a)(6), the request would substantially increase state costs. See additional cost data below.

Authority for Waiver: *Education Code* (EC) Section 33050

Period of request: July 1, 2004 to July 1, 2006

Local board approval date(s): April 15, 2004

Public hearing held on date(s): January 15, 2004 and April 15, 2004

Bargaining unit(s) consulted on date(s): April 13, 2004

Name of bargaining unit/representative(s) consulted: Cheryl Maisch

Position of bargaining unit(s) (choose only one):

Neutral Support Oppose

Comments (if appropriate):

Public hearing advertised by (choose one or more):

posting in a newspaper posting at each school other (specify)

Advisory committee(s) consulted: Eagles Peak Charter School Advisory Committee

Objections raised (choose one): None Objections are as follows:

Date(s) consulted: April 13, 2004

FISCAL ANALYSIS (AS APPROPRIATE)

This waiver request does not indicate the numbers of adult students currently being served by Eagles Peak Charter School. The California Department of Education has received information from the school that adult students generate approximately 321 average daily attendance (ADA) in the current school year. The charter school block grant rate for 2003-04 is approximately \$5,500 per full-time student. Therefore, the cost to the state for these 321 full-time adult charter school students was \$1,765,500. The difference between charter school funding for these 321 adult students and adult education funding is approximately \$1,060,000.

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.