
California Department of Education

WAIVER SUBMISSION-- General

CD Code: 3768049

Waiver Number: 27-12 2016

Active Year: 2016

Date In: 12/15/2016 1'42:13 PM

Local Education Agency: Dehesa Elementary School District
Address: 4612 Dehesa Rd. El Cajon, CA 92019

Start: 7/1/2016

End: 7/1/2018

Waiver Renewal: N

Previous Waiver Number: Previous SSE Approval Date:

Waiver Topic: Charter School Program

Ed Code Title: Geographic Limitations – Non-classroom Based

Ed Code Section: Portions of Ed. Code Sections 47605(a) and 47605.1

Ed Code Authority: 33050

Ed Code or CCR to Waive. Education Code section 47605:

(a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school [within a school district] may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school [that will operate within the geographic boundaries of that school district.] A charter school may propose to operate at multiple sites [within the school district] if each location is identified in the charter school petition.

(5) [A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.]

Education Code Section 47605.1:

(d) [Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district in which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

(1) The school has attempted to locate a single site or facility to house the entire program. but such a facility or site is unavailable in the area in which the school chooses to locate. (2)

The site is needed for temporary use during a construction or expansion project].

Outcome Rationale: The Heights Charter ("The Heights") was authorized by the Dehesa Elementary School District ("District") in 2012. The Heights is a non-classroom based/independent study charter school program offering personalized learning education programs for grades K-8.

The Heights provides students with a rigorous, standards-based program within a small school nurturing environment that incorporates strong family and community ties. To this end, The Heights offers a non-traditional K-8 independent study program.

On October 16, 2016, the 3rd District Court of Appeals ruled in AUHSD v. Shasta Secondary Home School ("Shasta Ruling") that, pursuant to Education Code Section 47605, independent study charter schools may not have resource centers outside of the boundaries of the school district in which the charter school is authorized, but within the same county.

Currently, The Heights has one (1) resource center outside District boundaries but within San Diego County affected by the Shasta Ruling. This waiver is necessary to protect the continued operation of The Heights' existing resource center services.

The Shasta Ruling impacts approximately 229 students, 20.1% are Socio-economically disadvantaged, and 11.1% qualify for Special Education services. This ruling will also have an impact on the 28 The Heights employees.

As a non-classroom based charter school, The Heights is not eligible for Proposition 39 funding or reimbursement of lease costs under SB 740. All lease obligations are paid directly by The Heights.

The impact of the Shasta court's ruling could result in the closing of its resource center, and the loss of 229 students, employment of approximately 28 school employees, and the inability of The Heights to meet the financial obligations related to that facility. The result has the potential to cause The Heights to become insolvent and force it to file for bankruptcy.

This waiver is necessary to allow the continued operation of The Heights' existing resource center that provides the services and resources required under Education Code Section 51746, intervention support for all students, direct instruction opportunities for all students, but also provides a location for federally mandated special education services to allow the provision of a free appropriate public education ("FAPE") to students who qualify under the Individuals with Disabilities in Education Act ("IDEA") and state mandated testing as required of charter schools pursuant to Education Code Section 47605(c).

The District provides supervisory oversight for The Heights as required by Education Code Section 47604.32. To the best of District's knowledge, the District affirms that at all times The Heights has operated its resource center consistent with the advice and written guidance issued by the California Department of Education since 2012 (see Attachments).

Please note, The Heights' employees are not organized into bargaining units, but the District consulted with its employees' exclusive representatives prior to the submission of this waiver request, and they are not opposed to the waiver.

Student Population: 229

City Type: Rural

Public Hearing Date: 12/8/2016

Public Hearing Advertised: Notice posted at the District main office and Charter School main office and resource centers.

Local Board Approval Date: 12/8/2016

Community Council Reviewed By: The Heights Charter Board of Directors Community Council

Reviewed Date: 11/29/2016

Community Council Objection: N Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Eric Stevens

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Bargaining Unit Date: 12/01/2016

Name: Dehesa Teacher's Association (OTA)

Representative: Nicole Suetos

Title: President

Position: Neutral Comments: