

California Department of Education
WAIVER SUBMISSION - General

CD Code: 3768213

Waiver Number: 18-12-2016

Active Year: 2016

Date In: 12/13/2016 4:38:32 PM

Local Education Agency: Mountain Empire Unified School District
Address: 3305 Buckman Springs Rd. Pine Valley, CA 91962

Start: 7/1/2016

End: 7/1/2017

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Charter School Program

Ed Code Title: Geographic Limitations- Non-classroom Based

Ed Code Section: Portions of EC Sections 47605(a)(1) and 47605.1

Ed Code Authority: 33050

Ed Code or CCR to Waive: Portions of California *Education Code* Sections 47605(a)(1), 47605(a)(5), and 47605.1(d) as follows:

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:

Outcome Rationale: San Diego Neighborhood Homeschool ("SDNH") was first authorized by the Mountain Empire Unified School District ("District") on January 14, 2009. Since that time, SDNH has offered a unique non-classroom based/independent study charter school program for grades TK-12 through a personalized learning education program that is tailored to the specific needs of each of its students. This provides SDNH's students and their families, the option to navigate through the school's curriculum in a manner that is suitable for the needs of the student and that fits with their own schedule, personal style and beliefs. It also allows parents and guardians to directly supervise and participate in their child's learning.

While SDNH students primarily receive their education at home, the school has two (2) resource centers where students and parents receive one-on-one instruction and guidance from SDNH's credentialed teachers. SDNH also provides special education services and intervention support service under *Education Code* Section 51746 at the resource centers, as well as conducting the state mandated testing required of charter schools under *Education Code* Section 47605(c). In other words, the resource centers are a key component of the educational programs and services that SDNH offers to its students.

SDNH's current resource centers are located outside the District's boundaries, but within the same county. Approximately 78 students attend educational programs or receive support services at the SDNH's Oceanside Resource Center, located in northern San Diego County, and another 75 students at the Chula Vista Resource Center, in southern San Diego County.

Out-of-District Facility

On October 16, 2016, the 3rd District Court of Appeal ruled in AUHSD v. Shasta Secondary Home School ("Shasta Ruling") that 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, pursuant to *Education Code* Section 47605(a).

This ruling directly impacts SDNH, its educational programs, and its students and families because the school maintains two (2) resource centers located outside District boundaries, but within San Diego County. On behalf of SDNH, the District seeks a waiver from the State Board of Education ("SSE") pursuant to *Education Code* section 33050, which authorizes the SSE to waive "all or part of any section of [the *Education Code*]." The District requests that the SBE waive the sections of the *Education Code* cited above in light of the Shasta Ruling. This waiver is necessary for SDNH to continue providing its unique educational programs for the duration of the school year from the resource centers where its students are currently served. The waiver is also necessary to provide the charter school additional time to adjust its educational programs, its operations, and the locations of its resource centers, so that SDNH can continue serving its students beyond the current school year.

Students / Employees Affected

The Shasta Ruling has the potential to impact approximately 153 students enrolled in SDNH, including: 65% Socioeconomically Disadvantaged students, 19% English Learners, and 2% SPED population.

This ruling may also impact the 7 employees of SONH.

Financial Cost

As a non-classroom based charter school, SONH is not eligible for Proposition 39 funding. This means that SONH was required to lease space from private entities for its resource center facilities. The facilities are leased at market rates and directly funded by the school. If SONH were required to close its resource centers mid-school year to comply with the Shasta Ruling, the school would have to seek termination of its current leases (which may result in penalties or costs imposed by its landlords), and it would have to locate new facilities within the District's boundaries in order to continue operating for the duration of the school year. This would impact the school's entire student body and their families, and it would also impact all of SDNH's employees and vendors.

In the event that SDNH found new facilities within the District's boundaries, there is uncertainty whether its current students would continue to attend the school at its new location(s). The school's current resource centers are located in the northern and southern areas of San Diego County, and the District's boundaries are within eastern San Diego County. SDNH's students may therefore transfer to schools that are closer to home, with the potential loss of roughly 153 students. A decrease in enrollment may create hardship for SDNH to meet its financial obligations, including its facilities costs, educational program expenses, and employee salaries for approximately 7 school employees.

Alternatively, if SDNH were unable to find adequate facilities for its school within the District's boundaries, the school may be forced to close mid-school year in light of the Shasta Ruling. This would immediately impact the entire student body and their families, and it would also impact all of SDNH's employees and vendors. The waiver requested by the District is therefore necessary to protect the continued operation of SDNH for the duration of this school year, and beyond. Even though SDNH is a non-classroom based/independent study charter school, the resource centers are a key component of the educational programs and services that SDNH offers to its students, including the services and re-sources required under *Education Code* Section 51746, 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 location of the existing resource centers is essential for SDNH to continue to provide its educational pro-grams and services to its students, and ultimately to running its school. The waiver would not only protect SDNH from having to close its current resource centers mid- school year, but it would also provide the charter school additional time to adjust its educational programs, its operations, and the locations of its resource centers, so that SDNH can continue serving its students during future school years. The waiver would further provide SDNH students and families time to plan for transportation to the new resource centers.

District Oversight

The District provides supervisorial oversight for San Diego Neighborhood Homeschool as required by *Education Code* Section 47604.32 The District affirms that at all times San Diego Neighborhood Homeschool has operated its resource centers consistent with the advice and written guidance issued by the California Department of Education since 2012.

Please note, San Diego Neighborhood Homeschool employees are not organized into bargaining units, but Mountain Empire Unified School District consulted with its employees' exclusive representation prior to the submission of this waiver request and they are not opposed to the waiver.

Student Population: 153

City Type: Urban

Public Hearing Date: 12/6/2016

Public Hearing Advertised: The public hearing was agendaized and published as a special Board meeting. The agenda was available online and was posted in a publically accessible place 72 hours prior to the meeting.

Local Board Approval Date: 12/6/2016

Community Council Reviewed By: San Diego Neighborhood Homeschool Board of Directors

Community Council Reviewed Date: 12/1/2016

Community Council Objection: N Community

Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Kathy Granger

Position: Superintendent

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Bargaining Unit Date: 12/5/2016

Name: Mountain Empire Teachers Association (META)

Representative: Christie Dougherty

Title: President

Position: Neutral

Comments: