

Whitmore Union Elementary School District

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Whitmore Union Elementary School District on behalf of Northern Summit Academy

**California State Board of Education
WAIVER SUBMISSION - General**

Local Education Agency: **Whitmore Union Elementary School District**
Address: **30611 Whitmore Rd., Whitmore, CA 96096-0010**
Start: 3/1/2017 End: 6/30/2019

Waiver Renewal: N

Waiver Topic: Geographic Restrictions on Resource Center Locations for Nonclassroom-Based Charter Schools
Ed Code Title: Charter School Locations
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:

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:

On October 16, 2016, the 3rd District Court of Appeal 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.

This waiver is sought to protect the continued operation of our Anderson Resource Center, 2877 Childress Dr., Anderson, CA.

Currently, Northern Summit Academy has one resource center outside sponsoring district boundaries but within Shasta County that is compliant with the ruling. We moved to the current location, 2877 Childress Dr, Anderson, CA 96007 on April 18, 2016. We had initially (August 2014) located in Cottonwood, about 7 miles south of the current location. We are located outside of our sponsoring district due to the fact that there is no place within the district bounds that would accommodate our entire program. Whitmore is an exceptionally small, rural, mountain town with no space at the little school. The commercial locations are limited to a post office, general store, thrift store, fire station, community center, and 2 churches. The Whitmore School has adequate internet for its own students, the rest of the town has poor connectivity on a good day. Our charter school board, which includes a resident of Whitmore who is a real estate agent, and the Whitmore Board are agreed that there is not a facility for our program within the Whitmore School District boundaries.

Prior to moving to our current location we were required to complete a Use Permit Application and Process. As part of the Use Permit Process in Anderson, 6 weeks prior to the intended move the Anderson Building Department sent out notices to all concerned parties of our intentions to locate the resource center at the specified address. The recipients of the notification included the Shasta County Office of Education, Anderson Union High School District, Cascade Union School District, Cottonwood Union School District, the State of California, and multiple commercial and residential neighbors within a certain radius (documentation available upon request). No objections to our proposed move were presented. We signed a lease through June 2019, this lease would have to be paid in full should we vacate the facility. Currently we are serving 113 students. Our goal is an enrollment of 250 students. We have determined that this will provide us the sustainable revenue we need to serve our students at a robust level with qualified staff and an effective student:teacher ratio.

When the appellate court rendered its decision in the AUHSD vs Shasta Secondary case, NSA took action to seek a material revision to the charter naming the Childress Dr., Anderson, as the resource center location. Shasta County Office of Education is challenging the legality of our not being located within the boundaries of our sponsoring district. The county superintendent does not accept as adequate the Anderson Building Department's notice of the proposed move that was sent to the Shasta County Office of Education. Shasta County Office of Education has had notice of our location since we contracted for business services with them commencing July 2014. The county office has had all of our documents, taken care of payroll, and all financial services for the entire life of this charter. All of this necessitated complete transparency with them on our part, including our physical location, from the beginning. We believe we are compliant with the current ed code Education Code Section 47605.1. **This waiver is sought to protect the continued operation of our Anderson Resource Center. As the ed code does not define the manner by which notices will be delivered and there is disagreement about this, we request the waiver include the prior notification of specified parties. If granted, the waiver will allow us time to clarify and meet compliance requirements.**

Immediately prior to the appellate court's decision, we had been negotiating for a second building to accommodate our continued growth and our developing CTE Pathways. With the court's decision, and our heightened awareness of the relevant ed code, we stopped the negotiations. The Northern Summit Academy board has approved material revision language that adds our current location address to our charter. The Whitmore School board approved the material revision also. Due to continued objections from the Shasta County Office of Education legal counsel, the Whitmore School board is holding a Public Hearing (4/18/2017) to again consider the Material Revision based on resource center location outside the Whitmore School boundaries. The board will make a final determination at a board meeting on 4/25/2017.

Northern Summit Academy

Northern Summit Academy is a personalized learning, non-classroom based charter school for grades K-12 authorized by Whitmore Union Elementary School District in February 2014. The lack of available facility options in Whitmore's boundaries was not considered a problem at the time of sponsorship. The relationship with Whitmore was sought by Northern Summit Academy based on the perceived potential for collaboration and mutual support. This has proven to be the definition of our continuing relationship. Northern Summit Academy began serving students on August 25, 2014. Northern Summit Academy currently has 113 enrolled students who reside in Shasta and Tehama counties. Our goal is to reach an enrollment of 250 students. Northern Summit Academy serves many students who, for various reasons, have not been successful in the comprehensive schools. The evidence of this lack of success is that many of the 3-12 grade students enroll performing below grade level in reading, language arts and math. Many of the high school students enroll in a credit deficient state.

100% of the students are required to participate in Northern Summit Academy's universal assessment's 3 times per year for academic progress monitoring and the state mandated annual testing in grades 3-8 and 11. Currently, approximately 60 of the students are in grades mandated to participate in the state's standardized testing program each year. 100% of Northern Summit Academy's 9th-12th grade students are encouraged to participate in our CTE Program.

Students/ Employees Affected

The Shasta Ruling impacts approximately 118 students: 55 percent are socioeconomically disadvantaged and 13 percent are students with special needs/active IEP's. .

Northern Summit Academy has 12 employees, 6 are full time certificated staff.

District Oversight

The District provides supervisorial oversight for Northern Summit Academy as required by Education Code Section 47604.32. The District affirms that at all times Northern Summit Academy has operated its resource center consistent with the advice and written guidance issued by the California Department of Education since 2002 (see Attachments).

Students: 113

City Type: Rural

Public Hearing Date: December 13, 2016

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

Local Board Approval Date: December 13, 2016

Committee/Council Reviewed By: Northern Summit Academy Board of Directors

Committee/Council Review Date: December 8, 2016

Committee/Council Objection: N

Committee/Council Objection Explanation:

Bargaining Units: N

Audit Penalty: N

Categorical Program Monitoring: N

Contact Person Name: Larry Robins

Position: Superintendent, Whitmore Union Elementary School District

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District or County Certification: I hereby certify that the information provided on this application is correct and complete.

