
California Department of Education
WAIVER SUBMISSION - General

CD Code: 3768163

Waiver Number: 25-12-2016

Active Year: 2016

Date In: 12115/2016 12:19:30 PM

Local Education Agency: Julian Union Elementary School District
Address: 1704 Cape Horn
Julian, CA 92036

Start: 7/1/2016

End: 7/1/2018

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 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: Diego Valley Public Charter School (Diego Valley) has been authorized by Julian Union School District (JUSD) since 2011 and received a five-year renewal term from July 1, 2016 to June 30, 2021 Diego Valley is a non-classroom based/independent study charter school program offering personalized learning education programs for grades K-12.

Diego Valley is specifically designated as an Alternative School Accountability Model (ASAM) serving high-risk pupils and drop-outs. The State recognizes that Diego Valley's population has an extremely high turnover rate and can serve an entirely new group of students every 12 months.

Diego Valley primarily serves students who are considered "highly at-risk". The term highly at-risk encompasses students who are pregnant, significantly credit deficient, have medical problems that prevent regular attendance in a comprehensive program, and are on probation for criminal offenses. At-risk youth typically come from single-parent homes, have a low socioeconomic status, and experience a high degree of transiency in their living situations. Despite these barriers to achievement, Diego Valley continues to help these students succeed and graduate from high school

Otego Valley serves approximately 1,400 students annually with 72% of the population eligible for free- and reduced-price meals (Socioeconomically Disadvantaged). The population includes 40% English Learner population and 13% SPED students. Many of Diego Valley's students have previously dropped out of high school and enroll at Diego Valley with an average deficiency of 50 credits.

Diego Valley students with special needs are served in accordance with their Individualized Education Programs ("IEPs,") including but not limited to special education and related services provided by a Specialized Academic Instructor, who provides one-on-one instruction, along with accommodations and modifications. Diego Valley is part of the El Dorado County Charter SELPA.

At Diego Valley, each course is designed for the students and reviewed with the student by a supervising teacher in both the one-on-one and small group settings. Diego Valley's approach to Personalized Learning includes ample student support through individual tutorials, small group pull-out sessions, small group tutorials, career technical education pathways and courses, labs, online classes and technology-based learning opportunities and tutorials.

Diego Valley also provides instruction to meet the educational needs of federally funded learn-and-work or learn-and-earn programs, including but not limited to the federal Workforce Investment Act pursuant to Education Code Section 47605.1(g). Diego Valley's year-round program emphasizes attainment of basic skill competencies, enhancing opportunities for academic and occupational training, and providing exposure to the job market and employment. Activities may include instruction leading to completion of secondary school, tutoring,

internships, job shadowing, work experience, adult mentoring and comprehensive guidance and counseling. The program emphasizes services for out-of-school youth.

In 2015, Diego Valley Public Charter High School was a recipient of \$600,000 of California Career Pathways Trust grant funding. Diego Valley is currently in year two of the grant having met all goals for year one.

The Julian Union School District (JUSD) has provided supervisory oversight and performance monitoring services for the Charter School, including monitoring school and student performance data, reviewing the school's audit reports, performing annual visits to the school facilities and resource centers, and considering charter amendment and renewal requests. To the best of JUSD's knowledge, Diego Valley has operated its resource centers consistent with the advice and written guidance issued by the California Department of Education since 2002 (see Attachment).

On October 16, 2016, the 3rd District Court of Appeal ruled in AUHSD v. Shasta Secondary Home School that under *Education Code* section 47605(a), 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, Diego Valley has four (4) resource centers located within San Diego County that may be affected by the ruling. This waiver is necessary to protect the continued operation of Diego Valley's existing resource centers where special education services, English Language Development, and intervention services are provided.

The ruling impacts approximately 1,400 students annually with 72% of the population being Socioeconomically Disadvantaged, 40% English Learners, and 13% SPED students. Also impacted are the 80 Diego Valley employees.

Diego Valley's current staffing includes, but is not limited to, Certificated Teachers, Special Education Teachers, Counselors, School Psychologists, Tutors, Student Relation Technicians, Student Relations Managers, Registrars, Student Retention Support Specialists, Principals, Assistant Principals, Community Liaison, Instructional Specialist for Professional Development and Teacher Training, Program Specialist, Curriculum Instructional Specialist, Career Technical Education Instructional Specialist, and an Online Instructional Specialist.

Since 2011, Diego Valley has opened and operates four resource centers outside the boundaries of the District, but within the County. As a non-classroom based charter school, Diego Valley is not eligible for Proposition 39 funding so each initial build out and start up is directly funded by the charter school. In addition, each resource center lease agreement does not have a termination "out clause" allowing the schools to release them of their long term financial liability. Furthermore, despite Diego Valley's high free- and reduced-price lunch ratio, it is not eligible for rental reimbursement under SB 740 as a nonclassroom based charter school.

Diego Valley created these resource centers in alignment with the direction provided by the California Department of Education as provided in the letter dated November 14, 2002 from Janet Sterling, Director, School Fiscal Services Division, updating Charter School Administrators, County and District Superintendents and Chief Business Officials on recent charter legislation, including AB 1994 (attached).

The impact of the court's ruling in Shasta may result in the closing of these resource centers impacting 1,400 highly at-risk students who are now engaged in school and on a path towards graduation, employment of 80 school employees and the inability to meet the millions of dollars in long-term leases and other financial obligations. The result may cause Diego Valley to become insolvent and force it to file for bankruptcy. In addition to the impact on students being displaced, staff's loss of employment and school closure costs, local communities and the state of California will be affected by the loss of the societal benefit of each high school dropout recovered through Diego Valley's educational program. On average each high school dropout costs the state of California \$209,200. (Source: Levin, et al.) The dropout recovery of Diego Valley's educational program has a potential savings of \$292,880,000 for the state California. For many of these students Diego Valley's program is their best opportunity to obtain a high school diploma.

This waiver is necessary to protect the continued operation of Diego Valley's existing resource centers that provides the services and resources required under Education Code Section 51746, intervention support for all students, direct instruction opportunities for all students, and 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"), UCOP approved A-G coursework, including hands on science labs with equipment and manipulatives, and state mandated testing as required of charter schools pursuant to Education Code Section 47605(c).

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

Student Population: 1400 City Type: Rural Public Hearing Date: 12/14/2016
Public Hearing Advertised: Notice Posted at the Julian Union School District main office and Diego Valley Public Charter School main office, Diego Valley resource centers and Diego Valley website.

Local Board Approval Date: 12/14/2016

Community Council Reviewed By: Diego Valley Public Charter School Board of Directors
Community Council Reviewed Date: 11/17/2016
Community Council Objection: N Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N Submitted by: Mr. Eric Stevens Position: Attorney for Julian Union Elementary Sch. Dist.

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Bargaining Unit Date: 11/07/2016

**Name: Julian Union Teacher's Association Representative: David Pierce Title: President
Position: Support Comments:**