

California Department of Education
WAIVER SUBMISSION - General

CD Code:3768163

Waiver Number: 13-12-2016

Active Year: 2016

Date In: 12/9/2016 2:54:36 PM

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

Start: 7/1/2016

End: 6/30/2018 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)(1) 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-

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.

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

(e)(1) For a charter school that was granted approval of its charter before July 1, 2002, and provided educational services to pupils before July 1, 2002 this section only applies to new [educational services or] schoolsites established or acquired by the charter school on or after July 1, 2002.

(2) For a charter school that was granted approval of its charter before July 1, 2002, but did not provide educational services to pupils before July 1, 2002, this section only applies upon the expiration of a charter that is in existence on January 1, 2003.

(3) [Notwithstanding other implementation timelines in this section, by June 30, 2005, or upon the expiration of a charter that is in existence on January 1, 2003, whichever is later, all charter schools shall be required to comply with this section for schoolsites at which education services are provided to pupils before or after July 1, 2002, regardless of whether the charter school initially received approval of its charter school petition before July 1, 2002. To achieve compliance with this section, a charter school shall be required to receive approval of a charter petition in accordance with this section and Section 47605.)

(4) This section is not intended to affect the authority of a governmental entity to revoke a charter that is granted on or before the effective date of this section.

Outcome Rationale: Julian Charter School (JCS) is authorized by the Julian Union School District (JUSD) and provides high quality independent study education options to K-12 students in San Diego and adjacent counties (Orange, Riverside and Imperial). JCS was established and began operating on November 22, 1999 and was most recently renewed by JUSD for a five-year term from July 1, 2016 - June 30, 2021.

Students at JCS are part of an independent study, personalized learning education model based on current educational research and accessed through homeschool-based learning and/or learning center support and instruction. JCS offers students individualized learning plans, supplemental learning projects and opportunities, online classes, community college and ROP courses, tutoring, independent study models and other support structures to allow for student success. JCS works with its students and parents by providing them with high quality appropriate educational resources, an assigned Teacher of Record - a certificated educational facilitator (EF or "facilitator"), academy coordinator or homeroom teacher - and access to a team of education professionals who can provide additional support services as appropriate.

On October 16, 2016, the 3rd District Court of Appeals ruled in AUHSD v. Shasta Secondary Home School 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. Currently, JCS has twelve (12) resource centers located within San Diego County that may be affected by the ruling, impacting 900 students (13% SPED population) who

regularly use these resource centers. These resource centers allow JCS to maintain the majority of its students in our sponsoring county.

These resource centers have been in operation and serving students' needs for the last five to twelve years. JCS created these resource centers in alignment with direction provided by the California Department of Education ("CDE") 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). JCS has continued to operate these facilities in alignment with the Frequently Asked Questions regarding charter schools as published on the COE website (attached).

If these centers were to close, it would also jeopardize resource centers in our adjacent counties affecting another 450 students in Riverside County. JCS has no "out clauses" in our current leases to allow lease termination prior to the end of the term. The court's ruling could thus cost the school millions of dollars in lease fees for facilities JCS cannot use for student instruction, essentially bankrupting the school.

Additionally, the court's ruling may jeopardize JCS's ability to employ its 260 employees. Accordingly, this waiver is necessary to protect the continued operation of JCS' existing resource centers that provides the services and resources required under Education Code Section 51746 (required services and resources for independent study students, including but not limited to learning centers and instructional staff), intervention support for all students, direct instruction opportunities for all students. This waiver would also allow JCS to continue to provide 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"), state mandated testing as required of charter schools pursuant to Education Code Section 47605(c), and wet laboratory facilities to allow students to fulfill UC and CSU A-G requirements.

Approval of this waiver will allow Julian Charter School, Inc. time to reorganize, apply for additional charters, WASC accreditations, SELPA membership, and allow leases to expire reducing fiscal liability, and other necessary tasks to restructure and continue serving students in JCS's geographical territory.

"Please note, Julian Charter School employees are not organized into bargaining units, but Julian Union Elementary School 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: 2598

City Type: Rural

Public Hearing Date: 11/9/2016

Public Hearing Advertised: JUSD, JCS, Julian Post Office, Julian Community Bulletin Board, Cider Mill Window

Local Board Approval Date: 11/9/2016

Community Council Reviewed by: JCS Board of Directors
Community Council Reviewed Date: 11/4/2016
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: