

California Department of Education
WAIVER SUBMISSION - General

CD Code: 3768213

Waiver Number: 21-12-2016

Active Year: 2016

Date In: 12/14/2016 11:57:34 AM

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:]

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 Outcome Rational:

San Diego Virtual Charter School has been authorized by the Mountain Empire Unified School District ("District") since 2010. San Diego Virtual Charter School is a non-classroom based/independent study charter school program offering personalized learning education programs for grades TK-12.

San Diego Virtual Charter School Program Generally

San Diego Virtual is a growing and innovative independent study public charter school, open to students residing in San Diego and neighboring counties. San Diego Virtual attracts students seeking an alternative educational program for a variety of personal and educational reasons.

San Diego Virtual recognizes that in education, one size does not fit all. San Diego Virtual is designed and organized to serve students and families who have chosen an independent study program that can meet an individual scholar's unique needs. San Diego Virtual educates students who have a wide range of learning styles and allows for flexibility in pacing and curriculum options aligned with Common Core standards.

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 pursuant to *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, San Diego Virtual Charter School has one (1) facility within the District's boundaries and three (3) resource centers outside District boundaries but within San Diego County. This waiver is necessary to allow the continued operation of San Diego Virtual's existing resource centers where students are served.

Students / Employees Affected

The Shasta Ruling has the potential to impact approximately 433 students: 61 % Socioeconomically Disadvantaged, 25 % English Learners, and 12% SPED population.

This ruling will also have an impact on the 32 San Diego Virtual School employees. Financial Cost As a non-classroom based charter school, San Diego Virtual is not eligible for Proposition 39 funding so all leased facilities are directly funded by San Diego Virtual

The impact of the Shasta court's ruling could result in the closing of its facility, and the loss of roughly 100 students, employment of approximately 5 school employees, and possibly the inability of San Diego Virtual to meet the financial obligations related to the facility. The result has the potential to cause San Diego Virtual to become insolvent and force it to file for bankruptcy.

This waiver is necessary to protect the continued operation of San Diego Virtual's existing resource centers that provides the services and resources required under *Education Code Section 51746*, intervention support for all scholars, 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)*.

District Oversight

The District provides supervisory oversight for San Diego Virtual as required by *Education Code* Section 47604.32. The District affirms that at all times San Diego Virtual 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 Virtual employees are not organized into bargaining units, but Mountain Empire Unified 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: 433

City type: Urban

Public Hearing Date: 12/6/2016

Public Hearing Advertised: The public hearing was posted online (the MEUSD website), the Charter School offices, and in a publically accessible location 72 hours prior to the special Board meeting and Public hearing.

Local Board Approval Date: 12/6/2016

Community Council Reviewed By: San Diego Virtual Board of Directors

Community Council Reviewed Date: 12/5/2016

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: