
California Department of Education
Waiver Submission – General

CD Code: 4570169
2016

Waiver Number: 38--12-2016

Active Year:

Date In: 12/20/2016 2:02:31 PM

Local Education Agency: Whitmore Union Elementary School District
Address: 30611 Whitmore Rd
Whitmore, CA 96096

Start: 7/1/2016

End: 6/30/2018

Waiver Renewal: N

Previous Waiver Number:

Previous SSE Approval Date:

Waiver Topic: Charter School Program
Ed Code Title: Geographic Limitations - Non-classroom Based
Ed Code Section: 47605(a)(1) and 47605.1 33050
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

(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

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 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. Currently, NDA-Shasta has no resource centers outside district boundaries but within Shasta County that are affected by the Shasta Ruling. This waiver is sought to protect the continued operation of NDA-Shasta by allowing NDA-Shasta to use facilities outside of the authorizing district's boundaries but within Shasta County for the sole purpose of standardized testing and testing preparation pursuant to *Education Code* Section 47605(c). NDA-Shasta is currently unable to complete required state assessments within the boundaries of Whitmore Union Elementary School District due to inadequate Internet services to accommodate the student population.

New Day Academy-Shasta

NDA-Shasta is a K-12, non-classroom based charter school for grades K-12 authorized by Whitmore Union Elementary School District in August 2016. NDA-Shasta enrolls 100 students who reside in Shasta, Tehama and Modoc counties approximately 54 of whom are in grades that must participate in the state's standardized testing program each year.

Students/Employees Affected

The Shasta Ruling impacts approximately 100 students: 36 percent socioeconomically disadvantaged, 4 percent English Learners, and 11 percent students with special needs. NDA-Shasta has 16 employees

Student Population: 100

City Type: Rural

Public Hearing Date: 12/13/2016

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

Local Board Approval Date: 11/28/2016

Community Council Reviewed By: New Day Academy, Inc. Board of Directors

Community Council Reviewed Date: 11/28/2016

Community Council Objection: N

Community Council Objection Explanation: Audit Penalty YN: N

Categorical Program Monitoring: N

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Whitmore does not have any bargaining units or contracts.