

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

lab-csd-sep23item01

# California State Board of Education September 2023 Agenda Item #09

## Subject

Appeal of the Denial of a Petition for the Establishment of a Classroom-Based Charter School Pursuant to California *Education Code* Section 47605(k)(2): Consideration of Evidence to Hear or Summarily Deny the Appeal of Vista Legacy Global Academy, which was denied by the Los Angeles Unified School District and the Los Angeles County Board of Education.

## Type of Action

Action, Information

## Background

Pursuant to California *Education Code* (*EC*) Section 47605(a), Vista Legacy Global Academy (VLGA or Petitioner) submitted its petition, which proposes a new grade nine through grade twelve charter school, to the Los Angeles Unified School District (LAUSD or District). LAUSD denied the petition on November 15, 2022, by a vote of five to one, citing the following findings:

* Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition (*EC* Section 47605[c][2]).
* The petition does not contain reasonably comprehensive descriptions of all of the required elements set forth in *EC* (*EC* Section 47605[c][5]).
* The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate (*EC* Section 47605[c][7]).

VLGA appealed the District’s denial to the Los Angeles County Board of Education (LACBOE or County), pursuant to *EC* Section 47605(k)(1)(A)(i), which states that if the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. LACBOE denied the petition on March 14, 2023, by a vote of four to three, citing the following findings:

* Petitioners are demonstrably unlikely to successfully implement the program set forth in the petition (*EC* Section 47605[c][2]).
* The petition does not contain reasonably comprehensive descriptions of all of the required elements (*EC* Section 47605[c][5]).
* The charter school is demonstrably unlikely to serve the interests of the entire community in which the school is proposing to locate (*EC* Section 47605[c][7]).

Pursuant to *EC* Section 47605(k)(2), if the county board of education denies a petition to establish a charter school, the petitioner may appeal that denial to the California State Board of Education (SBE). VLGA submitted its petition to the SBE on April 13, 2023.

## Recommendation

The California Department of Education (CDE) recommends that the SBE hear the VLGA appeal. This recommendation is based upon the CDE’s review of VLGA’s written submission and the documentary record, which set out sufficient evidence to hear the appeal.

## Advisory Commission on Charter Schools Recommendation

Pursuant to *EC* Section 47605(k)(2)(D), the Advisory Commission on Charter Schools’ (ACCS’) defined role is to make a recommendation to the SBE whether there is sufficient evidence for the SBE to hear the appeal or summarily deny review of the appeal based on the documentary record.

At its August 8, 2023, meeting, the ACCS, in alignment with the CDE’s recommendation, moved to recommend that the SBE hear the VLGA appeal. The motion passed unanimously.

The notice for the August 8, 2023, ACCS meeting, VLGA’s appeal submission, and the documentary record are located on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice080823.asp>.

**Role of the California State Board of Education**

Pursuant to *EC* Section 47605(k)(2)(E), the role of the SBE is as follows:

The state board shall either hear the appeal or summarily deny review of the appeal based on the documentary record. If the state board hears the appeal, the state board may affirm the determination of the governing board of the school district or the county board of education, or both of those determinations, or may reverse only upon a determination that there was an abuse of by each of the governing board of the school district and the county board of education.

In this item, the SBE will determine whether to hear VLGA’s appeal or summarily deny review of the appeal. If the SBE decides to hear the appeal, then, in a separate item, the SBE will review the appeal pursuant to *EC* Section 47605(k)(2)(E). If the SBE determines that there are no grounds to hear the appeal, then it may summarily deny the appeal and the decisions of the district and county board of education will stand.

**Appeal Submission**

Regarding the submission of an appeal, *EC* Section 47605(k)(2)(S) states the following:

The petitioner shall submit the petition to the state board within 30 days of a denial by the county board of education. The petitioner shall include the findings and documentary record from the governing board of the school district and the county board of education and a written submission detailing, with specific citations to the documentary record, how the governing board of the school district and the county board of education abused their discretion.

LACBOE denied the VLGA petition on March 14, 2023. The Petitioner submitted its appeal to the SBE on April 13, 2023, which was within 30 days of the denial by the county board of education.

Additionally, the Petitioner submitted the following items as a part of its appeal:

* A written submission of VLGA’s appeal, which includes allegations of abuse of discretion by governing boards of the LAUSD and LACBOE (Appeal Document 1)
* VLGA’s charter petition (Appeal Document 2)
* The documentary record from LAUSD, which included the District’s findings in support of denial (Appeal Document 3)
* The documentary record from LACBOE, which included the County’s findings in support of denial (Appeal Document 4)
* Supporting documentation from VLGA (Appeal Document 5)

In its written submission, VLGA makes the following allegations, with citations to the documentary record, pertaining to the LAUSD’s denial of its petition:

* “The factual findings adopted by the district board are not supported by substantial evidence in light of the entire record” (Appeal Document 1, pp. 15–16).
* “The District abused its discretion by acting unlawfully and in a procedurally unfair manner, by using an unlawfully burdensome definition of ‘community impact,’ and by imposing requirements found nowhere in the Charter Schools Act” (Appeal Document 1, pp. 16–17).

In its written submission, VLGA makes the following allegations, with citations to the documentary record, pertaining to the LACBOE’s denial of its petition:

* “Statutory finding (c)(2) was arbitrary and capricious, in that the factual findings are not supported by evidence in the record. The county board erroneously concluded, without substantial evidence, that Vista is unlikely to successfully implement the program. The evidence that the county board appears to have relied upon was demonstrably incorrect, and/or not contained in or supported by the record, including incorrect conclusions about the board of directors, financial impact to LAUSD, and curriculum” (Appeal Document 1, pp. 8–11).
* “The county board acted in an arbitrary manner without evidentiary support when it adopted statutory finding (c)(5). Evidence in the record shows that the petition does contain reasonably comprehensive descriptions of all required elements” (Appeal Document 1, pp. 11–14).
* “The county board acted unlawfully when it failed to provide a de novo review and relied on undue deference to LAUSD in adopting statutory finding (c)(7). The county board did not adopt independent findings on community impact and has certified a record without evidence supporting this statutory finding” (Appeal Document 1, pp. 14–15).
* “LACBOE’s hearing was procedurally infirm and unfair. The county board failed to proceed in a manner required by law when it did not allow a board member to obtain action on her effort to amend the motion to deny the petition” (Appeal Document 1, pp. 14–15).

## Conclusion

VLGA has submitted all required documents and met all timelines, pursuant to *EC* Section 47605(k)(2)(A).

Based on the CDE’s review of VLGA’s written submission, and the findings and documentary record from LAUSD and LACBOE, the CDE finds that the appeal presents sufficient evidence for the SBE to hear the appeal, pursuant to *EC* Section 47605(k)(2)(D).

## Appeal Documents

The following documents were reviewed by CDE staff as a part of the VLGA appeal:

* **Appeal Document 1:** Vista Legacy Global Academy Written Submission, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a1.pdf>
* **Appeal Document 2:** Vista Legacy Global Academy Petition, as denied by the Los Angeles Unified School District and the Los Angeles County Board of Education, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a2.pdf>
* **Appeal Document 3:** Documentary Record from the Los Angeles Unified School District, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a3.pdf>
* **Appeal Document 4:** Documentary Record from the Los Angeles County Board of Education, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a4.pdf>
* **Appeal Document 5:** Vista Legacy Global Academy Supporting Documentation, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a5.pdf>
* **Appeal Document 6:** Written Opposition from the Los Angeles Unified School District, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a6.pdf>
* **Appeal Document 7:** Written Opposition from the Los Angeles County Board of Education, which is available on the August 2023 ACCS Meeting Agenda web page at <https://www.cde.ca.gov/be/cc/cs/documents/accs-aug23item01a7.pdf>

## Attachment

None.