

RESOLUTION

WHEREAS, on September 1, 2005 the Board of Education of Jefferson County School District No. R-1 received a charter school application from the Madison High School steering committee ("MHS") indicating its desire to open a school for the 2006-2007 school year; and

WHEREAS, the District's Accountability Committee and the Board reviewed the MHS charter school application in accordance with the requirements of C.R.S. §§ 22-30.5-107(1) & (1.5), and the Board considered information and analyses by District Administrators regarding the charter school application; and

WHEREAS, the Board held a public meeting with MHS on September 29, 2005 in accordance with the requirements of C.R.S. § 22-30.5-107(2); and

WHEREAS, on October 20, 2005 the Board adopted a Resolution denying the MHS charter school application because, for reasons specified in the Resolution, the Board believed that such denial was in the best interests of the District, its students and the community; and

WHEREAS, MHS appealed the Board's October 20 denial of its charter school application to the State Board of Education by means of a Notice of Appeal dated November 8, 2005; and

WHEREAS, at a hearing on January 11, 2006 the State Board of Education made a determination that denial of the MHS charter school application "was contrary to the best interests of the pupils, school district, or community," remanded the matter to the Board for reconsideration with instructions that: (1) the parties negotiate mutually agreeable contract provisions regarding minimum required enrollment by dates certain in order to successfully open for the 2006-2007 school year; (2) the parties negotiate mutually agreeable contract provisions regarding a time frame for locating, securing, and preparing a facility in order to successfully open for the 2006-2007 school year; and

WHEREAS, representatives of the District met with representatives of MHS on January 26, 2006 to address the matters which the State Board of Education recommended in its remand order, as well as the concerns expressed by the Board in its October 20, 2005 Resolution as reasons for denial of the MHS charter school application; and

WHEREAS, prior to the January 26, 2006 meeting, the District requested that MHS provide certain information relating to the concerns raised in the Board's October 20, 2005 Resolution; and

WHEREAS, MHS's response to the District's request for information and information provided by MHS at the January 26, 2006 meeting failed to adequately address the concerns raised in the Board's October 20, 2005 Resolution; and

WHEREAS, the Board considered the State Board of Education's January 11, 2006 remand order; was fully advised regarding MHS's responses to the District's post-State Hearing questions and discussions between representatives of the District and representatives of MHS on January 26, 2006; and carefully considered the information and proposals generated at those meetings; and

WHEREAS, the Board reconsidered the charter school application; the Charter Schools Act; District policies and regulations; the Comments and Crucial Questions Reports prepared by the Charter School Review Committee and members of the Superintendent's Cabinet; the parties' discussion at the Board's September 29, 2005 public meeting with MHS, and its October 20, 2005 denial of the MHS charter school application as required under C.R.S. § 22-30.5-108(3)(b); and

WHEREAS, on February 9, 2006 the Board adopted a Resolution again denying the MHS charter school application for specific reasons expressed in the Resolution; and

WHEREAS, MHS appealed the Board's February 9 second denial of its charter school application to the State Board of Education by means of a Notice of Second Appeal dated February 10, 2006; and

WHEREAS, at a hearing on April 6, 2006 the State Board of Education made a determination that the second denial of the MHS charter school application "was contrary to the best interests of the pupils, school district, or community" and remanded the matter to the Board with instructions to approve the MHS charter school application; and

WHEREAS, the Colorado Supreme Court in Board of Education of School District No. 1 v. Booth, 984 P.2d 639, 649 (Colo. 1999), held that general statutory or judicial constraints on a local board of education's discretion in individual cases, such as those that may arise under the Charter Schools Act, "must not have the effect of usurping the local board's decision-making authority or its ability to implement, guide, or manage the educational programs for which it is ultimately responsible"; and

WHEREAS, the Colorado Supreme Court in Booth, 984 P.2d at 652, also held that "the plain language of [the Charter Schools Act] authorizes the State Board only to require approval of the charter application as submitted. . . . It does not authorize other action."

WHEREAS, the Colorado Supreme Court in Booth, 984 P.2d at 654, also held that:

Denial of an application implicates a local board's control of instruction because it applies general education policy to the guidance and management of instruction in an individual case: the decision whether to open a particular school. The local board's concerns, reflected in its reasons for denying the application, do not lose their validity simply because the State Board finds that approval of the application, taken as a whole, is in the best interests

of the education community. Rather, a local board can comply with a State Board order to approve a charter application and still expect resolution of its initial grounds for denial in a satisfactory final agreement with the charter school applicants.

WHEREAS, ON APRIL 27, 2006, consistent with (1) the instructions of the State Board of Education to approve MHS's application; and (2) the School District's rights and authority under the Charter School Act and the Colorado Constitution as interpreted by the Colorado Supreme Court; and (3) the representations made by MHS in its charter school application, the School District Board approved a resolution conditionally approving MHS's application to open a charter school in the fall of 2006 for the 2006-2007 school year.

WHEREAS, subsequent to the School District's conditional approval of the MHS's application, Madison informed the District that the time between the Board's approval of the application on April 27, 2006 and the beginning of the 2006-2007 school year was insufficient to accomplish those tasks reasonable and necessary to open a charter school in the fall of 2006.

WHEREAS MHS has requested that the School District Board reconsider its Resolution of April 27, 2006 approving MHS's application to open a school in the fall of 2006-2007, that the Board permit MHS to open its school in the fall of 2007 for the 2007-2008 school year, and that the Board modify the timelines set forth in the Resolution of April 27, 2006 consistent with such extension.

NOW, THEREFORE, BE IT RESOLVED by the Board that its Resolution of April 27, 2006 is rescinded.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board that the charter school application is approved as instructed by the State Board of Education, and, (1) notwithstanding MHS's representation in that application of its intent to open a school in the fall of 2006-2007; and (2) without waiving any of the School District's rights or authority under the Charter Schools Act and the Colorado Constitution; and (3) subject to the conditions set forth herein, the Board consents to MHS's request that it be allowed to open its school and begin operations in the fall of 2007.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board that, consistent with the Colorado Supreme Court's interpretation of the effect of such approval noted above, and the rights and obligations of the District under the Colorado Constitution and under the Charter Schools Act as construed by the Colorado Supreme Court, approval of the application and opening of the school is subject to the satisfaction of the Board's concerns with the MHS charter school application as reflected in the reasons for denial of the application stated in the Board's February 9, 2006 Resolution, and pending MHS's satisfaction of the following terms and conditions, as well as all other terms and conditions as may be required by law:

1. Because the charter school application does not include any proposal or information regarding an on-line education program, MHS is not authorized under this

Resolution to provide educational services to students through any form of on-line program, including but not limited to an on-line program created and/or operated pursuant to C.R.S. § 22-33-104.6.

2. MHS shall locate a site to accommodate the proposed programs of its charter school, which is acceptable to the Board or its designee, on or before December 1, 2006 at 4:30 p.m. The Board or its designee shall indicate whether the site is acceptable within ten (10) days of the Board's receipt thereof.

3. MHS shall submit to the Board on or before January 15, 2007 at 4:30 p.m. a lease, lease/purchase or purchase agreement contingent upon zoning/planning approvals signed by an authorized representative of the lessor/seller and ready for signature by MHS for an appropriate charter school site and facility, which includes a schedule for any required construction and remodeling with substantial completion on or before August 1, 2007; which includes terms requiring the facility to be in full compliance with all applicable federal, state and local laws, including but not limited to the Americans with Disabilities Act; and which includes an addendum in substantially the form attached hereto as Exhibit A. The Board or its designee shall indicate whether the lease, lease/purchase or purchase agreement is acceptable within ten (10) days of the Board's receipt thereof, and it shall be immediately signed by MHS if the Board or its designee indicates it is acceptable. The Board or its designee may reject the lease, lease/purchase or purchase agreement on reasonable grounds, and if the grounds for rejection are not cured within ten (10) days of the rejection, this condition shall be deemed not to have been fully satisfied. Any required zoning and planning approvals for the school site must be obtained by MHS no later than March 15, 2007.

4. The Board or its designee must determine that the following conditions have been fully satisfied:

a. MHS shall submit to the Board's designee on or before December 1, 2006 a list of the names, addresses, phone numbers and basic biographical information of each member of the MHS Governing Board and confirmation that each Board member has been subjected to criminal background check consistent with C.R.S. 22-32-109.7.

b. MHS shall submit to the Board on or before March 1, 2007 at 4:30 p.m. written detailed descriptions of all employee benefits to be offered during the 2007-2008 school year, that must specify which employment positions are entitled to which benefits and that must be properly reflected in the budget. The Board or its designee shall indicate whether this information is acceptable within ten (10) days of the Board's receipt thereof. The Board or its designee may reject the information on reasonable grounds, and if the grounds for rejection are not cured within ten (10) days of the rejection, this condition shall be deemed not to have been fully satisfied.

c. MHS shall submit to the Board on or before March 1, 2007 at 4:30 p.m. finalized copies of all proposed personnel policies and all proposed employment contract forms to be used for each different class of its employees. The Board or its designee shall indicate whether the personnel policies and employment contract forms are acceptable within ten (10) days of the Board's receipt thereof. The Board or its designee may reject the personnel policies and/or employment contract forms on reasonable grounds, and if the grounds for rejection are not cured within ten (10) days of the rejection, this condition shall be deemed not to have been fully satisfied.

d. MHS shall submit to the Board on or before January 15, 2007 at 4:30 p.m. a definitive and specific curriculum to be implemented for the 2007-2008 school year and specific information on pupil performance standards and how student performance will be evaluated, measurable annual achievement goals based on state accreditation standards, what specific types of assessment will be used to measure student progress toward achievement of MHS's performance standards, the timeline for achievement of such standards, and the procedures for addressing the needs of students who fall below the standards. The Board or its designee shall indicate whether this information is acceptable within ten (10) days of the Board's receipt thereof. The Board or its designee may reject the information on reasonable grounds, and if the grounds for rejection are not cured within ten (10) days of the rejection, this condition shall be deemed not to have been fully satisfied.

e. MHS shall submit to the Board on or before February 1, 2007 at 4:30 p.m. a balanced budget that satisfies applicable legal requirements and public entity accounting principles; and that properly accounts for the educational programs, start-up costs, site costs, capital expenses, operational costs, staffing, employee compensation and benefits, materials, equipment and purchased services that have been represented in the charter school application and in subsequent communications with the District. The Board or its designee shall indicate whether the budget is acceptable within ten (10) days of the Board's receipt thereof. The Board or its designee may reject the budget on reasonable grounds, and if the grounds for rejection are not cured within ten (10) days of the rejection, this condition shall be deemed not to have been fully satisfied.

f. MHS shall follow the School District's Choice Enrollment Policy JFBA and the timelines in JFBA-R and shall submit to the Board's designee on or before February 15, 2007 at 4:30 p.m. signed statements from parents in the form attached hereto as Exhibit B, demonstrating that no fewer than 400 FTE students who are of appropriate age and eligible for admission have enrolled in and will attend MHS beginning in the fall of 2007 for the 2007-2008 school year. The District shall verify by March 1, 2007 that enrolled students are of appropriate age and eligible for admission in the school for the 2007-2008 school year.

g. MHS shall sign a charter school contract acceptable to the School District Board on or before March 15, 2007 at 4:30 p.m.. The contract shall be for a term of three (3) years from July 1, 2007 through June 30, 2010.

In accordance with C.R.S. § 22-30.5-107(4), the District administration is hereby directed to provide a copy of this Resolution to the Colorado Department of Education within fifteen days of its adoption date.

Adopted this 1st day of June, 2006.

JEFFERSON COUNTY SCHOOL DISTRICT
NO. R-1

By: _____
Jane Barnes
President, Board of Education

Attest:

By: _____
Scott D. Benefield
Secretary, Board of Education

CHARTER SCHOOL – MADISON HIGH SCHOOL

COMMITMENT TO ENROLL FOR THE 2006-07 SCHOOL YEAR

NOTICE TO PARENTS: Enrollment in a charter school is a choice enrollment under Jeffco School Board Policy JFBA and Regulation JFBA-R. Under the choice enrollment policy a student who is accepted into the school is accepted for the span of grades of that school, and is not required to reapply each year for admittance. The school in which the open enrolled student is admitted becomes the “home” school of the student for the span of grades of that school. Should a parent and student wish to return to their neighborhood public school, they would have to apply to the neighborhood school for admittance. If the neighborhood school has “space available” (classroom space and teaching staff) in the requested program, and the student meets the applicable program entrance requirements, such as age requirements, the application would be approved and the child would be admitted. If the student is not admitted, the student would continue to be enrolled at the charter school.

STUDENT NAME _____

CURRENT GRADE LEVEL _____

CURRENT SCHOOL _____

PARENTS’ NAMES _____

ADDRESS _____

PHONE NUMBER _____

I understand that by my signature, I am choosing the above named charter school as the “home school” for my child beginning with the 2007-2008 school year and, (1) that my child will be withdrawn from their current school at the end of the 2006-2007 school year; (2) that my child's name will be removed from any waitlist for any District neighborhood, choice or charter school; and (3) their records will be forwarded to the charter school. Reenrollment at my current school, if I chose to do so, would require an application under the Choice Enrollment policies of the district.

SIGNATURE _____

DATE _____

EXHIBIT B