

**Mountain Empire Unified School District on behalf of Academy of Arts and Sciences**

**California State Board of Education  
WAIVER SUBMISSION - General**

Local Education Agency: **Mountain Empire Unified School District**

Address: 3305 Buckman Springs Rd.  
Pine Valley, CA 91962

Start: 7/1/2016

End: 7/1/2018

Waiver Renewal: N

Waiver Topic: Geographic Restrictions on Resource Center Locations for Nonclassroom-Based Charter Schools

Ed Code Title: Charter School Locations

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 Rational:**

Academy of Arts and Sciences (“AAS”) has been authorized by the Mountain Empire Unified School District (“District”) since 2012. AAS is a non-classroom based/independent study charter school program offering personalized learning education programs for grades TK-12.

### **AAS Program Generally**

AAS is a growing and innovative independent study public charter school, open to scholars in Transitional Kindergarten through 12th grade. AAS attracts scholars seeking an alternative educational program where parents have the role of “Learning Coach” and play an important role of partnering with AAS teachers to educate their children at home.

AAS offers two virtual educational program options for families: online and traditional home study. We recognize that in education one size does not fit all. AAS is designed and organized to serve scholars and families who have chosen an independent study program that can meet an individual scholar’s unique needs. AAS educates scholars with a wide range of learning styles that allow for flexibility in pacing and that are aligned with Common Core standards. Enrollment in AAS is contingent on parent and scholar signing the Master Agreement in acknowledgement of the responsibilities as outlined in the Master Agreement.

### **Out-of-District Facility**

On October 16, 2016, the 3<sup>rd</sup> 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, AAS has zero (0) facilities within the District’s boundaries and one (1) resource center outside District boundaries but within San Diego County. This waiver is necessary to allow the continued operation of AAS’s existing resource center where scholars are served.

### **Students / Employees Affected**

The Shasta Ruling has the potential to impact approximately 375 scholars: 53.2% Socioeconomically Disadvantaged, 2.9% English Learners, and 1% SPED population.

This ruling will also have an impact on the 20 AAS employees.

### **Financial Cost**

As a non-classroom based charter school, AAS is not eligible for Proposition 39 funding so all leased facilities are directly funded by AAS.

The impact of the *Shasta* court's ruling could result in the closing of its facility, and the loss of roughly 375 scholars, employment of approximately 20 school employees, and possibly the inability of AAS to meet the financial obligations related to the facility. The result has the potential to cause AAS to become insolvent and force it to file for bankruptcy.

This waiver is necessary to protect the continued operation of AAS's existing resource center 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 scholars 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 AAS as required by Education Code Section 47604.32. The District affirms that at all times AAS has operated its resource centers consistent with the advice and written guidance issued by the California Department of Education since 2012 (see Attachments).

Student: 375  
City Type: Urban

Public Hearing Date: December 6, 2016  
Public Hearing Advertised: Notice posted at the District main office and Charter School main office and resource centers.

Local Board Approval Date: December 6, 2016

Committee/Council Reviewed By: Academy of Arts and Science Board of Directors  
Committee/Council Review Date: November 28, 2016  
Committee/Council Objection: N  
Committee/Council Objection Explanation:

Bargaining Units: N

Audit Penalty: N

Categorical Program Monitoring: N

Contact Person Name: Kathy Granger  
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District or County Certification: The district or county office of education Superintendent or designee must certify to the accuracy of the information and date the request.