

MEETING NOTES

Advisory Commission on Charter Schools *An Advisory Body to the State Board of Education*

California Department of Education
1430 N Street, Room 1101
Sacramento, California

Monday, January 29, 2007

MEMBERS PRESENT

Vicki Barber, Acting Chair
Tom Conry, Vice Chair
Jesse Barajas
Steve Barr
Beth Hunkapiller
Mark Kushner
Greg McNair
Marta Reyes*

MEMBERS ABSENT

Rae Belisle

*Marta Reyes is the State Superintendent of Public Instruction's designee.

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

Deborah Connelly, Consultant, CDE Charter Schools Division
Keith Edmonds, Consultant, CDE Charter Schools Division
Greg Geeting, Consultant, CDE Charter Schools Division

Call to Order

Acting Chair Barber called the meeting to order at 10:32 a.m.

Flag Salute

Acting Chair Barber led the members, staff, and audience in the Pledge of Allegiance.

Introductions

Acting Chair Barber invited the members to introduce themselves, followed by CDE staff in attendance, including Mike Fuller (Fiscal Policy Division).

Approval of Meeting Notes

Acting Chair Barber called for a motion to approve the notes from the meeting held on November 27, 2006.

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ACTION: Mr. Conry moved that the notes of the meeting held on November 27, 2006, be approved. Ms. Hunkapiller seconded the motion, and it was approved by a vote of 7-0-1. Mr. Kushner was not present when the vote was taken.

Calendaring of Future Meetings

It was agreed that the ACCS would look at future meeting dates immediately following the lunch recess.

Public Comment

Acting Chair Barber invited comments from the public on matters not on the agenda. Acknowledging that several individuals had signed-up to speak on the topic of Hiddenbrooke Charter School, Ms. Barber requested that those individuals hold their presentations temporarily, because she knew that Ms. Reyes would be providing a brief oral update regarding Hiddenbrooke in her report (next on the agenda). If we could hear from the individuals concerned with Hiddenbrooke at that time, all of the information on the topic would be grouped together. She asked if there were any other individuals wishing to make comments.

Mike Fox, former employee of Livermore Valley Charter School (LVCS), addressed the ACCS, expressing various concerns about LVCS. His comments touched upon the school principal's lack of a California administrative credential; the selection, appointment, and salary of the school's Executive Director; lack of clarity in the school's finances; disciplinary issues at the school; an incident that occurred at a student assembly that involved public humiliation. He indicated that he had been "fired without cause" on January 19. He also gave his recollections of events at a meeting of the governing board. He recommended that SBE exercise its authority to appoint a representative to serve on the LVCS governing board. Mr. Conry inquired about the appointment of an SBE representative. Ms. Reyes confirmed that the SBE does have authority to appoint a representative to the governing board of each school it charters. She noted that SBE member Johnathan Williams serves as the SBE's liaison for charter issues. Appointment of representatives to the governing boards of SBE-chartered schools is a matter that could be taken up with him. However, Ms. Reyes invited Mr. Fox to state his concerns regarding LVCS in writing and submit the written document to her for review.

Margaret Merchat, School and College Legal Services, indicated that she was confused regarding Acting Chair Barber's instruction regarding comments on the Hiddenbrooke matter. Ms. Barber clarified that she was only requesting that those wishing to speak about Hiddenbrooke wait momentarily until Ms. Reyes provides some context-setting comments in her report. Ms. Barber indicated that although Hiddenbrooke is not specifically identified in the agenda, she knew that Ms. Reyes planned to provide a brief oral update under the "Other" heading within the "Update" item on the agenda. Ms.

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Barber indicated that her request was merely for the purpose of having all the information on Hiddenbrooke presented at the same time.

Updates

Acting Chair Barber invited Ms. Reyes to provide updates on various matters.

- **Public Charter Schools Grant Program.** Ms. Reyes reported that the CDE will be recommending additional schools for PCSGP grants at the SBE's special meeting in February. Because of the requirement that recipients' schools must be operating by September 30, 2007, some grant awardees have decided to decline their grant awards, thus freeing up monies that can be awarded to other applicants. The CDE will also be presenting the SBE with the proposed 2007-2010 PCSGP application to the U.S. Department of Education. In the 2007-2010 grant cycle, the emphasis per federal requirement will be on secondary schools in Program Improvement districts.
- **Audits and Investigations.** Ms. Reyes indicated that a special, limited, independent audit of Options for Youth/Opportunities for Learning charter schools for 2001-02 is being undertaken prior to the presentation to the ACCS of the school's 2002-03 determinations of funding.
- **Closure Regulations.** The SBE approved some relatively minor amendments to the proposed regulations, which are now in a 15-day public comment period. The public comment period closes Friday, February 2, 2007. The amendments are posted on the CDE Web site.
- **Proposition 39 Regulations.** The SBE approved the commencement of the rulemaking process for revisions to the Prop 39 regulations. The 45-day public comment period has begun and will end March 5, 2007, which is also the day on which a public hearing will be held. The proposed regulations are posted on the CDE Web site.
- **Informal policy on one-time funds.** The CDE staff have proposed an informal policy regarding one-time funds that charter school are receiving this year in relation to determinations of funding. The proposal is to treat the one-time funds as a mitigating factor. To do otherwise would require an amendment to the existing regulations. We would like to try it this way. Acting Chair Barber indicated her understanding that the one-time monies amount to approximately \$150 per student. It seems appropriate to exclude these one-time funds from the 40 percent test (teacher salaries), but not the 80 percent test (instructional costs). The informal policy would not result in any change in the form. The form already has a place to describe mitigating factors. Mr. Edmonds indicated that the CDE would put some information about the informal policy in the instructions to be

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sure that schools submitting requests mention the one-time funds as a mitigating factor. Mr. Conry inquired as to the nature of an “informal policy.” Ms. Reyes indicated that its purpose is really to provide instruction to staff as to how to display the particular mitigating factor of one-time monies. We are endeavoring to use the existing vehicle of mitigating factors and, thus, avoid having to modify the regulations for what amounts to a short-term issue. Mr. Kushner indicated that it appeared the purpose of the update was merely to get feedback from ACCS members on the concept. He indicated that he had no problem with the concept as a direction to staff. Ms. Reyes concurred, indicating that the informal policy will allow us to look more generically at the one-time funding phenomenon. Ms. Barber concurred as well, commenting that the informal policy would also help provide perspective to the field regarding the one-time monies.

- Conflict of Interest Regulations. This draft regulatory package will be presented to the ACCS at the March 2007 meeting.
- Hiddenbrooke Charter School. Ms. Reyes indicated that representatives of Hiddenbrooke Charter School have posed a legal theory under which the school’s charter – revoked by the Solano County Board of Education in November 2006, even though the school had never opened – could be considered by the SBE as though it had been denied rather than revoked. The argument pertains to a SELPA-related condition placed upon HCS when the charter was approved in May 2006. In summary, the theory is that the County Board’s actions taken in their totality amount to denial, not revocation. CDE and SBE legal staffs are reviewing the HCS representatives’ documents, thus the matter is not formally on the agenda for action. However, brief public comments would be welcomed if there is additional information to provide orally.

Elizabeth Weinberg, chief HCS petitioner, provided a short history of the school and touched on the school’s mission and vision statement and its association with Expeditionary Learning Outward Bound. Ms. Weinberg stated that she believes that this school is vital to their community, and that they will do whatever it takes to open this fall.

Rebekah Truemper, parent, provided background on her involvement with the school. She identified what she believes are the school’s keys to success, and indicated that the school had received overwhelming support from the community, including more than 900 signatures, some of which would be submitted that day. She commented that people “light up” when they hear about Hiddenbooke and that parents “are looking for choices.” She urged the ACCS to help the HCS representatives open the school this fall.

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Nicole Presber Smith, Expeditionary Learning Schools, indicated that she is most impressed with the HCS founders. She commented that they are very well qualified and their commitment is strong. She also commented that Expeditionary Learning expects to have a “successful partnership” with them. She briefly explained the principles of Expeditionary Learning and provided an example. She concluded by saying that the combination of this outstanding school and the Expeditionary Learning program will make for “a real success story.”

David Ross, founder, explained the reason for his involvement with HCS. He highlighted the positive aspects of project-based learning. It is the surest method to successful learning. He urged the ACCS to “support our school.”

Sarah Kirley, supporter, explained her reason for involvement with HCS. She indicated that there is no debate about the need for quality education, and that this school has the real potential to unite our community. She noted that community groups and business leaders support it. She thanked the ACCS for its consideration of the school’s situation.

Margaret Merchat, School and College Legal Services, representing the Solano County Board of Education, indicated that her clients in no way minimize the dream. However, she commented that state law was followed: the HCS charter was duly approved, then properly revoked in keeping with statute. She concluded that there is no issue for the SBE to consider.

Ms. Reyes reiterated that the HCS representatives’ documents are under consideration by the CDE and SBE legal counsels. The ACCS is only receiving information today. There is no matter agendized for action.

- NCLB Credential Requirements Pertaining to Charter Schools. Mr. Kusher indicated that Lynda Nichols of CDE is doing an outstanding job of training on NCLB highly qualified teacher (HQT)-related issues. However, he pointed out a discrepancy between CDE documents regarding credentialing in core subjects. He indicated his view that one of the power point slides in the training is inconsistent with statute. This needs to be cleared up. It is a particularly important issue as related to part-time teachers. He requested that the ACCS discuss this in more depth at the next meeting and perhaps have Ms. Nichols in attendance. Ms. Reyes indicated that she would make arrangements for the matter to be considered at the next ACCS meeting.

2006-07 (and beyond) Determination of Funding Request

The ACCS first considered a group of 15 determination of funding requests recommended for two-year approval (2006-07 and 2007-08).

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EPCS-Inland Empire Charter School	#753
California Virtual Academy @ Sutter	#757
Classical Academy High School	#759
Alder Grove Charter School	#760
Mojave River Academy	#762
Family Partnership Home Study Charter School	#763
California Virtual Academy @ San Mateo	#802
Central California Connections	#804
Alpaugh Achievement Academy	#806
Gold Rush Charter School	#807
UC Online Academy Imperial	#815
La Vida Independent Study	#822
California Virtual Academy @ Los Angeles	#838
California Virtual Academy @ Kings	#840
Antelope Valley Learning Academy	#841

Acting Chair Barber read off the list of school names. Mr. Edmonds indicated that these are new schools and, in each case, the CDE staff recommendation is for 100 percent for two years, 2006-07 and 2007-08. There were no speakers on these requests.

ACTION: Ms. Hunkapiller moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent determination of funding for each of the schools listed above for two years, 2006-07 and 2007-08, subject to the conditions specified by CDE staff.
- Determine, in each case, that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine, in certain cases, that approval for a two-year period, instead of the five-year period requested, is advisable based upon review of the information presented in its totality.

Mr. Barr seconded the motion, and it was approved by a vote of 8-0.

Twin Ridges Charter School **#26**
Mr. Edmonds presented the CDE recommendation for approval at the 100 percent level for three years. Jenny Travers, the school's director, indicated that the school had hoped for a five-year funding determination. Mr. Edmonds explained that due to the school's change in charter authorizer, a three-year funding determination appeared

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appropriate. Mr. Conry inquired as to why the school had only requested a two-year funding determination. Ms. Travers indicated that it was her inexperience with the process.

ACTION: Mr. Kushner moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent determination of funding for Twin Ridges Charter School (#26) for three years, 2006-07, 2007-08, and 2008-09.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a three-year period, instead of the two-year period requested, is advisable based upon review of the information presented in its totality.

Mr. Barr seconded the motion, and it was approved by a vote of 8-0.

Academy for Career Education #183

Mr. Edmonds presented the CDE recommendation for approval at the 100 percent level for three years. No one was present to represent the school. Mr. Conry inquired as to why the school had only requested a two-year funding determination. Mr. Edmonds indicated that the school probably misunderstood the new regulations. Mr. McNair commented on the school's low CAHSEE passage rate. Mr. Edmonds indicated that, notwithstanding the CAHSEE passage rate, the school's API meet parameters for a three-year funding determination. He also noted that this is a very small school, so percentage numbers are significantly affected by the performance of only a few students.

ACTION: Mr. Barr moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent determination of funding for Academy for Career Education (#183) for three years, 2006-07, 2007-08, and 2008-09, subject to the conditions specified by CDE staff.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.

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- Determine that approval for a three-year period, instead of the two-year period requested, is advisable based upon review of the information presented in its totality.

Mr. Barr seconded the motion, and it was approved by a vote of 8-0.

Shasta Secondary Home School #256

Mr. Edmonds presented the CDE recommendation for approval at the 100 percent level for three years. He noted that the school could qualify for a five-year funding determination depending on outcome of the API rankings to be released this spring. Lynn Peebles, the school's director, explains a data anomaly regarding the school's academic achievement. He urged the ACCS to recommend a five-year funding determination. Acting Chair Barber indicated that she would like a two-part motion, recommending approval for three years, but with an automatic extension to five years if the school's API is sufficient. Mr. McNair commented on the school's CAHSEE passage rate and inquired why the school had not put more attention in that area using the school's significant reserve. Mr. Peebles noted that the reserve is mostly dedicated to future building plans, but that the school was doing interventions with students who had not passed the CAHSEE. We are getting students who have particularly low achievement in mathematics. However, we believe our intervention will be successful and that the passage rate will go up. Mr. Conry inquired about the facility cost issue. Mr. Edmonds describes the manner in which facility costs are taken into account. Mr. Conry asked whether there was revenue from renting out the facility. There was not. Mr. Conry explained that he would vote against the motion, because he felt the school should come back for a five-year funding determination when it actually qualified for it and should not have the length of the funding determination increased based on a staff determination. Ms. Barber indicated that she felt the extension for an additional two years was a clear-cut, unambiguous determination and that it would reduce the ACCS workload to avoid having the school come back again for approval. CDE staff agreed to notify the ACCS at a future meeting if the school met the criteria for a five-year funding determination.

ACTION: Ms. Hunkapiller moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent determination of funding for Shasta Secondary Home School (#256) for three years, 2006-07, 2007-08, and 2008-09, with an automatic extension to five years, 2006-07 through 2011-12, if CDE staff determine that the school's API ranking (to be released in spring 2007) is consistent with the prerequisite for a five-year funding determination as set forth in *Education Code* Section 47612.5(d)(2).
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the

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recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.

- If the school's API ranking is not consistent with the prerequisite for a five-year funding determination as set forth in *Education Code* Section 47612.5(d)(2), determine that approval for a three-year period, instead of the five-year period requested, is advisable based upon review of the information presented in its totality.
- If the school's API ranking is consistent with the prerequisite for a five-year funding determination as set forth in *Education Code* Section 47612.5(d)(2), determine that approval for the five-year period requested is appropriate based upon that fact.

Mr. Barajas seconded the motion, and it was approved by a vote of 6-2. Mr. Conry and Mr. McNair voted against the motion.

The ACCS next considered a group of requests recommended for approval at the 100 percent level for two years.

West Park Charter Academy	#44
School of Unlimited Learning	#149
New Millennium Institute of Education	#163
Hallmark Charter School	#257

Acting Chair Barber asked if there were any speakers on these schools' requests, or whether there was any objection to considering them as a group. There were no speakers, and no objection was expressed to considering the schools as a group.

ACTION: Mr. Barr moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent determination of funding for the schools listed above for two years, 2007-08 and 2008-09, subject (where identified) to the conditions specified by CDE staff.
- Determine in each case that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.

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- Determine in each case that approval for a two-year period, instead of the five-year period requested, is advisable based upon review of the information presented in its totality.

Ms. Hunkapiller seconded the motion, and it was approved by a vote of 8-0.

Mark West Charter School..... #616

Acting Chair Barber asked if there was a speaker on this request. Seeing none, she asked if there was objection to the CDE staff recommendation for a 100 percent determination of funding for a three-year forward-funded period, 2007-08, 2008-09, and 2009-10.

ACTION: Ms. Hunkapiller moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent determination of funding for Mark West Charter School (#616) for three years, 2007-08, 2008-09, and 2009-10, on a forward funded basis.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a three-year period, instead of the five-year period requested, is advisable based upon review of the information presented in its totality.

Mr. McNair seconded the motion, and it was approved by a vote of 8-0.

Denair Charter Academy #357

Mr. Edmonds presented the CDE staff recommendation for an 85 percent determination of funding for a two-year period, 2006-07 and 2007-08. He noted that this request was considered at the November ACCS meeting and withdrawn. The school's reserve was major issue of discussion at the November meeting in combination with the school's low academic performance. The school submitted a plan for additional spending to enhance its academic program. The CDE has concerns about the plan. There was considerable discussion. Acting Chair Barber noted that the school would not come up for renewal until 2010. Alex Marshall, the school's principal and counselor, indicated that he had endeavored to be comprehensive in the plan and hoped it was satisfactory. He orally highlighted certain aspects of the plan. Ms. Barber expressed concern about the schools API ranking in the lowest decile. Mr. Marshall indicated that he had tried to reflect that concern in the plan, with greater instructional time and support. He also

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commented on the school's preparation for a WASC visitation, as well as on assessment tools (e.g., Edusoft, Pearson Progressive Assessment System), additional tutoring, and computer training. Ms. Barber inquired whether Mr. Marshall was amenable to continuing to work with CDE staff to resolve their concerns with the plan. He indicated that he was. Ms. Reyes inquired whether the school was involved in a formal way with district's professional development. Mr. Marshall indicated that the school is involved with all of the district's professional development, including training with CELDT and the like.

ACTION: Ms. Hunkapiller moved that the ACCS recommend to the SBE that it:

- Approve an 85 percent determination of funding for Denair Charter Academy (#357) for two years, 2006-07 and 2007-08, subject to the conditions specified by CDE staff.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a two-year period, as requested, is advisable based upon review of the information presented in its totality.

Mr. McNair seconded the motion, and it was approved by a vote of 7-0. Mr. Barr was not present when the vote was taken.

Announcement

Acting Chair Barber noted that the appeal by Ukiah Academy of the Arts had been withdrawn, so there would be two charter appeals in the afternoon.

Lunch Break

Acting Chair Barber called for the lunch break at 11:58 a.m. She reconvened the meeting at 12:43 p.m.

Calendaring of Future Meetings

Ms. Reyes noted that the ACCS has already scheduled meetings for Monday, March 19, 2007, and Friday, April 20, 2007. She indicated that a change in the timeline for preparation of SBE agenda items (which are now due about one week earlier than they were previously) will necessitate a somewhat earlier scheduling of the ACCS meetings. At her request, ACCS members identified several possible dates in May, July, September, and November. Ms. Reyes indicated that she would review the availability of Room 1101 and select specific dates accordingly, then notify the members.

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Rehoboth Charter Academy (RCA) Renewal Appeal

Acting Chair Barber invited Mr. Geeting to make a brief presentation of the CDE staff recommendation on the RCA renewal appeal. Mr. Geeting noted that, unlike most appeals that come before the ACCS and SBE, this is a renewal appeal. The school has completed four years of operation and is now in its fifth year. The school was originally chartered by the Riverside Unified School District (RUSD) in 2001. A closely divided RUSD governing board declined to renew the school's charter in June 2006. The Riverside County Board of Education subsequently (August 2006) denied the first-level appeal by unanimous vote.

RCA is a K-6 elementary school. It had about 240 students last year, and the 2006-07 budget anticipates about 265 students this year. The student body is diverse – about 50 percent Hispanic/Latino, 25 percent African American, and 22 percent white, and 3 percent other ethnicities. About 10 percent of the students are English learners, though almost all are fluent English proficient, and about 70 percent of the students are eligible for free or reduced-price meals.

Mr. Geeting pointed out that the staff analysis cites numerous changes that would be necessary in the charter if this school were to become chartered by the SBE. If the ACCS were to recommend approval, he indicated that CDE staff would suggest that the recommendation include the necessary changes, as well as the customary conditions on opening and operation that the SBE traditionally imposes.

Mr. Geeting highlighted four major issues related to the RCA charter:

First, the CDE does not believe the school has achieved the statutory minimum threshold of academic achievement necessary for renewal. Page 2 of the staff analysis enumerates each of the statutory achievement benchmarks and indicates why the CDE does not believe RCA has met the benchmark. Unless a charter school meets at least one of the benchmarks, the statute forbids renewal.

Second, the CDE has serious concerns about the description of the educational program (as noted on pages 9 and 10 of the staff analysis). The description tends to be vague and high order, and it would have to be substantially rewritten to address the requirements of the SBE-adopted regulations.

Third, the CDE has serious concerns about the description of the governance structure (as noted on pages 12 and 13 of the staff analysis). The charter provides for a relatively small governing board (as few as three), yet allows for members who will have either actual or apparent conflicts. The school has endeavored to mitigate this problem with adoption of a conflict of interest code, but such a code stands apart from the charter and

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does not necessarily provide effective, ongoing control. As with the educational program, the CDE suggests significant revision of this section if RCA is to operate as an SBE-chartered school.

Fourth, the analysis prepared by the School Fiscal Services Division (as noted on pages 24 and 25 of the staff analysis) points to a relatively recent history of negative year-end balances, specifically the school entered both 2004-05 and 2005-06 in the red. The analysis also points out that future years' budgets are balanced with the anticipation of receiving special education funding. Given that the school's special education situation would likely change significantly as an SBE-approved charter, this is quite worrisome. Moreover, while the school appears to have entered the current year with a slim carryover balance, the recent history nonetheless gives the CDE pause. The SBE has no ability to financially assist the schools it charters because the SBE (unlike the other chartering authorities in California) is not a local educational agency.

Mr. Geeting indicated that for these and other reasons, the CDE recommends that the ACCS recommend to the SBE that it deny the RCA renewal appeal. In closing, Mr. Geeting pointed out a letter from the Riverside Unified School District explaining why no district representatives were in attendance and that the district's written reasons for denying renewal were included in the materials already distributed to the ACCS members.

Acting Chair Barber invited the representatives and supporters of RCA to make their presentation, requesting that they endeavor to complete the presentation in about 15 minutes. Sherman Flakes, RCA's Executive Director, began the presentation by introducing those who would be making comments to the ACCS.

Toya Flakes, RCA's principal, indicated that the school was created because of a need seen in the community. RCA is a relatively small school (about 250 students). She noted that the school endeavors to maintain a 20:1 student-teacher ratio in every class. The school has an extended school day (about 45 minutes longer than other public schools), targets at-risk students, and offers a solid alternative. Ms. Flakes distributed a handout with data on the school's performance in relation to other schools in the RUSD. She indicated that many issues cited in the staff analysis are addressed in the school handbook and other documents. She pointed out that district staff had recommended renewal. The request for renewal was submitted to the RUSD in 2005-06, and the school met one of the benchmarks for approval in that year. She reviewed the school's academic performance in comparison to other schools. She indicated that the County Office's issue was mainly compliance with Government Code Section 1090, which RCA does not believe is required. She noted that RCA is willing to amend the school's charter to address the issues cited in the CDE staff analysis.

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Greg Moser, attorney, commented that RCA is willing to agree to charter changes and the conditions on opening and operation mentioned in the CDE staff analysis. He also indicated that he believes the school qualifies for renewal under EC Section 47607(b)(4), a provision under which the authority that granted the charter may determine that school's academic performance is at least equal to the academic performance of the schools that the pupils would otherwise attend. He felt the SBE could simultaneously renew the charter and make the necessary determination. He also commented on the Government Code Section 1090 issue; it does not apply to charter schools. In addition, RCA has a neutral third party review of the school's lease arrangement and found it in keeping with fair market value for the facility. He urged the ACCS to look at the whole of the materials presented, not just the charter alone.

Sarah Smeragliuolo, parent, described her experiences with school. In particular, she highlighted the Micro-Society program as a valuable learning tool. She commented that the school has been "a blessing for us. Our children are being respected, unlike the situation in other public schools."

Jillanna Crawford, parent, commented that we need the opportunity that RCA provides. She indicated that the school gives our children "a better chance in life." She urged the ACCS to recommend that the RCA charter be renewed. She urged the ACCS to "keep our school open."

Eric Premack, Charter Schools Development Center, indicated that the CSDC believes this is an academically sound and managerially sound school. He commented that the academic threshold in EC Section 47607 is subject to interpretation, and that CSDC believes that the school meets at least one of the minimum criteria. The school has net assets. CSDC has worked with the RCA staff over time. They are very sophisticated for a small school.

Colin Miller, California Charter Schools Association, indicated that CCSA also believes that RCA meets at least one of the criteria for renewal. The school has had issues in the past, but RCA is definitely moving in the right direction. The CCSA urges the ACCS to recommend that the RCA charter be renewed.

A large group of students was in attendance. Two students spoke on behalf of the RCA student body.

Sable Foster, student, identified reasons to keep the school open. In particular, she highlighted smaller class size and the Micro-Society program ("that teaches us how to behave").

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Zuri Butler, student, described positive aspects of RCA. He commented that “we need this school,” and that “we are taught respect and courtesy.” The school deserves to be renewed.

Acting Chair Barber asked if there was any opposition to the RCA renewal appeal.

Roland Edmunds, Riverside County Office of Education, indicated that there were a number of reasons that the County Board denied the RCA renewal appeal. Compliance with Government Code Section 1090 was not the only issue (as the proponents had stated). The County Office does have a concern about conflict of interest, but numerous other written reasons were cited that also provide a foundation for denial of the renewal appeal. He highlighted other areas of concern as enumerated in County Board’s written reasons for denial. He noted that RCA representatives did not provide additional information when so requested by the County Office.

Acting Chair Barber closed the public presentation and called for discussion among the ACCS members.

Mr. Kushner voiced concern about the issue of the minimum academic achievement criteria for renewal. We want to be very cautious in this area and not set an undesirable precedent. Acting Chair Barber inquired about the data presented by the RCA representatives on percent proficient in English-language arts and mathematics. It appears to confirm that RCA is a very low-achieving school. Ms. Flakes indicated that the reason for RCA’s low achievement is that the majority of students come from very low achieving schools – the students come in to the school already behind.

Mr. McNair inquired whether the SBE merely determines whether there were adequate reasons for denying the renewal, or whether the SBE performs a de novo review of the charter. Mr. Geeting indicated that if the SBE determines that the school meets the minimum academic threshold for renewal under EC Section 47607(b), then it reviews the charter as if it were an original submission, although consideration of the school’s academic record is certainly appropriate in relationship to determining whether the educational program is solid and whether the petitioners are likely to be successful. There was extended discussion of the statutory threshold criteria for renewal.

Mr. Barr indicated that the ACCS is in a difficult position, because the SBE looks to us to send only gold standard charters forward. The data are pointing to RCA as a very low achieving school, but the ACCS needs to make the case that it is high achieving or at least in the middle of the pack.

Mr. Kushner indicated that the school’s API of 675 appeared high for a school with so many students eligible for free and reduced-price meals. Mr. Edmunds presented data

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comparing RCA exclusively with other RUSD schools that have high percentages of students eligible for free and reduced-price meals. RCA had the lowest percent proficient in English-language arts and mathematics.

Mr. McNair commented that even setting aside the issue of the minimum academic threshold, it was evident that this charter would need extensive modification if it were to be chartered by the SBE. If the charter had been appropriately modified, it might have been renewed by RUSD or by the County Board.

Mr. Barr commented on the difficulty of the situation. We want to see you renewed, but we have to be able to say that you're doing better than most, and we just can't get there.

Mr. McNair indicated that if the district had a record of not doing well by charters, then we might have an obligation to be more lenient, but that does not appear to be the case here. The charter has an obligation to perform academically in exchange for the freedom it enjoys from the specific provisions of the Education Code. RCA has not met its obligation. In order to maintain credibility with the SBE, we can only send them high performing schools for chartering or for renewal.

Mr. Kushner suggested expanding the analysis to all elementary schools in Riverside County that have high percentages of students eligible for free and reduced-price meals. In that comparison, perhaps RCA would be somewhat higher than it is among the RUSD schools alone. Mr. McNair commented on the suggestion that the SBE could determine that the school is eligible for renewal under EC Section 47607(b)(4). He indicated that the statute appears clearly to reserve that criterion to a review performed by the existing charter authorizer, not a prospective authorizer. He was skeptical that the criterion could be employed simultaneously with the act of charter renewal. This would be a dangerous precedent.

Acting Chair Barber indicated that the ACCS had to put this matter over or move forward with a decision on a recommendation. She outlined four specific options based on what she had been hearing:

- Postpone consideration to March and ask for a formal legal opinion as to whether RCA may be renewed by the SBE.
- Postpone consideration to March and request comparative data on like schools in the whole of Riverside County.
- Disregard the academic threshold issue and give a recommendation based on the merits of the RCA charter alone.

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- Make a recommendation based on the appeal in whole as addressed in the CDE staff analysis. The staff analysis recommends denial of the renewal, concluding that the school failed to meet the minimum academic threshold for renewal, but also citing numerous reasons for denial related to the substance of the charter document.

Mr. McNair moved that the RCA appeal be denied per the CDE staff recommendation, i.e., based upon the written reasons as a whole that are presented in the CDE staff analysis. Ms. Hunkapiller seconded the motion. Following the motion and second, there was further discussion.

Ms. Flakes indicated that it would be the school's preference to delay consideration to March ACCS meeting if there was a possibility of getting a positive recommendation.

Acting Chair Barber asked Mr. McNair if he wished to withdraw his motion. Mr. McNair declined. He indicated that he was in a difficult position. The easy thing to do today would be to put the matter over to March. However, parents may be misled by that action and believe that renewal will actually occur. As a result, they may well miss out on good options for their children's schooling in 2007-08 and beyond. Moreover, it seems unlikely that additional data would make a difference, and the school does not appear to meet the minimum threshold of academic achievement for renewal established in EC Section 47607(b).

Mr. Barr indicated that while we're all rooting for the school, it's important that we be honest with the staff, parents, and students. There just isn't a strong case for renewal here. Mr. Conry indicated that he too favored voting on a recommendation today rather than delaying. This school just doesn't meet the criteria for approval.

Mr. Barajas indicated that this was a very difficult vote. I have this knot in my stomach. It's very difficult to look at the faces of young people and not vote for renewal. However, we have to do what's right academically. We should not give these students and parents false hope by delay. There are too many holes in the RCA charter. We would not be able to recommend it for renewal. The school has not met its responsibilities to the students. Parents will now have to make difficult decisions about relocating their children to other schools.

Acting Chair Barber reiterated that the data submitted by the school's own representatives show it is very low performing. Additional data would be unlikely to change the picture. She summarized the motion before the ACCS.

- **ACTION:** Mr. McNair moved that the ACCS recommend to the SBE that it deny the Rehoboth Charter Academy renewal appeal, based on the written reasons for

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denial as a whole that are identified in the CDE staff analysis. Ms. Hunkapiller seconded the motion, and it was approved by vote of 7-0-1. Acting Chair Barber abstained from voting on the motion.

Afternoon Break

Acting Chair Barber recessed the meeting at 2:27 p.m. She reconvened the meeting at 2:39 p.m.

Daytop Charter School Appeal

Acting Chair Barber invited Ms. Connelly to present the CDE staff analysis and recommendation on this appeal. Ms. Connelly indicated that the appeal is recommended for denial, discussing in some detail the fact that the charter would be operated by an organization that currently operates a non-public school. Chartering therefore appears to be a mechanism to get state funding for the non-public school's educational program. She also emphasized that the staffing appeared unrealistic to provide a full high school program. Furthermore, she noted that the existing non-public school has had problems with statutory non-compliance. The school's track record is less than stellar. Beyond these major issues, the charter petition has numerous lesser problems that would need to be addressed if this were to become an SBE-chartered school.

Mr. Kushner indicated that he saw two major issues: whether this is a private school conversion, and how the school can deliver a full "a-g" college preparatory curriculum with only one full-time teacher and one part-time teacher. He asked that the lead petitioner focus on those two issues.

Orville Roaché, Executive Director of the Daytop Foundation, explained the background on the NPS issue. He also provided some of the school's history, and the original decision to become a non-public school. He indicated that Daytop's non-public school had received a good assessment from state reviewers. He explained a statutory change that resulted in the NPS having to adapt its curriculum. Our intent is to have two separate schools. The NPS will continue to exist. This is not a private school conversion. He addressed the non-compliance issue identified in the CDE staff analysis. He felt it was a relatively minor matter that has been cleared up. Probation departments are now referring students to Daytop. He pointed out that we have a long history of meeting college prep needs. We are doing this today with the population we are now serving. The main teacher is an individual who attended school many years ago and has great empathy for the students. The school primarily addresses a clientele referred by probation and social service agencies. We do not charge fees to parents for educational services. Our long-term track record is solid.

Mr. Kushner indicated that the factual situation is complicated. He described his own understanding and indicated that he had lots of questions regarding the status of

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students. Mr. Conry inquired whether an NPS is regarded as a private school by the state. It is.

Eric Premack, Charter Schools Development Center, indicated that the Daytop situation is no different from others in which charters have been started. This is a new charter school, not a conversion. He provided some examples. There is a long track record of this occurring. We encourage the ACCS to move this forward to the SBE for approval.

Mr. Kushner questioned whether the examples cited by Mr. Premack were in fact analogous. This situation seems a bit grayer.

Sue Larramendy, San Mateo County Office of Education, indicated that there is no question that the therapeutic services provided by Daytop are of value. However, she indicated that the County Board felt this charter school proposal amounted to a private school conversion. In addition, the County Board (like CDE staff) had serious concerns whether the educational program as envisioned could really be delivered.

Mr. Conry moved the CDE staff recommendation to deny the appeal for the reasons set forth in the CDE staff analysis. Ms. Hunkapiller seconded the motion, following which there was further discussion.

Mr. Conry indicated that the statute forbids private school conversions, and it's clear that such conversions were of great concern to the Legislature. The prohibition is clear, and the state defines this as a private school. Mr. Barajas indicated that he concurred with the comments of others and was opposed to the petition. Mr. Kushner commented that he was very skeptical that an individual teacher could do all that's envisioned.

Mr. Roaché provided further elaboration on the educational program. Acting Chair Barber asked several questions regarding the status of Daytop as a secure residential facility and concluded that the petitioners needed to explore other options with San Mateo County Office for operation of the educational program. She, too, expressed concern about what is expected of the single full-time teacher.

Mr. Kushner commented that this is a very aggressive charter on paper. He inquired who the team is that would support the school. Mr. Roaché describes the teacher's background. There was discussion of the credentialing issue.

Ms. Larramendy indicated that the San Mateo County Office would certainly be open to discussing other alternatives. She reiterated that the County Office's analysis raised issues with Daytop's proposed educational program. Acting Chair Barber reminded the ACCS that the motion was to deny the appeal.

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- **ACTION:** Mr. Conry moved that the ACCS recommend to the SBE that it deny the Daytop Charter School's appeal for chartering by the SBE, based on the written reasons for denial identified in the CDE staff analysis. Ms. Hunkapiller seconded the motion, and it was approved by vote of 6-0-2. Mr. Barr and Mr. McNair were not present when the vote was taken.

Adjournment

There being no further business to come before the ACCS, Acting Chair Barber entertained a motion by Mr. Conry to adjourn. Mr. Barajas seconded the motion, and it was approved by a vote of 6-0. Mr. Barr and Mr. McNair were not present when the vote was taken. Acting Chair Barber adjourned the meeting at 3:30 p.m.

The next regular meeting is scheduled for Monday, March 19, 2007, and the regular meeting following that is scheduled for Friday, April 20, 2007.