

## ACCS Meeting Notes for April 1, 2009

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

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

Wednesday, April 1, 2009

#### **MEMBERS PRESENT**

Beth Hunkapiller, Chair  
Dr. Vicki Barber  
Carol Barkley\*  
Brian Bauer  
Paul Cartas  
Gary Davis  
Mark Kushner  
Corri Ravare

#### **MEMBERS ABSENT**

None

\*Carol Barkley is the State Superintendent of Public Instruction's designee.

#### **PRINCIPAL STAFF TO THE ADVISORY COMMISSION**

Deborah Domitrovich, Consultant, CDE Charter Schools Division  
Darrell Parsons, Consultant, CDE Charter Schools Division  
Deborah Probst, Consultant, CDE Charter Schools Division  
Michelle Ruskofsky, Consultant, CDE Charter Schools Division

#### **Call to Order**

Chair Hunkapiller called the meeting to order at 9:35 a.m.

#### **Flag Salute**

Chair Hunkapiller lead the members, staff, and audience in the Pledge of Allegiance.

#### **Introductions**

Chair Hunkapiller invited the members to introduce themselves.

#### **Agenda Order**

Chair Hunkapiller announced that the agenda would be followed today as printed.

#### **Approval of Meeting Notes**

Chair Hunkapiller asked if there was a motion to approve the notes from the last ACCS meeting held on February 3, 2009.

**ACTION:** Mr. Bauer moved that the notes of the meeting held on February 3, 2009, be approved as presented. Mr. Cartas seconded the motion, and it was approved by a vote of 8-0.

#### **Public Comment**

Chair Hunkapiller called for public comment. With no speakers present, Chair Hunkapiller continued to agenda item one.

#### **ITEM 1: Renewal of District Charter – Delta View Joint Unified School District**

Ms. Probst presented the CDE staff report on the district charter renewal. She stated that Delta View Joint Unified School District (Delta View JUSD) is a small, rural district operating a single elementary school that serves 75 students in kindergarten through eighth grade. Delta View JUSD is one of nine all-charter districts in California, which by statute require joint action by the State Superintendent of Public Instruction and the State Board of Education for approval. Delta View JUSD was approved in June 1999 for a three-year term, and was renewed for a five-year term in 2004. Today, Delta View is making a unique request for its district charter to not be renewed.

Ms. Probst stated the renewal criteria for charters as laid out in California *Education Code (EC)* Section 47607. She reported that Delta View JUSD has not met the minimum threshold for renewal in regard to student academic performance criteria. The district did not meet the API growth target renewal criteria specified in *EC* sections 47607(b)(1) through (4). Delta View JUSD has requested that it be considered as an alternative accountability system and therefore meets the renewal criteria specified in *EC* Section 47607(b)(5). Delta View JUSD asserts that its local Northwest Evaluation Assessments demonstrate significant growth in grades one through eight between fall 2007 and spring 2008 in reading proficiency (30.1 percent), language usage (47 percent), and math (18 percent). From this same benchmark data, Delta View JUSD reports that 11 percent of students scored proficient or above in reading, 25 percent in language usage, and 10 percent in math. Ms. Probst noted that CDE finds this information inconclusive and does not consider the district to have met the renewal criterion of *EC* Section 47607(b)(5). Ms. Probst also listed off a number of factors identified by Delta View JUSD in its charter renewal request that have negatively impacted student achievement in the last five years. Although Delta View JUSD has proposed a plan to address these factors, CDE feels that due to the severity of the operational challenges ahead Delta View JUSD may not have the fiscal resources to fully implement its plan. Ms. Probst reported that CDE does not recommend renewal of the Delta View JUSD charter for fiscal viability reasons.

Chair Hunkapiller opened the discussion to members for questions. Mr. Bauer applauded Ms. Probst's staff report, and asked what would happen to Delta View JUSD if the district charter is not renewed. Ms. Probst noted that it would revert back to traditional district status.

Carmen Barnhart, Superintendent of the Delta View JUSD, presented on behalf of the district. She provided an overview of the myriad issues plaguing the district including turnover in the administration and local school board membership, and the absence of the right support systems to make a charter successful for the children in the district. She noted that these issues are systemic and will take many years to resolve.

Chair Hunkapiller asked for public comment. With no one present to speak on this agenda item, Chair Hunkapiller asked for any further discussion from the members and a motion.

**ACTION:** Mr. Bauer moved that the ACCS recommend that the State Superintendent of Public Instruction and the State Board of Education deny the Delta View JUSD request for renewal of its district charter. Mr. Kushner seconded the motion, and it was approved by unanimous vote of the members present.

## **ITEM 2: Update on Out of Geographic Area Pilot Charter Special Education Local Plan Areas**

Don Shalvey, co-founder of Aspire Public Schools, provided members with an update on the work of the Special Education Local Plan Area (SELPA) charter school pilots, and their plans for the future. Mr. Shalvey reported that there has been a large amount of interest in the pilot SELPA, and that there is substantial need for charter schools to have the option to be Local Educational Agencies (LEAs) in a statewide charter SELPA in or near where the charter is located. Mr. Shalvey stated that the pilot project identified four recommendations when it began in 2005, including: creating a workgroup to establish a statewide charter SELPA; establishing regional pilot SELPAs that would allow charters to enroll as LEAs in that SELPA even if that SELPA is not the charter authorizer (the "safe harbor" SELPA); creating criteria for charters that want to be an LEA, but have been denied access as an LEA in a SELPA; and creating an appeal process for charters that have been denied as an LEA in a SELPA. Mr. Shalvey noted that so far, the first two recommendations have been implemented.

Dr. Vicki Barber, ACCS member and El Dorado County Superintendent of Schools, then reported on her work in creating the El Dorado County statewide charter pilot SELPA, and the pilot SELPA workgroup. El Dorado County was the first SELPA to accept charters from outside of its geographic area and create a "sub-SELPA." El Dorado County wanted to participate in the SELPA pilot, but it needed create a separate statewide charter SELPA in order to remedy the financial difficulties inherent in a declining enrollment area. Dr. Barber noted that the El Dorado County statewide charter SELPA was established in 2006-07 with ten charters, which grew to 17 charters in 2007-08 as a statewide charter SELPA. In the current year, the SELPA serves 23 charters that either could not work out SELPA arrangements in their local area, or that are authorized by the State Board as statewide benefit charters or charters approved by the State Board on appeal.

Dr. Barber stated that the El Dorado County SELPA has received 26 applications from interested charters in 2009-2010. The SELPA application is online, and applicants must demonstrate the capacity to serve students and the ability to meet the needs of the affected population. The CDE has established a cap of ten charters that can join the El Dorado County SELPA in this third year of the pilot. The SELPA plans to make a recommendation to the CDE for the cap to be lifted and if successful, the SELPA will likely have eight additional charters that they could approve. Six applications did not meet the application criteria, such as not meeting the one year notice requirement to leave the charter's current SELPA, or the charter is not a new school. Dr. Barber reported that the following lessons have been learned throughout the pilot: the statewide SELPA is a success because it provides an option for charters; the threat of a charter leaving its local SELPA, with students and funding, encourages positive discussions and a desire to work together; and the geographic location of the charter versus the SELPA has not proved to be a barrier because of the availability of air travel, improved communication technology, and innovative methods for sharing personnel and meeting the needs of children. Finally, the statewide charter SELPA allows charters to have a stake in the SELPA via governance opportunities. Dr. Barber noted her appreciation to the CDE for working through funding issues and making El Dorado County whole.

Catherine Conrado, Director for the Lodi Area Special Education Region Special Education Local Planning Area (LASER SELPA), then reported on her experience in the SELPA pilot. She noted that the LASER SELPA has two school members in Oakland and two in Stockton. Some inquiries have been submitted to their SELPA, but interest seems to have decreased largely because of the El Dorado County SELPA option that is available. Dr. Conrado noted that the LASER SELPA has been successful, but will face challenges in the future if declining enrollment occurs.

Mr. Shalvey concluded the presentation by noting that the demand from charters to join the statewide SELPA pilot has now exceeded the pilot's current capacity. He requested that the ACCS and the Special Education workgroup assist to extend the pilot project and allow this important work to be continued.

Chair Hunkapiller opened the discussion to members for comment. Mr. Kushner thanked the presenters and Dr. Barber especially for their work in operating the charter SELPA pilot. He then inquired about the locations of the "safe harbor" SELPAs in California. Dr. Barber stated that there are currently four out-of-geographic area pilot SELPAs in Yuba, Desert Mountain, the LASER SELPA, and the El Dorado County charter SELPA. She anticipates that in 2009-2010, the third year of the pilot, a status report will be prepared for the State Board in May, and a final report will be presented to the State Board in November with a decision on whether to move out of the pilot into full implementation in 2010-11.

Mr. Bauer commended CDE in convening the SELPA pilot workgroup, and stated that the need for the charter SELPA pilots and additional SELPA options is clear. He then asked whether there are any single-district SELPAs that wish to enter into the pilot project. Dr. Conrado noted that the workgroup knows of a few districts that may be interested in joining the pilot. Mr. Bauer then noted the urgency of this issue and the need to expand the pilot as soon as possible. Mr. Kushner and Mr. Cartas seconded Mr. Bauer's comment. Mr. Bauer then asked about the participation rate of conversion charter schools with pre-existing attendance boundaries and their impact on the SELPA. Dr. Barber reported that the conversion status of a charter is not a criterion that they focus on, but it could be incorporated into their SELPA application in the future. Dr. Barber stated that there are two issues for the State Board to consider this year: lifting the cap altogether so that all charters that meet the application requirements can be admitted to the El Dorado County SELPA; and expansion of the pilot. She noted that waiting until the November State Board meeting is appropriate because a full report will be completed by the Special Education workgroup by then. Chair Hunkapiller and Mr. Davis concurred with Dr. Barber's recommendations. Chair Hunkapiller stated that she will communicate this message to the State Board in May.

### **Item 3: Appeal of Denial at the Local Level - Petition to Establish Livermore Valley Charter Preparatory High School**

Chair Hunkapiller announced that representatives from the charter schools on appeal today and opponents of the proposed charters would each have a total of 15 minutes to make a presentation following presentation of the CDE staff report. Other members of the public would have two minutes each to state their positions on the appeal.

Ms. Probst presented the CDE staff report on the Livermore Valley Charter Preparatory High School (Livermore Valley) appeal. She stated that the petition proposes to serve 540 students in grades nine through twelve over a three year build-out plan. The Livermore Valley petition was denied by the district in January 2008, and denied by the county in September 2008. Ms. Probst noted that the district and county's stated reasons for denial are included in the final pages of the CDE staff report. The petition was first brought to the ACCS on appeal at the December 1, 2008, meeting, but the item was delayed upon request of the petitioners due to issues raised regarding the school's fiscal viability, admissions preferences, and community outreach efforts. Ms. Probst reported that the petitioners have provided updated information on these issues in a letter dated February 2009. Ms. Probst also reported that the school's facilities have not yet been identified and the petitioners plan to file a Proposition 39 request with the district as soon as possible. Further, the school's governing body will be the same as the existing K-8 Livermore Valley charter school, a high performing school whose charter was renewed for another term by the State Board in July 2008. Ms. Probst stated that the CDE recommends approval of the Livermore Valley charter due to the petitioners' significant experience in operating a high-performing charter school and their capacity to work with CDE, the ACCS, and the State Board.

Tara Aderman, Principal of Livermore Valley Charter School, and Bill Batchelor, Chief Operations Officer of Livermore Valley Charter School, presented on behalf of the petitioners. Ms. Aderman thanked the members for their recommendations at the December 2008 ACCS meeting, and reported that the Livermore Valley board accepted each of the recommendations. She then highlighted different aspects of the proposed Livermore Valley college preparatory curriculum, and reviewed the February 2009 letter addressing the members' concerns about the school's operational budget, admissions preferences, and community outreach plan. Mr. Batchelor reported on school's proposed admissions preferences, and how they have been updated to reflect federal requirements under the Public Charter Schools Grant Program. He also reported on the revised Livermore Valley budget, which shows updated student enrollment figures that demonstrate the school's fiscal viability.

Chair Hunkapiller expressed her appreciation to the petitioners for fully addressing the ACCS's concerns from the December 2008 meeting, and requested discussion from members. With no members commenting, Chair Hunkapiller opened the hearing to opponents of the petition appeal. Representatives of the district and county were not present at the meeting. Hearing no further comments from the public or the members, Chair Hunkapiller asked for a motion.

**ACTION:** Mr. Kushner moved that the ACCS recommend to the State Board of Education that it approve the Livermore Valley Charter Preparatory High School petition to establish a charter school, subject to the conditions and modifications recommended by CDE staff. Mr. Cartas seconded the motion, and it was approved by unanimous vote of the members present.

### **Item 4: Appeal of Denial at the Local Level – Petition to Establish River Montessori Charter School**

Ms. Probst presented the CDE staff report on the River Montessori Charter School appeal. She stated that the petition was denied by district in October 2008 and denied by the county in February 2009. Ms. Probst noted that the district and county's stated reasons for denial are included in the final pages of the CDE staff report. Petitioners propose to serve 190 students in kindergarten through sixth grade, and will not file a Proposition 39 request with the district because they have found their own facility within district boundaries. The school will be governed by a non-profit organization that includes significant parent representation. Ms. Probst then reviewed the required elements for a charter petition as included in the CDE staff report, and noted that the level of detail included in the charter demonstrates that the petitioners have the requisite experience and qualifications to operate a start-up charter school. She stated that the district's primary reason for denial was the petition's lack of detail regarding the proposed

education program, including textbooks, student assessments, and teachers' rights. CDE staff, however, believe that the charter includes the appropriate level of detail as required by statute; that petitioners have demonstrated the capacity to run a successful Montessori program; and therefore CDE recommends approval of the charter petition.

Chair Hunkapiller then opened the agenda item to questions from members. Dr. Barber thanked Ms. Probst for her work and thorough analysis of the River Montessori Charter School petition. She then asked for CDE's comment about the petition's stated intention to "meet the minimum requirements of being a 4th decile school?" Ms. Probst stated that the staff report points out that the standard for a 4th decile ranking is indeed low, and that CDE staff recommend that the charter be revised to state that the school will meet or exceed the pupil outcomes of comparable schools, which is currently above a "4" ranking. Another recommendation in the staff report is for petitioners to clarify and increase the expected student proficiency percentages. Ms. Probst stated that the petitioners have the capacity to adjust their program to address both of these concerns. Dr. Barber concurred that the school must show higher performance levels from its students. Dr. Barber also asked about the budgetary concerns identified by the district in its denial of the charter petition. Ms. Probst reported on the minimum requirements for a charter to receive funding from the Public Charter Schools Grant Program, and that CDE staff did not identify any problems with the school receiving a grant. Ms. Probst also reported that the school is not officially a member of the California Montessori Project, but petitioners have worked with other Montessori schools in their area in developing their charter.

Kelly Mannion presented on behalf of the River Montessori Charter School petition. She stated that they have worked for two years with parents, community members, and business members to create their charter petition, and they have 150 founding group members. Ms. Mannion reported on the petitioners' expertise in serving children, and that their goals include the creation of high standards for students within a nurturing community, as well as maintaining a respectful collaboration with their charter authorizer. She noted that the petitioners are glad to make all of the revisions to their charter as recommended by the CDE and ACCS members. She then reviewed details of the proposed education program, and provided an overview of the Montessori education philosophy. Finally, Ms. Mannion reported on the proposed budget, which was reduced by one faculty FTE in order to accommodate more conservative state budget projections.

Chair Hunkapiller requested questions from members on the charter petition. Dr. Barber asked about the proposed budget's use of a Cost of Living Adjustment (COLA). The petitioners noted that their budget shows no COLA in years one and two on the revenue side, but does show a COLA on the expense side for those years. They acknowledged their use of unconventional terminology in their budget. Dr. Barber thanked the petitioners for this clarification.

Chair Hunkapiller then accepted a letter dated March 31, 2009, from Diane Zimmerman, Superintendent of the Old Adobe Union School District, regarding the district's opposition to the River Montessori Charter School petition. The letter was submitted on behalf of the district in place of district representatives being present at the meeting.

Chair Hunkapiller opened the agenda item for discussion from members. Hearing none, she asked for a motion.

**ACTION:** Mr. Bauer moved that the ACCS recommend to the State Board of Education that it approve the River Montessori Charter School petition to establish a charter school, subject to the conditions and modifications recommended by CDE staff. Ms. Ravare seconded the motion, and it was approved by unanimous vote of the members present.

#### **Item 5: Regulations – Charter School Revocation Procedures**

Ms. Ruskofsky presented the draft regulations regarding charter school revocation procedures. She stated that currently there are no regulations on this topic in the *California Code of Regulations*, and that CDE staff were charged in spring 2008 to write regulations to provide clarity to *Education Code* (EC) sections 47607(c) through (j). CDE staff began the drafting process in consultation with the CDE Legal Division and SBE counsel in summer 2008. Two workgroup meetings were held in the fall, and a draft was presented to the ACCS at its December 1, 2008, meeting. CDE staff have collected and incorporated numerous helpful and substantive comments throughout the drafting process, including input from the workgroup, which includes representatives from: the California Charter School Association (CCSA), the Charter Schools Development Center (CSDC), the California School Boards Association (CSBA), the Association of California School Administrators (ACSA), Los Angeles Unified School District, Oakland Unified School District, the Los Angeles County Office of Education (LACOE), Aspire Charter Schools, and Green Dot Schools. The workgroup process revealed the need for the revocation regulations to quickly deal with schools that need to be shut down, and clarify timelines and procedures for the revocation process as laid out in EC Section 47607 for charter schools, chartering authorities, and appellate bodies.

Ms. Ruskofsky then provided members with an overview of the draft revocation regulations via PowerPoint presentation. She highlighted many aspects of the draft regulations, including: defining "chartering authority"; procedures for both the revocation process and the appeal of a revocation action; separate processes for a revocation of a charter school due to an alleged violation that constitutes a severe and imminent threat to the health or safety of the pupils; processes for appellate bodies to follow when determining whether "findings made by the chartering authority are supported by substantial evidence"; and an overview of the timeline for a revocation and revocation appeal procedure, including the minimum amount of meetings that must be held in order to carry out a proper revocation under law.

Chair Hunkapiller opened the agenda item to members for questions and discussion. Mr. Davis asked who decides whether an alleged violation constitutes a "severe and imminent threat" under EC Section 47607(d). Ms. Ruskofsky stated that the charter school authorizer would make that determination. Mr. Davis then asked whether a definition exists for situations that would equate to a "severe and imminent threat." Ms. Ruskofsky noted that the draft regulations do not define "severe and imminent threat," but that such a violation would be particularly rare and so egregious to cause a chartering authority to step in and close down a school

to protect the pupils. SBE Counsel Donna Neville added that this situation is generally understood as an extremely severe and imminent threat, and a determination would be made through open meeting as the draft regulations are written. Ms. Neville stated that under these circumstances it may be appropriate for a chartering authority to delegate some of this authority to a superintendent for expediency purposes.

Mr. Kushner stated that he was impressed with the thoroughness of Ms. Ruskofsky's presentation. He expressed some concern about the "severe and imminent threat" determination in cases where the chartering authority may be the cause of that threat. Mr. Kushner suggested that an appeal process for schools revoked under a severe and imminent threat violation be included in the draft regulations. Ms. Ruskofsky explained the reasons for not including such an appeals process in the draft regulations, including the reality that a local court can provide for an expedient remedy for the school and the chartering authority, unlike an appeals process through the county and State Board that could take up to a year.

Mr. Cartas requested clarification of the revocation and appeal timelines. Ms. Ruskofsky reviewed the section of the draft regulations where this process is laid out, and also reviewed how the regulations address the "reasonable opportunity for a charter school to remedy an alleged violation" timeline in *EC* Section 47607(d). Mr. Cartas stated that charter schools should be held to strict timelines just as the chartering authority and appellate bodies must follow. He also pointed out that "verification of receipt of notification" by a charter school as opposed to "verification of mailing" may be problematic to prove on appeal, and that this wording should be reconsidered.

Dr. Barber asked whether a lack of response from a charter school to a notice of violation would hold up revocation proceedings. Ms. Ruskofsky stated that it would not. Dr. Barber then asked for clarification of the revocation and appeals timeline, and questioned what specific actions a governing board would need to take action in an open meeting. Ms. Ruskofsky stated that the procedures in the draft regulations do not go beyond the number of meetings required to carry out a revocation as mandated by statute, and simply attempt to clarify the statute. She said that she would work to review the draft regulations to ensure utmost clarity in this regard. Dr. Barber pointed out the need for parallel language to be included in the draft regarding the receipt of a "complete appeals package" for county and state chartering authorities. Dr. Barber then asked about how funding for a charter school is affected by the revocation process. Ms. Ruskofsky stated that the regulations do not address this topic. Ms. Barkley clarified that funding may be affected if a charter school is revoked for fiscal reasons, as directed by *EC* Section 47607(i).

Chair Hunkapiller asked about the workgroup's discussions regarding how procedural errors that may occur during a revocation process should be dealt with on appeal. Ms. Ruskofsky stated that the draft regulations clarify for appellate bodies that they can consider whether a chartering authority failed materially to meet the procedural requirements under statute. She noted that appellate bodies have to balance whether the procedural violations were so prejudicial as to prevent the school from having a fair hearing alongside its determination of whether "the findings made by the chartering authority are not supported by substantial evidence." Chair Hunkapiller stated her belief that a revocation should not be automatically overturned on appeal due to procedural errors alone.

Dr. Barber asked about the "substantial evidence" standard that appellate bodies are held to under statute. Ms. Neville stated that an appellate body under this standard is not granted the leeway to look at the revocation case anew, but is restricted to looking only at whether there was substantial evidence presented at the lower level to support its decision.

Chair Hunkapiller then opened the agenda item for public comment.

Eric Premack representing CSDC stated that there is a balance to be struck between fairness and expeditiousness in charter school revocation actions. CSDC is concerned about a lack of an appeals process for revocations brought under and alleged imminent health and safety violation because the law seems to allow for an appeals process. He noted that an administrative appeals process raises some issues with expediency but that they can be overcome. Mr. Premack also expressed concern regarding authorizers that may not always provide schools with a "reasonable opportunity to remedy" and that the regulations do not sufficiently address what is "reasonable." Mr. Premack cautioned that there are a lot of questions regarding funding for charter schools during the pendency of a revocation appeal. Mr. Premack then thanked the workgroup for being constructive and not acrimonious.

Jan Isenberg representing LACOE distributed to members a written response to the proposed regulations. She stated that LACOE is in agreement with the recommended regulations overall but feels that the "reasonable opportunity to remedy" timeline for charter schools should be set at 30 days. She also pointed out their understanding that the number of public meetings leading to final revocation of a school could take as long as six to twelve months. Ms. Isenberg also raised the issue of funding for charter schools that are in the midst of revocation proceedings. Finally, she expressed LACOE's willingness to working with CDE to affect their recommended changes to the draft regulations.

Sherry Griffith representing ACSA distributed to members a written response to the proposed regulations on behalf of ACSA and CSBA. She stated that both associations are concerned with timeline issues and that the number of meetings required to revoke a school may go beyond what current law provides.

Tiffany McClinton representing CCSA stated their concern about the absence of an appeals process in the draft regulations for revocations pursued under alleged imminent health and safety violations. She also noted that overall CCSA is in support of current direction of the draft regulations.

Jeff Rice of A+PLUS Learning reiterated the concerns expressed by the CCSA representative. He also stated that the draft regulations may be well intentioned, but may also have unintended consequences that should be thoroughly examined especially

regarding revocation where the possibility exists for authorizers to close schools unilaterally.

Hearing no additional public comment, Chair Hunkapiller requested a motion.

**MOTION MADE AND SECONDED:** Mr. Bauer moved to approve the draft regulations to be forwarded to the State Board in order to commence the rulemaking process.

Mr. Cartas seconded the motion. Members commenced discussion of the motion.

Dr. Barber asked whether the preceding discussion will be included in the motion, to which Chair Hunkapiller replied in the affirmative. Mr. Kushner asked if a summary of the entire discussion would be included in agenda item to the State Board. Mr. Cartas questioned whether it was necessary to rush the draft regulations to the State Board at this time, and expressed his desire for additional ACCS discussion. Ms. Barkley stated that the draft regulations have been worked on for nearly a year, and that it is important for districts and counties to have guidance in the revocation and revocation appeal process. Ms. Barkley also clarified that the minimum number of meetings proposed by the draft regulations in a revocation action could not be reduced any further without either changing the definition of a chartering authority, or changing the statute altogether. Dr. Barber then reiterated her concerns about the revocation appeal proceedings and the number of public hearings that appear to be required in the draft regulations. Ms. Neville addressed the issue of whether a chartering authority has the ability to delegate certain revocation duties to another person, such as a superintendent. Ms. Neville stated that delegation authority is not present in the statute, with the possible exception of some ministerial duties. Ms. Barber noted that legislative relief may be necessary concerning the multiple meetings requirement in statute, particularly for a governing board that only meets once a month. Ms. Ravare stated her belief that the proposed number of public meetings required of a governing board to carry out a revocation action appears appropriate given the severity of the action and to ensure all sides are heard.

Chair Hunkapiller expressed her appreciation to CDE staff for the draft regulations, and staff's willingness to provide additional clarity to the draft and address the concerns raised today. She noted that the rulemaking process could go forward with the understanding that CDE staff will amend the draft regulations as previously discussed before forwarding the draft to the State Board. Members then discussed whether to move the regulations forward to the State Board in their current condition, with amendments, or to require amendments and schedule further discussion at a future ACCS meeting. Chair Hunkapiller called for a vote on the motion, and proposed that the draft regulations would be amended prior to being forwarded to the State Board as discussed today.

**MOTION WITHDRAWN:** Mr. Bauer withdrew the motion to approve the draft regulations to be forwarded to the State Board in order to commence the rulemaking process. Mr. Cartas withdrew his second.

**Lunch Break:** Chair Hunkapiller called for a lunch break at 1:30 p.m. The meeting reconvened at 2:00 p.m.

#### **ITEM 6: California State Budget Crisis Impact on SB 740 Funding Determinations**

Chair Hunkapiller stated that the ACCS is not authorized to act on this issue in the absence of emergency regulations. She asked members to consider the following issues in their discussion of this topic: raising reserve levels from five to ten percent for nonclassroom based schools; recommending a waiver on class size to permit a 30:1 teacher to pupil ratio; relaxing the credentialed teacher requirement from 40 to 35 percent; the time period of these changes should last through the fiscal crisis, or school year 2012-13 only; and whether to reduce the instructional spending requirement from 80 to 70 percent. Chair Hunkapiller noted that in this fiscal crisis the ACCS needs to address the reality that districts have been given flexibility in spending for categorical funds, but equivalent spending flexibility has not been offered to nonclassroom based schools.

Chair Hunkapiller opened the discussion to members for comment. Dr. Barber asked about the implications involved in raising the reserve levels. Ms. Barkley addressed *California Code of Regulations* Section 11963(a) regarding how reserve levels are currently calculated. Mr. Davis expressed concern for the pupil teacher ratio and instructional spending requirements.

Chair Hunkapiller then opened the agenda item for public comment.

Jeff Rice representing A+PLUS Learning stated the need for flexibility for nonclassroom based schools in the fourth quarter of the 2008-09 school year. Schools are attempting to managing their budget to meet the 40/80 percentage instructional spending requirement while paying staff, and upholding the integrity of their existing services as they move into the 2009-10 school year. Schools would be greatly helped if they could defer money from this year to the next since it is impossible to predict ADA and their expenditures for next year. Schools are faced with spending all their money by the end of the year, but a better approach would be to allow them to place their money into a reserve for next year. Mr. Rice stated that emergency regulations are necessary, and recommended the following: simplifying the SB 740 funding determination number of years to two for new schools, and five for continuing schools; allowing 50 percent of the expenditures formula for facilities to apply toward the instructional spending formula; exclude grants and loans from the total revenues calculation; exclude debt service payments from the expenditures calculation; and allow the percentage of total revenues in excess carryover from one year to the next.

Dr. Barber suggested the need to also exclude one-time only funding from the total revenues calculation. Mr. Rice agreed. Ms. Barkley clarified that the calculation already excludes grants, however federal stimulus money should be considered because it would be included in the revenue calculation if this calculation is not changed soon.

Colin Miller representing CCSA reiterated the importance of providing flexibility to charters in this fiscal crisis in the same way that districts were given flexibility, especially for those schools that are on margin of meeting their target percentages. He recommended that the ACCS issue a policy statement today on this subject.

Peter Birdsall representing K-12 Virtual Academies stressed the urgency of this issue and the need for emergency regulations. He reiterated the need for charters to have flexibility, and would like the ACCS to act now to provide relief to nonclassroom based charters. He stated that Chair Hunkapiller's recommendations would offer enough tools for charters to address the fiscal crisis in the immediate future.

Eric Premack representing CSDC reiterated all of the prior public comments, and added that nonclassroom based schools will get a lot less funding from the federal stimulus plan and are under a "nightmare revenue roller coaster" right now. He noted that cash flow is a problem for schools as well, especially for those on the fringe of the 80 percent spending requirement.

Mary Musgrove representing the Circle of Independent Learning Charter requested that the ACCS consider the equity issues regarding the nonclassroom based funding determinations. She stated that nonclassroom based schools are the only schools that have to apply for funding, and SB 740 includes many different calculations.

Jennifer Caza representing Julian Charter School stated that the school has 2000 students and normally carries a 5 percent reserve. Last year, the school had an 8 percent reserve which helped them greatly during the current fiscal crisis. The school would like to keep its reserves. Ms. Caza also noted that the school spends approximately \$1 million per year for facilities and if they could count 50 percent of that cost toward instructional costs then they would easily meet 80 percent spending requirement.

John Hall representing Options for Learning/Options for Youth encouraged the members to allow for mitigating circumstances in SB 740 funding determinations in order to relieve schools that score an 8, 9, or 10 on the statewide school rankings. He suggested that these rankings could be used in automatic funding determinations, or offer schools with high rankings extra flexibility in the spending requirements.

Jodi Retzliff representing Gateway Community Charters stated that their independent study charters had reserve of 10 percent in the current year to help mitigate mid-year budget cuts. Last year the school was able to accrue enough facility mitigation hours to establish a healthy reserve level, which would not have been possible if midyear cuts had been enacted.

Hearing no additional public comments, Chair Hunkapiller returned the discussion to members. Dr. Barber stated the schools that are applying for funding determinations for 2010-11 need assistance first, and asked about the ACCS's authority to establish mitigating factors and to change the SB 740 funding calculations. She also noted her support for removing one-time only funds from the revenue calculations; raising the reserve levels; allowing a larger class size; and relaxing the credentialed teacher requirement. Dr. Barber noted that these ideas may be contentious but are necessitated by the fiscal crisis and the need for flexibility. Mr. Davis concurred with Dr. Barber with the exception of the change to the credentialed teacher requirement. Mr. Davis would also like to explore adjusting the facilities spending requirement possibly by averaging the expenditures over two or three years. Mr. Bauer supported evaluating all of the suggestions that have been made today. Mr. Cartas asked about simplifying the SB 740 funding determination process overall, to which Ms. Barkley replied that she is currently working on this task. Mr. Cartas noted his agreement with all of the discussion today, and added a suggestion that public and private grants be excluded from the revenue calculation. Dr. Barber noted that the SB 740 funding determination form has a section for "proposed mitigating factors" where an explanation of grant funding could be included. Ms. Ravare noted her agreement as well, especially in regard to charter schools' need for flexibility in these times.

Chair Hunkapiller concluded the discussion by asking Ms. Barkley to explore the authority to do make the changes to the SB 740 process as discussed today, as well as exploring the process for writing and implementing emergency regulations. She also stated her intention to include this agenda item as a carryover discussion at the June 17, 2009, ACCS meeting.

**ITEM 7: SB 740 Funding Determinations for Nonclassroom Based Instruction**

Ms. Barkley presented the CDE recommendations for funding determinations.

**Schools Recommended for 100 Percent for Five Years (2008-09, 2009-10, 2010-11, 2011-12, and 2012-13)**

Monterey County Home Charter School.....	#327
Nevada City Charter School.....	#69
West Park Charter Academy.....	#44
Whitmore Charter High School.....	#658

**Schools Recommended for 100 Percent for Five Years (2009-10, 2010-11, 2011-12, 2012-13, and 2013-14)**

Pacific View Charter School.....	#247
Union Hill School District Charter School.....	#82

**Schools Recommended for 100 Percent for Four Years (2008-09, 2009-10, 2010-11, and 2011-12)**

Alder Grove Charter School.....	#760
Alpaugh Achievement Academy Charter School.....	#806
Antelope Valley Desert Montessori Charter School.....	#748
California Virtual Academy @ Kings.....	#840

California Virtual Academy @ San Mateo.....	#802
California Virtual Academy @ Sutter.....	#757
Charter Home School Academy .....	#250
Classical Academy High School.....	#759
Diamond Mountain Charter High School.....	#633
Eleanor Roosevelt Community Learning Center.....	#395
Gold Rush Charter School.....	#807
Hallmark Charter School.....	#257
HomeTech Charter School.....	#67
Keyes to Learning Charter School.....	#85
La Vida Charter School.....	#822
Learning for Life Charter School.....	#362
Mid Valley Alternative Charter School.....	#88
New Millennium Institute of Education Charter School.....	#163
Plumas Lake Charter.....	#647
River Springs Charter School.....	#753
MET Sacramento High School.....	#586

**Schools Recommended for 100 Percent for Four Years (2009-10, 2010-11, 2011-12, and 2012-13)**

Capistrano Connections Academy Charter School.....	#664
Choices Charter School.....	#275
Community Collaborative Charter School.....	#699
Connecting Waters Charter School.....	#477
Crescent View West Charter High School.....	#746
eScholar Academy.....	#430
Gateway to Early College High School.....	#620
Mirus Secondary School.....	#885
Mission View Public School.....	#888
Oakdale Charter High School.....	#103
Sacramento Academic and Vocational Academy.....	#878
School of Extended Educational Options.....	#914
Valley Oak Charter School.....	#332
Visions in Education Charter School.....	#248
Vista Real Charter High School.....	#735
Whitmore Charter School.....	#504

**Schools Recommended for 100 Percent for Two Years (2008-09 and 2009-10)**

Camino Real Community Partnership Academy.....	#1002
Insight School of California – North Bay.....	#1011
Madera Independent Study Academy.....	#1001
Ravendale-Termo Charter School.....	#1032
Yuba City Charter High School.....	#702

Chair Hunkapiller asked if there were public comments on any of the funding determinations recommended at 100 percent. There were none.

**ACTION:** Dr. Barber moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent funding determination for each of the schools listed above, with the addition of FAME Public Charter School (#728), and Audeo (#406), which had been misreported in the agenda item.
- Determine in each case that a rate 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 funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et seq., noting the requirement that new schools be given serious consideration for full funding.
- Determine in each case that approval for a two-, four-, or five-year period is appropriate taking into account the information presented in its totality.

Mr. Cartas seconded the motion, and it was approved by unanimous vote of the members present.

**Schools Recommended for 85 Percent for Four Years (2008-09, 2009-10, 2010-11, and 2011-12)**

Choice 2000 On-Line School.....	#61
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**ACTION:** Dr. Barber moved that the ACCS recommend to the SBE that it:

- Approve an 85 percent funding determination for four years for the school listed above.
- Determine that a rate 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 funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et

- seq., noting the requirement that new schools be given serious consideration for full funding.
- Determine that approval for a four-year period is appropriate taking into account the information presented in its totality.

Mr. Davis seconded the motion, and it was approved by unanimous vote of the members present.

**Schools Recommended for 70 Percent for Four Years (2008-09, 2009-10, 2010-11, and 2011-12)**

School of Unlimited Learning.....#149

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

- Approve a 70 percent funding determination for four years for the school listed above.
- Determine that a 70 percent rate 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 funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et seq., noting the requirement that new schools be given serious consideration for full funding.
- Determine that approval for a four-year period is appropriate taking into account the information presented in its totality.

Mr. Cartas seconded the motion, and it was approved by unanimous vote of the members present.

**Redetermination of Funding Rate – Schools Recommended for 85 Percent for Three Years (2008-09, 2009-10, and 2010-11)**

Opportunities for Learning – Baldwin Park.....#402  
 Opportunities for Learning – Santa Clarita.....#214

Chair Hunkapiller invited public comment from Carrie Mizzone representing Opportunities for Learning. Ms. Mizzone provided members with an update on their dropout recovery program, and reported that enrollment is up 114 percent to 2312 students, and their API scores went up 45 points from 2005-06 to the current year. Opportunities for Learning is seeking WASC accreditation and UC “a-g” course approval this year as well. Ms. Mizzone expressed appreciation for the CDE funding recommendation and welcomed members to visit their schools. Chair Hunkapiller then asked for a motion.

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

- Approve an 85 percent funding redetermination for three years for the schools listed above.
- Determine that a rate 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 funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et seq., noting the requirement that new schools be given serious consideration for full funding.
- Determine that approval for a three-year period is appropriate taking into account the information presented in its totality.

Dr. Barber seconded the motion, and it was approved by unanimous vote of the members present.

**Redetermination of Funding Rate Due to Mitigating Factors - Schools Recommended for 100 Percent for Three Years (2008-09, 2009-10, and 2010-11)**

California Virtual Academy (CAVA) – Los Angeles.....#838  
 CAVA – San Diego.....#493

Ms. Barkley stated that CDE received a request from CAVA Los Angeles and CAVA San Diego for the ACCS to redetermine the funding rate approved at the December 1, 2008, meeting. CAVA is requesting to have mitigating factors applied to its rate to reduce its certified salary level rate from 40 to 35 percent for the next three years and receive a 100 percent funding determination for those years. CAVA reasons for requesting mitigating factors are included in the agenda packet. Ms. Barkley also stated that CAVA has a waiver request to increase their teacher to pupil ration by 10 percent, which will be heard by the State Board in May.

Dr. Barber asked questions to clarify the funding request. Ms. Barkley stated that CAVA is requesting to change their 2008-09 funding, as well as a prospective funding request for 2009-10 and 2010-11. CAVA meets the current year funding requirements, but the CDE staff are not making a recommendation regarding the prospective request. Ms. Birdsall added that CAVA’s request is necessitated by budget cuts and because the school needs to hire new teachers due to their continual enrollment policy. She assured members that their online education program allows for reduced administrative and overhead costs, as well as other savings. Chair Hunkapiller then asked for a motion.

**ACTION:** Dr. Barber moved that the ACCS recommend to the SBE that it:

- Approve a 100 percent funding redetermination for three years for the schools listed above.
- Determine that in this case that a rate 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 funding determinations as contained in *California Code of Regulations*, Title 5,

Section 11963 et seq., noting the requirement that new schools be given serious consideration for full funding.

- Determine in this case that approval for a three-year period is appropriate taking into account the information presented in its totality.

Mr. Bauer seconded the motion, and it was approved by a vote of six to one.

**Adjournment**

Chair Hunkapiller adjourned the meeting at 3:40 p.m.

The next meeting will be held on Wednesday, June 17, 2009, at the CDE Building, 1430 N Street, Room 1101, Sacramento.

Questions: Charter School Staff | [charters@cde.ca.gov](mailto:charters@cde.ca.gov) | 916-322-6029

Last Reviewed: Friday, June 26, 2009