

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

Wednesday, June 17, 2009

MEMBERS PRESENT

Beth Hunkapiller, Chair
Vicki Barber
Carol Barkley*
Brian Bauer
Paul Cartas
Gary Davis
Mark Kushner
Curtis L. Washington

MEMBERS ABSENT

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* 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 10:40 a.m.

Flag Salute

Dr. Barber lead the members, staff, and audience in the Pledge of Allegiance.

Introductions

Chair Hunkapiller welcomed Mr. Washington as a new ACCS member and then invited the members to introduce themselves.

Agenda Order

Chair Hunkapiller announced that the agenda would be followed today as printed with the exception of item four, which will not be addressed due to *Bagley-Keene Open Meeting Act* requirements.

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Approval of Meeting Notes

Chair Hunkapiller asked if there was a motion to approve the notes from the last ACCS meeting held on April 1, 2009.

ACTION: Mr. Bauer moved that the notes of the meeting held on April 1, 2009, be approved as presented. Mr. Davis seconded the motion, and it was approved by a vote of 8-0.

Public Comment

Chair Hunkapiller called for public comment.

Jan Miller representing the California Teachers Association (CTA) noted that the ACCS agenda and agenda enclosures are not available to the public in a timely manner. He requested that all meeting information be posted on the ACCS website well in advance of the meeting date. Ms. Barkley explained CDE's internal coding requirements for all CDE website postings and noted that CDE staff will add information to the ACCS website regarding how members of the public can subscribe to the ACCS email listserv.

Hearing no other public comment, Chair Hunkapiller announced that petitioners for today's agenda items would have a total of 15 minutes to make a presentation following presentation of the CDE staff report. Representatives speaking on behalf of the opposition will also have 15 minutes to present. Other members of the public would then have two minutes each to state their positions on the agenda item.

ITEM 1: Renewal of District Charter – Pioneer Union Elementary School District

Mr. Parsons presented the CDE staff report on the Pioneer Union Elementary School District (PUESD) request for renewal of its all-district charter. PUESD received its first all-district charter in November 1993, and has since received two five-year renewals from the State Board of Education (SBE). PUESD now requests renewal of its charter for a five-year term ending in 2014. Mr. Parsons reviewed the governing statute for all-charter districts and the charter renewal criteria for all-charter districts as laid out in California *Education Code (EC)* Section 47607. Mr. Parsons then reported that CDE staff and the State Superintendent of Public Instruction recommend approval of the PUESD renewal petition for another five-year term because PUESD has met the required renewal criteria. PUESD has reported excellent student academic performance and positive fiscal operations. Should the SBE approve its petition, PUESD will be required to modify its charter to reflect new laws enacted since PUESD's 2004 renewal.

Chair Hunkapiller invited the petitioners to make a presentation. John Stankovich, a PUESD representative, introduced to ACCS members Diane Cox, PUESD Superintendent, and Mollie Acosta, PUESD Director of Curriculum. Ms. Cox and Ms. Acosta reviewed with ACCS members a PowerPoint presentation that provided members with an overview of PUESD's history as a charter; accomplishments since its

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last renewal in 2004; PUESD's increased student diversity, including growth in both Latino and English Learner student populations; growth in PUESD's base API from 797 to 815; and PUESD's priorities for the next five years, including maintaining academic rigor, arts education, and closing the achievement gap.

Chair Hunkapiller opened the discussion to members for questions. Mr. Kushner inquired about the subgroup in which PUESD did not meet its AYP growth target. Ms. Cox reported that Latino math instruction at the PUESD middle school was not met by .02 percent. Chair Hunkapiller then asked for speakers against the petition for charter renewal, as well as public comment. Hearing none, Chair Hunkapiller asked for a motion.

ACTION: Mr. Kushner moved that the ACCS recommend that the State Superintendent of Public Instruction and the SBE approve the PUESD request for renewal of its district charter for a term of five years (2009-2014). Mr. Washington seconded the motion, and it was approved by unanimous vote of the members present.

ITEM 2: Petition to Establish Aspire College Preparatory Academy Under the Oversight of the State Board of Education

Chair Hunkapiller announced that she was recusing herself from this agenda item due to her position as President of the Board of Aspire Public Schools. After leaving the meeting room, Dr. Barber took the position of acting chair.

Mr. Parsons introduced the agenda item. He noted that the petitioners propose to open a school in Modesto that at full capacity will serve 510 students in grades six through twelve. Mr. Parsons reported that CDE staff recommend approval of the appeal petition because of the Aspire organization's strong record in operating other charter schools, including good charter management, fiscal soundness, and a strong academic program. CDE staff recommend minor amendments to the Aspire petition, but have no major concerns. Mr. Parsons reported that the petitioners have already agreed to incorporate CDE staff's suggested amendments. Mr. Parsons then provided ACCS members with a brief overview of the petition's proposed academic program, and noted that the petitioners have adjusted their budget to reflect new economic realities resulting from the state budget crisis.

Dr. Barber then asked for questions from ACCS members on the CDE staff report. Mr. Kushner asked if the ACCS members were provided with the district and county reasons for denial of the charter petition. Mr. Parsons reported that both were provided in the appendixes of the CDE staff report. Dr. Barber then commended Mr. Parsons' report, and requested a presentation by the petitioners.

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Alex Hernandez, Regional Vice President for Aspire Public Schools, Central Valley, presented on behalf of the petitioners. He reviewed the need in the Modesto area for good secondary schools, and the accomplishments of Aspire students and Aspire Public Schools in general. Mr. Hernandez noted that Aspire is confident in its ability to bring these successes to Stanislaus County. He also reported that Aspire has already secured a facility for the proposed Modesto school site.

Dr. Barber asked for questions from ACCS members to the petitioners. Mr. Washington noted a significant difference in salaries offered to staff at Aspire compared to staff at Modesto City Schools. Mr. Hernandez said that Aspire's salary structure is very different and it is hard to compare the two systems; however, he assured members that Aspire offers very competitive salaries and benefits to attract and retain the best teachers. Dr. Barber said that it appeared from the district and county reasons for denial that there was a lack of understanding about Aspire's salary structure. Mr. Hernandez confirmed Dr. Barber's statement. Dr. Barber then asked for public comment.

Jan Miller representing the CTA distributed to ACCS members an article from the *Modesto Bee*. The article mentioned concerns about Aspire's facilities allegedly permitting lower and upper grade students to share restrooms. Mr. Miller also mentioned other concerns regarding financial constraints on schools, and noted that the ACCS should not recommend new schools be approved until the state budget is settled.

Ken Burt representing the CTA reiterated Jan Miller's concerns about the state's financial crisis and stated that the state is liable for all problems resulting from the approval of new schools. He noted that school districts and administrators in Modesto are concerned about constrained state funding and Aspire's proposed location in a declining enrollment district. Mr. Burt also stated his belief that the petitioners are not allowed to locate in the proposed school district pursuant to *EC* Section 47605.6.

Colin Miller representing the California Charter Schools Association (CCSA) noted his strong support for the Aspire petition and the CDE staff recommendation. He requested ACCS members' support by recommending approval of the petition to the SBE.

Dr. Barber then requested clarification from Mr. Parsons about the issues raised by Mr. Burt in public comment. Mr. Parsons explained that the petition proposes to open with grades six through nine, with full expansion to grades six through twelve in four years. This is explained on page one of the CDE staff report. Mr. Parsons noted that the Aspire grade span and build-out plan was part of the original petition presented to the district. Mr. Parsons then stated that the charter proposes to locate in the Empire Elementary District. The Empire Elementary District feeds into Johansen High School of the Modesto City Schools District, a common administration district with both elementary and high school districts, and one school board and one administration. Mr. Parsons reported that CDE staff have found this arrangement appropriate pursuant to *EC*

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Section 47605.6. Dr. Barber noted that this matter is also reported in the CDE staff report.

Mr. Hernandez then addressed the ACCS members and stated that their facility is located in the Modesto City Schools District because the Empire Elementary District is an elementary school district that feeds into high schools in the Modesto City Schools District.

Mr. Hernandez also assured ACCS members that the restroom facilities will not be shared among lower and upper grade students and that Aspire has many years' worth of experience in successfully operating schools serving grades six through twelve. He reported that Aspire expects to receive a grant from the Public Charter Schools Grant Program (PCSGP) as well as other funding from private donors, whose support remains strong even in the current tough economic climate. Ms. Barkley added that the PCSGP program allows the CDE to fund all schools that meet grant requirements, including the Aspire petitioners, as reported in the CDE staff report. Dr. Barber then asked for a motion.

ACTION: Mr. Kushner moved that the ACCS recommend that the State Board of Education approve the petition to establish the Aspire College Preparatory Academy petition under the oversight of the SBE. Mr. Cartas seconded the motion, and it was approved by a vote of 6 in favor, 0 opposed, and one abstention.

Break: Dr. Barber called for a break at 11:35 a.m. The meeting reconvened at 11:50 a.m., when Chair Hunkapiller returned to the meeting room.

ITEM 3: Petition to Establish Inner City Education Foundation Middle School #8 Under the Oversight of the State Board of Education

Ms. Probst presented the CDE staff report on the petition to establish the ICEF Middle School #8 in Inglewood under the oversight of the SBE. Ms. Probst stated that the CDE recommends denial of the petition because of serious concerns about the school's fiscal viability. She reported that the petitioners have presented an unrealistic fiscal and operational plan, and have offered no evidence of improved financial operations. Ms. Probst stated that ICEF Public Schools (ICEF) has been engaged in deficit spending and reflected a 2007-08 negative ending fund balance of approximately \$1.6 million. CDE staff also have concerns about ICEF's history of submitting late payments to CalSTRS. Although the petitioners claim the ICEF organization's financial situation is improving, with incoming revenues of \$8.6 million on July 1, 2009 via a grant award from the 21st Century Learning Program, Ms. Probst noted that these funds are restricted and ICEF may be ineligible. Finally, Ms. Probst reported that CDE recommends denial because of the significant amount of fiscal oversight that would be required by CDE staff should the ICEF petition be approved.

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Julie Klein Briggs, Fiscal Consultant for the CDE Charter Schools Division, provided ACCS members with additional information on ICEF's financial picture. She reiterated CDE staff's understanding that the 21st Century Learning Program grant might not help ICEF because the funds are restricted, and because it is a five-year grant paid out in \$1.7 million increments. Ms. Klein Briggs reported that among other issues, ICEF's revenues are overstated and their budget indicates significant projected deficits in years two and three. She noted that a revised budget would have been helpful in reviewing ICEF's petition, but one was not submitted to CDE at the time of this meeting.

Chair Hunkapiller opened the discussion to questions from ACCS members. Mr. Bauer asked about ICEF's history of late payments to CalSTRS. Ms. Probst stated that CalSTRS reporting is performed by the county office. Mr. Bauer pointed out that some county offices have experienced their own delays in submitting payments for charter schools, an issue that should be explored at another time. Mr. Kushner agreed. Mr. Kushner also asked if ICEF is currently using general funds on after school programs that could be offset if ICEF receives the 21st Century Learning Program grant. Ms. Probst stated that if the petitioners had submitted a revised budget, CDE staff would have been able to better analyze this scenario.

Dr. Barber commended Ms. Probst on her presentation, and asked about ICEF Public Schools' AYP performance in mathematics in 2007-08. Ms. Probst reported that all of ICEF's middle schools except one did not meet their AYP in mathematics. Chair Hunkapiller then requested a presentation by the petitioners.

Kenneth Zeff and Myles Meschack presented on behalf of ICEF. Mr. Zeff reported on ICEF's goals to expand into Inglewood and their prior success in serving neighborhood schools. He stated that ICEF's financial picture "is improving," and that "as the organization approaches scale, ICEF expects to be cash positive going forward." He reported that ICEF's growth as an organization has slowed considerably to about 20 percent per year. Mr. Zeff then reviewed with ACCS members a revised balance sheet, recognizing the limitations involved with the 21st Century Program grant and other grants that are "off balance sheet items." Mr. Zeff reported on ICEF's "10 point plan," where ICEF will budget a three percent reserve through "thoughtful budget cuts," including reducing headcount and programmatic expenses, merging assets, and maximizing enrollment. Mr. Zeff then distributed to ACCS members a revised budget showing a positive end balance of \$650,000. He noted the reason for the positive balance is because the school now has a facility, and the facility costs reflected in the budget are realistic. The revised budget also includes funding from the PCSGP grant and other private grant funding. Finally, Mr. Zeff addressed the CalSTRS issue, noting a memorandum that shows ICEF's April, May, and June 2009 payments were submitted on time. ICEF has hired consultants to assist with the CalSTRS payment schedule and have worked out a plan with the county.

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Chair Hunkapiller asked for questions from ACCS members to the petitioners. Mr. Kushner clarified with Ms. Probst that CDE's primary concern with the petition is the ICEF organization's finances. Ms. Probst confirmed this statement. Mr. Zeff noted that ICEF's revised budget, just submitted today, shows a three percent reserve through budget cuts. Ms. Probst stated that she could not comment on the revised budget because CDE had not been provided a copy until today.

Dr. Barber stated her strong concerns about ICEF's CalSTRS reporting problems, the inclusion of incorrect SELPA information in the petition, and ICEF's serious financial viability issues. She pointed out that ICEF first submitted its petition in December and did not revise its petition until today, providing CDE staff with no time to review. Mr. Zeff noted the following:

- **CalSTRS:** The county had problems with automatically taking CalSTRS payments out of the payroll from some of ICEF's small schools with less than 100 students. ICEF has since met with the county, and ICEF has hired consultants that have assisted in making on time payments for three months in a row. ICEF's problem had been that they made late payments, not that they did not pay at all.
- **Special Education/SELPA:** ICEF's petition includes language from an old ICEF petition that was inaccurate. This was an oversight that ICEF corrected in its revised petition submitted to the CDE.
- **Revised Budget:** This is a "modest revision" of the budget that was originally submitted to the CDE. ICEF just received its facility, which has allowed for more accurate enrollment projections in the revised budget. Mr. Zeff apologized to CDE staff for this situation.

Dr. Barber noted that a 50 percent increase in enrollment is more than a "modest increase," and expressed concern about ICEF's pattern of late payments to CalSTRS. Other ACCS members concurred with Dr. Barber's concerns. Mr. Zeff stated that they are on track now and have an "absolute commitment" to be on time now and in the future. Some ACCS members expressed confusion over the cause of ICEF's late payments, specifically concerning Mr. Zeff's earlier statement that the payments are taken out of payroll automatically by the county. Mr. Zeff noted that the problem may have been caused by ICEF's rapid growth and possible bookkeeping irregularities.

Chair Hunkapiller observed that CDE staff have not had the opportunity to review ICEF's revised budget. Also, aside from ICEF's mathematics AYP issues at its middle schools, CDE and the ACCS do not have any concerns with ICEF's academic program.

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Chair Hunkapiller noted that CDE staff have made extraordinary efforts to retrieve budgetary information from ICEF and prepare this agenda item for today's meeting. Ms. Barkley confirmed this statement. Chair Hunkapiller then recommended to the petitioners that they voluntarily pull the agenda item from ACCS' consideration today.

ACCS members continued discussion of the ICEF fiscal viability issues, as well as the county's reasons for denial due to fiscal concerns. Chair Hunkapiller then called for a presentation by those in opposition to the ICEF petition. With no one present from the district or county, she called for public comment.

Ken Burt representing the CTA cited *Bagley-Keene Open Meeting Act* concerns regarding the unavailability of all documentation related to this item online. He stated that this is "policymaking by ambush," and recommended that the ACCS postpone action on this item until all information is made available to the public because school and organizational financial viability is not a small issue.

Colin Miller representing CCSA stated that ICEF has demonstrated great academic performance compared to neighboring schools and offers great opportunities for kids. Notwithstanding financial and process issues, academics are still important. Mr. Miller recommended that the ACCS allow this item to go forward to the July SBE meeting date in order to give the school a chance to open in September. Mr. Miller also commended CDE staff's efforts to prepare this item for today's ACCS meeting.

Hearing no additional public comment, Chair Hunkapiller returned the discussion to ACCS members. She summarized the main issues under consideration, and some procedural considerations regarding possible scheduling of this item on the September SBE agenda. Chair Hunkapiller then asked for a motion.

MOTION: Dr. Barber moved that the ACCS recommend denial of the petition to establish ICEF Middle School #8 under the oversight of the SBE on grounds for concern regarding ICEF's fiscal solvency, and the absence of information presented to the ACCS to refute this issue at this time. ACCS members note the existence of some minor programmatic issues, but these are not tantamount to the decision for denial. Mr. Washington seconded the motion.

In discussing the motion, Mr. Davis stated that the ACCS is setting precedent for deliberation and not a "check-off" on a recommendation. He noted his support for organizations like ICEF with an excellent track record for serving kids; but he has a personal obligation to support open and transparent government work. Mr. Davis stated his support for the motion and the CDE staff report.

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Chair Hunkapiller noted an additional concern about the capacity and workload placed on CDE staff in charter appeal and renewal work, while staff also continues to serve students. She suggested adding an amendment to the motion to enable the CDE to receive additional oversight costs from ICEF commensurate to the amount of work necessary to assist ICEF with its fiscal issues should the SBE approve the ICEF petition. Dr. Barber expressed support for Chair Hunkapiller's concern, but noted that this should be a separate motion, if any, because the Charter Schools Division is stressed overall and not solely by ICEF. Chair Hunkapiller withdrew her suggested amendment to the motion, and asked for the petitioners to address the ACCS. Lisa Corr of Middleton, Young & Minney, representing the petitioners, requested time to confer with her clients over a lunch break.

Lunch Break: Chair Hunkapiller called for a lunch break at 1:30 p.m. The meeting reconvened at 2:10 p.m.

ITEM 3 – Continued. Chair Hunkapiller called for the petitioners to speak. Mr. Zeff noted that he spoke to Mike Piscal, ICEF CEO, and the petitioners will not be withdrawing their charter petition from ACCS' consideration at this time. Mr. Piscal acknowledged that ICEF did not handle their charter petition appeal as well as they would have liked; that ICEF has an obligation to the kids of Inglewood; and ICEF is willing to work hard with CDE staff in the future to ensure this school is successful. Chair Hunkapiller then repeated the motion on the table and called for a vote.

ACTION: The motion was approved by unanimous vote of 8 in favor, and 0 against.

ITEM 4: Petitions to Approve or Renew the Charter(s) of School(s) Denied at the District and/or County Level

Chair Hunkapiller pulled this item from the agenda at the start of the meeting with unanimous consent of the ACCS members.

ITEM 5: SB 740 Mitigating Factors

Chair Hunkapiller introduced the agenda item and expressed her gratitude to Ms. Barkley, Erik Premack, Colin Miller, Dr. Barber, and Jeff Rice for their work on this issue.

Dr. Barber presented the workgroup's draft recommendations regarding SB 740 mitigating factors for nonclassroom-based charter schools. She also commended the work of Ms. Barkley, Mr. Premack, Mr. Miller, and Mr. Rice in identifying the need to develop the draft document. Dr. Barber recounted the unprecedented and difficult circumstances faced by districts and counties in the current budget crisis, which the Legislature addressed earlier this year by affording them budgetary flexibility. Charter schools should receive the same flexibility, however. She noted that the changes proposed in the draft document under consideration today are not a permanent change.

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She then reviewed the draft document, noting the specific mitigating factors that the workgroup recommends to be considered in making SB 740 funding determinations during the state's budget crisis. Dr. Barber expressed her desire for the ACCS to act today to accept the proposed recommendations; allow the field to respond to them immediately; present the recommendations to the SBE for information and action as soon as possible; complete minor changes to the SB 740 forms for 2009-10 to reflect the recommendations; and distribute an assurance to schools with multi-year funding determinations that they can apply the mitigating factors without applying for a new funding determination. Chair Hunkapiller commended Dr. Barber for her leadership on this issue and her valuable contributions to the ACCS in general. She then opened the discussion to the ACCS members.

Mr. Cartas requested an explanation for the workgroup's recommendation to allow schools to claim ADA at levels up to 27.5 ADA per FTE; and for adding an option for schools to count up to 60 percent of their facilities costs as "instruction and related services" costs toward the 70 percent spending target for those costs. Dr. Barber stated that the workgroup determined that 27.5 was a reasonable midpoint between 25 and 30 ADA. The workgroup also determined that the 60 percent facilities costs figure was a reasonable figure for charter schools, who could document those costs without being overly burdened. Dr. Barber then explained that in the past, such mitigating factors were brought to the SBE in the waiver request process. Chair Hunkapiller further explained that under SB 740, the ACCS is allowed to define the percentages devoted to instruction and certificated costs; in essence, defining "mitigating circumstances" and determining "reasonable bases" for adjusting SB 740 percentages pursuant to the *Education Code*. Mr. Kushner stated that he is eager to approve the recommendations to give quick guidance and relief to the field. Hearing no other discussion, Chair Hunkapiller asked for a motion.

MOTION: Mr. Bauer moved to approve the recommendations for SB 740 mitigating factors and forward them to the SBE for information and action at the September 2009 SBE meeting. Mr. Cartas seconded the motion.

Chair Hunkapiller then called for public comment.

Ken Burt representing the CTA expressed his view that the SB 740 mitigating factors appear to be "underground regulations." He stated that the CTA has not had time to analyze the draft document and therefore he is unable to offer a position today.

Colin Miller representing CCSA thanked all of the workgroup members for their dedication and hard work on this document. He stated that both statute and regulations provide that the ACCS and the SBE have the authority to allow for mitigating factors in making SB 740 funding determinations. Mr. Miller added that the current budget crisis is

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a reasonable basis to redefine budget flexibility for schools in the manner laid out in the draft recommendations.

Erik Premack representing the Charter Schools Development Center (CSDC) repeated Mr. Miller's comments on the ACCS and SBE's authority over this issue, and also expressed his thanks to the workgroup members. He then suggested a minor clarification to the document to allow schools to pursue less than 100 percent funding, to allow them to deal with deferral and reserve issues with greater flexibility

Jeff Rice of A+PLUS Learning expressed his thanks to all of the workgroup members, and echoed Mr. Miller and Dr. Barber's comments about the urgency of this matter to give clarity, guidance and predictability to charter school operators.

Greg Roseboom of the Visions in Education Charter School in Sacramento expressed his gratitude to the workgroup, especially for their efforts in surveying the field and collecting input from affected schools. He noted that flexibility in this arena is greatly needed and appreciated.

Jodi Retzloff of the Community Collaborative Charter School and the Vocational Academy stated that the recommendations will allow them to keep their facilities. She expressed her gratitude to the workgroup as well.

Kevin Kurt of the Classical Academies in San Diego also expressed his thanks, and noted that the added flexibility is needed and greatly appreciated.

Hearing no additional public comment, Chair Hunkapiller asked for additional discussion from ACCS members. Mr. Bauer offered an explanation of the motion on the table. Mr. Kushner added that the draft recommendations will allow for an open, fair, and predictable process in making funding determinations in these tough economic times. Chair Hunkapiller then called for a vote.

ACTION: The motion was approved by a vote of 7 in favor, 0 against, and 1 abstention.

Public Comment: Chair Hunkapiller called for public comment.

Lisa Corr of Middleton, Young & Minney, on behalf of ICEF, requested that the ICEF Elementary School #7 petition appeal be placed on the July SBE agenda for consideration. She stated that the item was not before the ACCS today because the Inglewood School District lost the petition in February, and did not act in the 60 day timeline as required by statute. Further, Ms. Corr asserted that ICEF appealed to the

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Los Angeles County Office of Education to act immediately but they refused, claiming that they did not officially receive the ICEF petition until May.

ITEM 6: Petition to Add Sites Under the Aspire Public Schools Statewide Benefit Charter

Chair Hunkapiller announced that she was recusing herself from this agenda item due to her position as President of the Board of Aspire Public Schools. After leaving the meeting room, Dr. Barber took the position of acting chair. Dr. Barber disclosed that the petitioners have applied to the El Dorado County Office of Education statewide charter SELPA.

Mr. Parsons presented the CDE staff report. He stated that the Aspire Public Schools Statewide Benefit Charter (Aspire) is requesting approval to open two additional sites in 2009. Aspire currently operates two school sites under its statewide charter – Aspire Port City, and Aspire Clarendon. Mr. Parsons noted that the Memorandum of Understanding (MOU) between Aspire and the SBE/CDE contains seven conditions for opening new school sites under its statewide charter, and Aspire has not met the criteria of MOU items 2 and 4.

- MOU item 2 states that “after the first two sites have operated for two years, one or more sites may be opened each year provided the first two sites achieve at least the API rankings of a 7/6 or 6/7 for statewide/similar schools decile scores.”
- MOU item 4 states that “the SBE will consider accelerating by one year the schedule for opening additional sites if Aspire Public Schools shows student achievement at all existing sites meets SBE-established benchmarks.”

Mr. Parsons stated that because Aspire did not meet all seven criteria required under the MOU, CDE recommends denial of Aspire’s petition to open additional sites at this time.

Dr. Barber clarified that both MOU items refer to the fact that Aspire Clarendon did not meet the statewide ranking requirement; and that Aspire is requesting an accelerated opening schedule. Ms. Barkley confirmed this statement, adding that the CDE has only one year of data to analyze although the school has been open for two years. Dr. Barber then asked for a presentation by the petitioners.

James Wilcox, CEO of Aspire Public Schools, offered a PowerPoint presentation to ACCS members. He reviewed the history of Aspire’s statewide benefit charter in which two schools opened in 2007; that the MOU calls for “outstanding student achievement;” Aspire’s data demonstrates that both of its existing sites have vastly outperformed neighboring schools; a chart showing Aspire schools performing even better the longer a school is open; the average similar school rank history of Aspire schools, where the

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average ranking is 9.5; charts showing that Aspire Port City achieved a 779 API score in its first year, higher than neighborhood schools, with a statewide ranking of 6 and a similar schools ranking of 10; and charts showing that Aspire Clarendon achieved a 768 API score in its first year, but a statewide ranking of 5 and a similar schools ranking of 10.

Mr. Wilcox stated that Aspire agrees with the intent of the SBE's required criteria for opening new schools under a statewide benefit charter, but pointed out that Aspire Clarendon only slightly missed one criterion but has shown other factors in demonstrating high student performance at its schools. He observed that the SBE has wide discretion within its own MOU to implement it as they see fit; that Aspire plans to work with the SBE to revise the MOU regarding the location of its proposed Sacramento school site; and that Aspire was compelled to act quickly to plan to open new schools even without student performance data available until May because Aspire is constrained by other laws such as the 120 days notice requirement to superintendents of the districts in which it plans to locate new schools. Mr. Wilcox requested that the ACCS recommend that the SBE approve Aspire's request to open two new schools in fall 2009, and, after opening the two new schools this fall, Aspire will not open any additional statewide benefit schools if Aspire Clarendon does not achieve a 784 API score.

Dr. Barber welcomed questions from ACCS members to Mr. Wilcox. Mr. Washington asked about the origin of the statewide/similar schools ranking requirements in the MOU. Mr. Wilcox postulated that the 7/6 and 6/7 scoring benchmarks were developed as a reasonable guideline to recognize strong academic performance. Mr. Washington asked for a reason to give special consideration to Aspire when the scores are a seemingly important condition of approval. Mr. Wilcox answered that Aspire is looking to open its two new sites in areas of high need, and it is Aspire's mission to serve these students through its statewide benefit charter. He added that the SBE's intent was to set a high quality bar for expansion of statewide benefit schools, and to establish a measure; many other measures of excellence could have been chosen to demonstrate high performance demonstrating a statewide benefit for state.

Dr. Barber then invited public comment on this item.

Stephanie Farland representing the California School Boards Association (CSBA) stated that the CSBA and SBE are in the middle of a lawsuit over the Aspire statewide benefit charter, and the CSBA does not support the approval of new schools under this charter until the lawsuit is decided. CSBA also understands that Aspire's petition proposed to open a site in West Sacramento and now is proposing to open in Sacramento. She requested further information on this matter.

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Robert McDonald, a concern citizen from Sacramento, expressed concerns about Aspire's efforts to solicit local community input, as required by the MOU, and requested denial of the Aspire petition for lack of community input. He noted that Aspire held a meeting in January, but the community was not informed of where the school was to be located. He first heard at a local planning commission meeting last night about Aspire's desire to locate in the Arden Arcade area, even though the item was not on the commission's agenda. Mr. McDonald stated that Aspire representatives did not answer questions about the location of the proposed school. He also stated his concerns that Aspire's K-8 school proposes to locate next to a K-8 private school.

Lisa Corr of Middleton, Young & Minney expressed support for the Aspire request to expand and her belief that the SBE has the right to both enforce and waive MOU provisions and conditions. She noted that the SBE could allow a one-time only waiver. Ms. Corr also noted the importance of considering the definition of "outstanding student achievement," and that a 5/10 ranking is still excellent. Lastly, she pointed out that Aspire's two sites outscored other local schools within just one year of opening.

Colin Miller representing CCSA echoed Ms. Corr's statement. He also noted the "irony involved" in the ACCS and SBE encouraging charter schools to reach out to low performing communities, and then penalize them for not getting a statewide ranking of 6. He stated that Aspire Clarendon achieved a 5/10 ranking, which shows an excellent track record in reaching out to children.

Hearing no additional public comment, Ms. Barber returned the discussion to ACCS members. She then asked that Mr. Wilcox address the issues surrounding Aspire's decision to locate in West Sacramento; its efforts to solicit community input; and the exact location of the proposed Sacramento site. Mr. Wilcox stated that the move in location from West Sacramento to Sacramento is part of their request today to revise the MOU. The availability of a facility in Sacramento was the determining factor for moving to the Sacramento location. He noted that the community input process happened fairly quickly because the Sacramento location became available in February or March 2009 as the result of the painful closing down process of a private school. Mr. Wilcox stated that Aspire was asked to be respectful of the strong emotions in the community and be discreet in its outreach until escrow closes on the facility, which still has not occurred as of the date of today's meeting. He noted that Aspire is committed to greatly increase its community outreach efforts as soon as escrow closes. Lastly, Aspire is proud of the immense support it receives in the communities in which it locates.

Mr. Davis commented that this situation is unfortunate where Aspire will have to reach out for support after the approval process instead of before. Mr. Bauer asked to review the API scores of neighboring schools to Aspire Clarendon. Mr. Wilcox reported that Aspire Clarendon achieved a 768 API score; the next closest schools achieved a 743,

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then 721, and 713. The community surrounding Aspire Clarendon is densely populated with almost a 100 percent Latino population. Aspire Clarendon's student population is 90 percent eligible for free and reduced price meals and 75 percent are English language learners.

Mr. Bauer expressed his support for Aspire's expansion request because of the strong reputation of the Aspire organization and Aspire Clarendon's excellent similar schools ranking of 10.

Mr. Kushner recalled his memory of ACCS' discussion "years ago" in setting the 6/7 and 7/6 scoring benchmarks in the MOU. He noted that the ACCS at that time intended to set a fair score for schools to show high performance; that a 5 was too low, for example; but that the ACCS did not want to penalize schools who serve underserved student populations. Mr. Kushner did not recall the ACCS contemplating a score that was one point below the requirement being paired with an exceedingly high score. He stated that a similar schools ranking of 10 shows very high performance; that a 10 score should not be undervalued; and that Aspire has met the overall standard of demonstrating high student achievement. Mr. Davis seconded Mr. Kushner's support for the Aspire request.

Some ACCS members expressed concern for waiving the benchmark set in the MOU. Mr. Cartas requested more discussion. Mr. Washington stated his belief that statewide benefit charters are held to higher standard and should meet the requirements of the MOU. He also noted that loosening the standards now may set a negative precedent for the future, but is torn because the communities served by Aspire are in need of Aspire's excellent educational opportunities. Dr. Barber expressed understanding for Mr. Cartas' and Mr. Washington's concerns, but pointed out that Aspire Clarendon is not "squeaking by here," as it achieved a similar schools ranking of 10. She would feel different if Aspire had received a similar schools ranking of 7, for example. Dr. Barber stated that the "spirit of the MOU is to demonstrate outstanding student performance and Aspire has done so."

Mr. Kuser questioned the arbitrary nature of the scoring benchmarks set in item 2 of the MOU, when the intent of the ACCS is setting these scores was to ensure outstanding student performance. He noted that a similar schools ranking of 10 is clearly outstanding. Mr. Bauer then asked if this was the first time in the history of statewide benefit charters that the ACCS was being asked to apply the MOU item 2 standards. Ms. Domitrovich confirmed this statement. Dr. Barber then asked for a motion.

MOTION: Mr. Cartas moved that the ACCS recommend that the SBE approve the petition for approval of additional sites under the Aspire Public Schools statewide benefit charter, with the condition that after opening two new schools in fall 2009,

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Aspire will not open any additional statewide benefit schools if Aspire Clarendon does not achieve a 784 API score (expected to be a statewide ranking of 6). Mr. Bauer seconded the motion.

Dr. Barber asked for public comment on the motion. Hearing none, Dr. Barber called for a vote.

ACTION: The motion was approved by a vote of 5 in favor, and 2 opposed.

Mr. Bauer requested to place an item on the next ACCS agenda to further discuss the issue of MOU requirements for statewide benefit charter schools. Dr. Barber agreed to this request.

Adjournment

Dr. Barber adjourned the meeting at 3:43 p.m.

The next meeting will be held on Tuesday, August 25, 2009, at the CDE Building, 1430 N Street, Room 1101, Sacramento.