

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

Friday, July 20, 2007

MEMBERS PRESENT

Rae Belisle, Chair
Jesse Barajas
Vicki Barber
Beth Hunkapiller
Mark Kushner
Greg McNair
Marta Reyes/Greg Geeting*

MEMBERS ABSENT

Steve Barr
Tom Conry

*Marta Reyes was the State Superintendent of Public Instruction's designee for the first action taken. Greg Geeting became the State Superintendent of Public Instruction's designee thereafter.

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

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

Call to Order

Chair Belisle called the meeting to order at 10:33 a.m.

Flag Salute

Chair Belisle invited Mr. Kushner to lead the members, staff, and audience in the Pledge of Allegiance.

Introductions

Chair Belisle invited the members and principal staff to introduce themselves, followed by other CDE staff in attendance.

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Approval of Meeting Notes

Chair Belisle asked if there was a motion to approve the notes from the meeting held on June 4, 2007.

ACTION: Ms. Barber moved that the notes of the meeting held on June 4, 2007, be approved as presented. Mr. Barajas seconded the motion, and it was approved by unanimous vote of the members present. Ms. Reyes was the State Superintendent of Public Instruction's designee for purposes of this vote.

Recognition of Marta Reyes

Chair Belisle took note that Ms. Reyes was retiring, assuming that such a thing was in fact possible! She invited those in the audience who wished to recognize and honor Ms. Reyes to do so. Plaques and other thoughtful tributes were presented by:

- Jeff Rice, Association of Personalized Learning Schools
- Kevin Johnson, founder of Sacramento's St. HOPE Academy, and five students from Sacramento Charter High School, on behalf of the California Charter Schools Association
- Eric Premack, Charter Voice and Charter Schools Development Center
- Dave Patterson, Rocklin Academy
- Andrew Laufer, representing Jack O'Connell, Gavin Payne, William J. Ellerbee, and the Executive Office of the California Department of Education

Chair Belisle then presented a certificate of recognition from the State Board of Education, and each member added heartfelt praise regarding Ms. Reyes' service as Director of the Charter Schools Division.

The recognition ceremony concluded with Ms. Reyes reflecting on her service, the excellent work of the staff of the Charter Schools Division, and the importance of charter schools in our system of public education. Ms. Reyes then departed.

Agenda Change

Chair Belisle noted that consideration of the revocation appeals from the Space Exploration Academy and Junior Space Exploration Academy were being postponed to a special meeting of the ACCS to be held on August 7.

Public Comment

Chair Belisle invited comments from the public on matters not on the agenda.

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Liane Zimny, independent consultant and formerly Charter Schools Coordinator for the Oakland Unified School District, addressed the ACCS, indicating that she had been retained as interim director of the University Preparatory Charter Academy (UPrep) in Oakland. She took note of the fact that serious issues had arisen concerning the school's operation, principally related to adult testing irregularities on statewide assessments. She commented that she intended to restore confidence in the school and stabilize operations while a permanent director was selected. Mr. Kushner commented that Ms. Zimny is certainly an individual recognized for her integrity and skill, and he offered his assistance in her efforts as interim director of UPrep. Chair Belisle noted that the ACCS had recommended a two-year funding determination for UPrep at the 100 percent level in March 2007, which was subsequently approved by the SBE. She indicated that she expected CDE staff to monitor the events unfolding in regard to UPrep and to revisit the funding determination decision if that appeared appropriate at a future time. Mr. Geeting commented that the two-year period covered by the 100 percent funding determination was for 2006-07 (now completed) and 2007-08 (which just began). Therefore, in keeping with the new regulations, the school is expected to submit a forward-funding determination request prior to February 1, and at that time the ACCS can comprehensively review the school's responses to the matters that have arisen and actions that will have been taken by the State Administrator of Oakland Unified.

There were no other public comments.

Micro-Enterprise Charter Academy (MECA) Charter Appeal

As a professional courtesy, Chair Belisle allowed David Verdugo, Superintendent of the Paramount Unified School District, to address the ACCS out of turn regarding the MECA charter appeal, because he needed to catch an early afternoon return flight. She noted that consideration of the MECA charter appeal would be completed later in the meeting.

Expressing appreciation for Chair Belisle's courtesy, Superintendent Verdugo highlighted key points among the many issues cited by the district in its reasons for denial of the MECA charter. The points related to English learners, CAHSEE, special education, qualifications of the principal, budget adequacy, and mandatory expulsions. He encouraged the ACCS to recommend denial and to send the petitions back to the district. If the ACCS were of a mind to recommend approval, he encouraged the body to recommend a two-year approval period. He noted that the district had taken action to reconfigure Lakewood Elementary School (from K-8 to K-5), reducing it to a school of about 250 students, and closing altogether the relatively low performing Paramount High School Academy. He indicated that beginning in 2007-08, the 6-8 students who would have gone to Lakewood will be bussed to Leona Jackson School, and that the district would provide grades 9-12 only at the Paramount High School.

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Ms. Barber inquired whether Jackson School had an API and, if so, what it was. Superintendent Verdugo indicated that the school had generated an API, but he was uncertain of what it was. He indicated that he did not believe the school was in Program Improvement (PI). [Subsequent to the meeting, staff determined that Jackson was a first-year PI school in 2006-07, although it has a 2006 base API of 674 (and rankings of 3/8), considerably higher than Lakewood Elementary. Jackson School is about three miles from the Northpointe Apartment Homes.]

Ms. Barber asked for Superintendent Verdugo's characterization of the district's efforts to "work with" the petitioners, as the ACCS has requested last fall. He indicated that former Associate Superintendent Marsha Brown had been the principal point of the contact with the petitioners. He thought that there had been some outreach to the petitioners, but he was not familiar with the specifics.

Lifeline Education Charter School

Deborah Domitrovich summarized the CDE staff analysis of the Lifeline petition. She noted that it presents an unusual case in that Lifeline has been an operating school (in Compton) for the past five years, but that the petition is in fact a new start-up charter petition because the school had a distance-charter relationship with the Gorman Elementary School District. Gorman could not renew the charter, because of an intervening statutory change that now requires schools to be located in the chartering district. The petitioners took a new charter petition to Compton Unified, which denied the charter, and then to the Los Angeles County Board of Education, which also denied the charter. Ms. Domitrovich noted that the school's academic performance had improved considerably in 2006. Based on the 2006 base API, Lifeline is higher performing than any of the middle or high schools in Compton Unified (except for one very small school). She identified several major areas of concern which led CDE staff to recommend denial of the petition, including governance, administration (including financial issues), special education, and teacher credentialing.

Sharon Cusic, attorney, made the principal presentation on behalf of the school, indicating that the petitioners wished to use today's meeting to provide background information, then request that a decision be deferred to the special ACCS meeting on August 7. She indicated that the petitioners felt that they could substantially address all of the concerns identified in the CDE staff review by that date.

Ms. Cusic was joined by Paula DeGroat, Lifeline's Executive Director, and their topics included educational program and achievement, financial problems, relationship with Gorman Elementary School District and Gorman Learning Center, governance (including the addition of new board members), teacher credentialing, identification of a back-office service provider, and student success stories.

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Chair Belisle asked if anyone wished to speak in opposition to the Lifeline charter appeal. There was no opposition.

Chair Belisle indicated that it would certainly be a daunting task to address all of the issues identified in the CDE staff review by August 7, including governance, special education, the FCMAT audit, and the budget problems. However, she hoped it could be done so that the ACCS would be in a position to recommend the school's continuation, given its solid academic achievement in 2006. She also remarked that it is too bad the ACCS would not have the benefit of 2007 STAR data before having to make its recommendation. [Those data will be released on August 31.]

Mr. Kushner indicated that he, too, was heartened by the school's upward trend in academic achievement. He expressed hope that the petitioners would be able to show how the project-based learning program comprehensively covers the state's content standards, and how the school's reorganized management provides assurance that Lifeline would be a viable enterprise if chartered by the SBE.

While sympathizing with the problems the school had encountered with Gorman, Mr. McNair expressed concern that the school's leaders had only recently taken charge of the situation. He expressed serious doubt that the school would be sustainable. He also asked the petitioners to address whether the school's students were actually residents of the Compton district, or whether many had come from outside the district's boundaries. Finally, he asked that they be prepared to address the special education issue in a comprehensive way.

Ms. Barber indicated that the school's finances and the FCMAT audit were key matters for her. She expressed surprise that the petitioners did not deal more directly with those matters in today's presentation, given that the issues had surfaced back when the petition was originally denied by Compton in March. She expressed serious question as to whether the school had the internal capacity to manage finances, secure SELPA membership, and deliver programs and services for special education students.

Chair Belisle thanked Ms. Cusic and Ms. DeGroat for their comments, and reiterated her hope that by the time of the August 7 meeting that they would be able to present sufficient information to give the ACCS members confidence in the school. "Give us the opportunity to help you," she concluded.

Lunch Break

Chair Belisle called for the lunch recess at 11:58 a.m. She reconvened the meeting at 12:41 p.m.

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Micro-Enterprise Charter Academy (MECA) Charter Appeal

Mr. Geeting provided a brief summary of the CDE staff review. He noted that staff felt the petitioners had, in fact, addressed some of the issues identified when the appeal was considered by the ACCS last fall, although there would certainly be revisions necessary if the charter were to be approved by the SBE (given that it was designed and intended as charter to be approved by a school district). He indicated that, among other things, CDE staff felt the charter should be limited to grades 6-8, with expansion to high school grades being subject to a material revision during the second year of operation. He also expressed CDE staff's view that the charter should be recommended for opening in fall 2008, unless the ACCS saw solid evidence of the petitioners' ability to open this fall. He reminded the ACCS that Paramount Superintendent David Verdugo had presented his opposition to the charter earlier in the day.

Marvin Smith made the principal presentation in support of the MECA charter appeal, playing a short video to emphasize the challenges facing residents in the target community. He briefly reviewed the charter's provisions and the intent of the petitioners. Branché Jones, representing CCSA, spoke in favor of the charter, as did Gary Birch, Laguna College of Art and Design; Bryan Bentrott, Vice President, Master Development; Marylouise Ortega Lau, who has agreed to be principal of MECA; Larry Walkenmeyer, pastor; George Donovan, new MECA board member; and Jason Stricker, CEO, Insight Education. Mr. Stricker provided background information on Insight Education, and indicated that they had entered into an MOU with MECA for one year to assist with start-up activities, including coaching of new instructional staff.

Noting again that Paramount Superintendent Verdugo had earlier presented the district's opposition to the MECA charter appeal, Chair Belisle inquired whether there were any other opponents who wished to address the ACCS. There were none.

Ms. Barber inquired whether a back office provider had been secured, whether 501(c)(3) status had been granted to the nonprofit corporation, and whether the petitioners felt confident that they could actually open prior to September 30. Mr. Smith answered in the affirmative on all issues. Mr. McNair inquired as to why Ms. Lau wished to leave New Village Charter School. She indicated that MECA's objectives appeared more in line with her background and interests. Mr. McNair inquired whether there were others with K-12 background involved with the school. Mr. Smith indicated that his father, a K-12 educator, was also involved with MECA. Finally, Mr. McNair inquired whether the budget was realistic. Mr. Geeting noted that the CDE staff review identified issues with the budget that would need to be resolved if the SBE were to charter the school.

Mr. Kushner expressed appreciation to staff for including a comprehensive listing of the district's and county board's reasons for denial and the petitioners' responses, along

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with CDE staff comments. He indicated that he felt the ACCS had given the district the opportunity to work with the petitioners, but that the district had not taken advantage of that opportunity. Thus, sending the petitioners back again appeared unlikely to yield positive results. He indicated that he concurred with the CDE staff suggestions for a limitation to grades 6-8. He inquired about when funding would arrive if the school were to open in fall 2007; Mr. Geeting indicated that funding would come in the second round of the advance that arrives in late November or early December. Mr. Kushner suggested that the petitioners would need to explore a bridge loan in that case. He concluded that he sensed a strong desire on the part of the ACCS to recommend approval of the petition in view of the district's apparent unwillingness to work constructively with the petitioners, but that the fall 2007 opening appeared to be an issue of disagreement.

Chair Belisle concurred that the district obviously appeared unresponsive to the ACCS' call for collaborative effort with the petitioners, but suggested that the ACCS may do the school no favor by pushing a fall 2007 opening. Moving too fast may simply be a precursor to failure, she commented. Ms. Hunkapiller echoed that thought, indicating that, for example, obtaining SELPA participation in such short order seemed quite unrealistic. Mr. Barajas commented that there was no doubt in his mind that the petitioners would be successful, but that it was "a matter of timing." He indicated that it was imperative that the school's program be strong.

Chair Belisle indicated that she had concerns about the curriculum and, in particular, the apparent lack of specificity surrounding the use of state-adopted instructional materials. Mr. Stricker indicated that the school intended to use state-adopted instructional materials in English-language arts, mathematics, and English language development. Chair Belisle also suggested that the school outcome goals could be stated in a more robust manner. On the positive side, she indicated that the longer instructional day with a variety of activities (not just double doses of the same instruction) was a real plus in her view.

Mr. Kushner indicated that he would like to divide the question, and make a motion first on the MECA charter itself.

- **ACTION:** Mr. Kushner moved that the ACCS recommend to the SBE that it approve the MECA charter appeal, with the SBE's traditional conditions on opening, and provided the charter is revised to address the concerns identified in the CDE staff review, including the limitation to grades 6-8. The motion was made with the understanding that the matter of the opening date to be recommended by the ACCS would be addressed in a separate action. Mr. McNair seconded the motion, and it was approved by unanimous vote of the members present.

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There was additional discussion of the time line for opening. Ms. Barber indicated that she was uncertain what would be realistic in this case. She expressed concern that the petitioners had been "in process" for a very long time and may in fact be able to proceed. Mr. McNair suggested that it was highly unrealistic to proceed as quickly as the petitioners envisioned, and that it might disserve the students who could pass up other enrollment opportunities anticipating the MECA will open this year, only to be disappointed. Mr. Geeting noted that the conditions on opening included in the earlier motion require sign-off on all major aspects of the charter (e.g., educational program, final charter revisions) by the SBE Executive Director before the school is cleared to open.

Chair Belisle noted that, given the short time line, it would be highly unlikely the SBE would approve the school at its meeting on September 12-13, unless essentially everything was in place. Therefore, she recommended a compromise, i.e., that the ACCS recommend a 2008 opening, unless all conditions are met before the SBE meeting (i.e., by September 11, 2007). Mr. Smith stated that he would make "personal contact" with the parents of interested students and be perfectly candid and fully disclose the obstacles the school had to overcome in order to open this fall.

- **ACTION:** As an augmentation to the previous action, Mr. Kushner moved that the ACCS recommend to the SBE that it approve the MECA charter for opening between July 1 and September 30, 2008, unless all recommended conditions on opening are met before the SBE meeting (i.e., by September 11, 2007). Ms. Barber seconded the motion, and it was approved by unanimous vote of the members present.

Proposition 39 Facilities Requests: Statewide Form

Mr. Geeting reported that the State Department of Finance had signed-off on the Statement of Economic and Fiscal Impact (Form 399) pertaining to the revised Proposition 39 regulations. The rulemaking package had subsequently been submitted by the CDE to the Office of Administrative Law (OAL). OAL has approximately 30 days in which to review and take action on the proposed regulatory changes.

One provision of the revised regulations calls upon the CDE to prepare and post a statewide form for use by charter schools in making Proposition 39 facilities requests. In preparing the form, the CDE is to consult with various entities, including the ACCS and the Office of Public School Construction. Mr. Geeting briefly described the draft form that was included with the agenda materials.

Mr. Kushner indicated that the form appeared very solid and that he didn't have any specific suggestions for changes. Chair Belisle suggested that the statements on pages 6 and 7 pertaining to enrollment verification be placed in an instruction sheet, rather than included in the form itself. In addition, she suggested that the instruction sheet be

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“balanced” in the sense of including some cautions to charter schools as well as to school districts. She also suggested more clarity with regard to the “point in time” reference on page 7.

Eric Premack, Charter Voice and Charter Schools Development Center, had several comments regarding the form. He indicated that the presumption inherent in the form that 95 percent of enrollment would equal ADA was not accurate for all charter schools. Some CSDC clients have ADA that is upwards of 98 percent of enrollment, and some charter schools that target at-risk students have lower percentages (even as low as 85 percent). In terms of using expressions of “meaningful interest” in projecting ADA, he indicated that for new schools the information is being collected “awfully early.” He suggested the possibility of a supplemental reporting later in the spring. He also commented that it is very difficult to obtain parent signatures if the parents believe they may be contacted by the school district.

Updates

Chair Belisle invited Mr. Geeting to provide updates on various matters.

- Audits and Investigations. No update.
- Conflict of Interest Regulations. At the July SBE meeting, CDE staff presented a compendium of public comments and draft responses. Following some discussion, the SBE postponed action to the September meeting, requesting that staff prepare a side-by-side comparing the proposed regulations with the provisions of *Government Code (GC)* sections 1090 et seq. and 87100 et seq., if those provisions were to apply to charter schools. Chair Belisle expressed her view that the proposed regulations fairly and properly harmonize the provisions of the nonprofit corporation law with the need for conflict disclosure and recusal in the operation of charter schools. For various reasons, she indicated that it was unlikely a court would rule that *GC* sections 1090 and 87100 are applicable to charter schools in all cases. Mr. Kushner expressed his agreement with the position stated by Chair Belisle.

Mr. McNair indicated that he had spoken against the regulations at the July SBE meeting. Interested parties (i.e., employees of a charter school) should not be members of the governing board. Teacher input in governance can be meaningfully reflected without teachers being members of the governing board.

Ms. Barber concurred with Mr. McNair because the presence of employees on a governing board gives the appearance of conflict, which is every bit as troublesome as an actual conflict. In addition, it presents a “double standard” for

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charter schools, in that employees are prohibited from being members of district and county governing boards.

Chair Belisle expressed appreciation for the sharing of contrasting opinions on the matter. To exemplify an earlier point, she indicated that while the “student voice” was dutifully sought by many local governing boards, her experience with the SBE was that the student member became much more important when the position became a voting one (rather than a non-voting one).

- Proposition 39 Regulations. Mr. Geeting indicated that he had updated the ACCS on the status of the regulations during the earlier item on the proposed form.
- Statewide SELPA and Special Education Workgroup. Ms. Barber indicated that the SBE had approved the El Dorado County Office’s request to establish a statewide SELPA, along with two other SELPAs that would have distance-relationships with charter schools (Lodi and Desert Mountain). Two additional SELPAs are expected to be presented for approval at the September SBE meeting (Yuba and Southwest). She indicated that the workgroup would study these “pilots” over the next three years, and that during the second year a report was planned on the effectiveness of the arrangements. Mr. Kushner inquired about the issue of lower funding for “new ADA,” which is what charter school ADA often appears to be, even though it is not necessarily composed of students new to a SELPA. Ms. Barber indicated that growth ADA are funded at a lower amount because of limitations on federal funding.
- Future Meeting Dates. Mr. Geeting inquired whether there were any objections to the proposed meeting dates for January through July 2008. The dates appeared satisfactory to everyone.

Adjournment

There being no further business to come before the ACCS, Chair Barber adjourned the meeting at 3:00 p.m.

The next meeting will be held on Tuesday, August 7, 2007, at the usual location, Room 1001 of the CDE Building. The meeting thereafter is scheduled for Monday, September 17, 2007, at the East End Auditorium, 1500 Capitol Mall, Sacramento.