

MEETING NOTES

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

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

Monday, November 27, 2006

MEMBERS PRESENT

Vicki Barber, Acting Chair
Tom Conry, Vice Chair
Rae Belisle
Beth Hunkapiller
Mark Kushner
Greg McNair
Michael D. Piscal
Marta Reyes*

MEMBERS ABSENT

Steve Barr

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

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

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

Call to Order

Acting Chair Barber called the meeting to order at 10:39 a.m.

Announcements

Ms. Barber noted that Chair Belisle was attending the meeting by telephone from another location due to illness, and that Chair Belisle had asked her to substitute at this meeting.

In keeping with the requirements of the Bagley-Keene Open Meeting Act, because a member is participating by telephone, all votes at today's meeting will be by roll call.

Flag Salute

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

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Introductions

Acting Chair Barber invited the members to introduce themselves. In the course of the introductions, Ms. Belisle indicated that the location from which she was participating by phone did have the required notice posted in a clearly visible place and that no public members were present.

Mr. Piscal noted that this would be his last meeting as his term concludes on December 31, 2006. He indicated that he really appreciated the experience of serving on the ACCS for the past three and one-half years. He learned a great deal from listening to the differing and thoughtful points of view expressed on the ACCS, and he admired Ms. Reyes leadership as the CDE's division director for charter schools. He also expressed appreciation for the guidance and diligent work of CDE staff. On behalf of State Superintendent Jack O'Connell and the whole of the charter school community, Ms. Reyes presented a resolution commending Mr. Piscal for his outstanding contributions to "the promotion, support, and operation of high quality charter schools in California as President and Founder of the Inner City Education Foundation," his "success as developer of the View Park Accelerated Charter Schools, among California's highest performing public schools," and his "excellent service" on the ACCS.

Ms. Reyes introduced the members of CDE staff who were present.

Approval of Meeting Notes

Acting Chair Barber called for a motion to approve the notes from the meeting held on September 25, 2006.

ACTION: Mr. McNair moved that the notes of the meeting held on September 25, 2006, be approved. Mr. Piscal seconded the motion, and it was approved by a roll call vote of 7-0-2. Ms. Belisle did not vote because she did not participate in the September 25, 2006, meeting. Mr. Barr was not present.

Reordering of the Agenda

Acting Chair Barber indicated that the agenda would be reordered to take the appeal of the Orange County Academy immediately after the determinations of funding, as several of the individuals participating in the presentation had afternoon air flights.

Updates and Additional Announcements

Acting Chair Barber asked Ms. Reyes to provide charter school updates and additional announcements. Ms. Reyes indicated that the ACCS would have a "working lunch" to help make the most of the time available. Logistics of ordering lunch were outlined. Ms. Reyes distributed to each member a copy of the confidential contact information in the CDE files, asking them to provide updates as necessary before leaving today's meeting.

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Ms. Reyes noted that newly appointed ACCS member Jesse M. Barajas was in attendance. Mr. Barajas' term commences January 1, 2007. Ms. Reyes briefly introduced Mr. Barajas and provided him a copy of the day's agenda materials. She also distributed copies of Mr. Barajas' resume. Mr. Barajas spoke briefly, indicating that he looked forward to serving on the ACCS.

Ms. Reyes also:

- Reported on the action of the SBE in approving PCSGP applications at its November 2006 meeting.
- Reported that State Superintendent O'Connell had notified the OFY/OFL organization of the necessity to conduct an audit of the organization's financial records for 2001-02 in order to have a complete record upon which to give further consideration to determinations of funding for OFY/OFL schools in 2002-03. [Determinations of funding are based upon analysis of prior-year revenues and expenditures.]
- Noted that the SBE (at its November meeting) had approved initiation of the rulemaking process to promulgate regulations regarding charter school closures, in keeping with the ACCS' recommendation. We are now in the 45-day public comment period, which culminates in a public hearing in early January 2007.
- Distributed a draft of an informal issue paper on how to handle one-time revenues received by nonclassroom-based charter schools vis-à-vis determinations of funding. One-time revenues may make percentage targets (in particular the target for certificated teacher salaries) more difficult to meet. The proposal in the issue paper is to treat the one-time revenues as a mitigating factor in relationship to certificated teacher salaries and to make no special allowance for one-time revenues in relationship to instruction-related costs. The issue paper proposes that regulations governing determinations of funding not be amended, at least at this time. Following some initial discussion, the matter was put over to the afternoon. Subsequently, the members agreed to discuss the informal issue paper further at the January 2007 ACCS meeting.
- Introduced Don Shalvey, Chief Executive Officer and Co-Founder of Aspire Public Schools, to provide a brief update on Aspire's statewide benefit charter school proposal. Aspire's statewide benefit school petition had been recommended for approval by the ACCS at its January 2006 meeting, but the matter had yet to proceed to the SBE. Approval of Aspire's petition is now anticipated to go to the SBE in January 2007. Mr. Shalvey provided an update on the achievement of Aspire's charter schools in the 2006 STAR program and on the 2006 growth API. Across all Aspire schools, API growth targets were

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exceeded by about a factor of 10. Mr. Shalvey introduced key members of Aspire’s organization-wide leadership team and site level leaders. Mr. Kushner and Mr. Piscal congratulated and commended the Aspire organization for the substantial growth in student achievement.

Public Comment

Acting Chair Barber invited comments from the public on matters not on the agenda.

Joseph Maionchi, Hiddenbrooke Community School Council President, presented information regarding the school’s status. He indicated that the school had been chartered by the Solano County Board of Education in May 2006, but one of the conditions in particular – agreement on SELPA participation – had proven insurmountable for reasons beyond the school’s control, and that the County Board then revoked the charter. He contended that there is no means for charter schools approved on appeal by the County Board to gain entry into the Solano County SELPA. He indicated that the Hiddenbrooke petitioners believe the County Board’s revocation action may actually be a denial, and that they may proceed on that basis to appeal to the SBE. He indicated that he plans to present additional information to the ACCS at another time.

Mark Lieb, Associate Superintendent for Administration, Solano County Office of Education (COE), made a very brief statement. He indicated that the Solano COE, while respecting the petitioners, has a different view of the facts in this case. Solano COE will address the facts at a future time.

Ms. Reyes explained that there are unusual facts surrounding this matter. Ms. Belisle suggested that we “wait and see” what the charter does. The case is interesting because, as general counsel to the Sacramento COE, Ms. Belisle has addressed something similar, although the facts are somewhat different. She asked to have staff review the matter prior to the ACCS meeting in January. Eric Premack, representing the Hiddenbrooke petitioners, briefly reviewed the time line of actions taken with regard to the Hiddenbrooke charter. This matter presents interesting issues, he concluded, as to when a charter is actually granted.

2006-07 (and beyond) Determination of Funding Request

The ACCS considered one five-year determination of funding request (2006-07 through 2011-12).

River Valley Charter School **#120**
River Valley Charter School qualifies for a five-year determination of funding as specified in statute. No one present desired to address the ACCS on this request.

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

- Approve a 100 percent determination of funding for River Valley Charter School (#120) for five years, 2006-07 through 2011-12, subject to the conditions specified by CDE staff.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a five-year period, as requested, is justified because the school's academic performance is consistent with the prerequisite for a five-year funding determination set forth in *Education Code* Section 47612.5(d)(2).

Mr. Piscal seconded the motion, and it was approved by roll call vote of 8-0. Mr. Barr was not present.

Camptonville Academy	#165
Forest Charter School	#354
New Jerusalem Charter School	#171
Plumas Charter School	#146

Mr. Edmonds presented the CDE staff recommendation for a 100 percent determination of funding for each of these schools for a three-year period, as noted below, subject to the conditions specified by CDE staff. There were no speakers on these requests.

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

- Approve a 100 percent prospective determination of funding for Camptonville Academy (#165) for three years, 2007-08, 2008-09, and 2009-10, subject to the conditions specified by CDE staff.
- Approve a 100 percent determination of funding for Forest Charter School (#354), New Jerusalem Charter School (#171), and Plumas Charter School (#146) for three years, 2006-07, 2007-08, and 2008-09, subject to the conditions specified by CDE staff.
- Determine in each case that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations

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pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.

- Determine in each case that approval for a three-year period, instead of the period requested (whether greater or lesser), is advisable based upon review of the information presented in its totality.

Mr. Kushner seconded the motion, and it was approved by a roll call vote of 8-0. Mr. Barr was not present.

Modoc Charter School..... #279

Mr. Edmonds presented the CDE staff recommendation for a 100 percent determination of funding for a two-year period, 2006-07 and 2007-08. There were no speakers on this request.

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

- Approve a 100 percent determination of funding for Modoc Charter School (#279) for two years, 2006-07 and 2007-08, subject to the conditions specified by CDE staff.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a two-year period, instead of the four-year period requested, is advisable based upon review of the information presented in its totality.

Ms. Hunkapiller seconded the motion, and it was approved by a roll call vote of 8-0. Mr. Barr was not present.

Sierra Charter School #136

Mr. Edmonds presented the CDE staff recommendation for a 100 percent determination of funding for a two-year period, 2006-07 and 2007-08. Lisa Marasco (Principal/CEO), Sherry Ida (Business Director), and Duane Stewart (Technology Director) made brief presentations in support of the CDE proposal.

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

- Approve a 100 percent determination of funding for Sierra Charter School (#136) for two years, 2006-07 and 2007-08, subject to the conditions specified by CDE staff.
- Determine that a level greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to determinations of funding as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a two-year period, instead of the five-year period requested, is advisable based upon review of the information presented in its totality.

Ms. Hunkapiller seconded the motion, and it was approved by a roll call vote of 8-0. Mr. Barr was not present.

Denair Charter Academy #357

Mr. Edmonds presented the CDE staff recommendation for an 85 percent determination of funding for a two-year period, 2006-07 and 2007-08. Ms. Belisle indicated that she had “lots of concerns” about school’s large reserve for economic uncertainties juxtaposed to its very low academic performance. The school needs to spend more on its educational program in order to improve student achievement. Acting Chair Barber and Mr. McNair echoed Ms. Belisle’s concerns. We need to send a strong message to this school. Alex Marshall, the school’s principal/counselor, indicated that the school had confronted rapid growth and was undergoing WASC accreditation. The school had received a PCSGP implementation grant, but was worried about spending funds “in the wrong places” and perhaps had been “too conservative.” Acting Chair Barber inquired whether there were specific plans to raise academic performance. Mr. Marshall indicated that the WASC process is assisting the school in identifying where to spend funds, but that they do “want to proceed cautiously.” Ms. Belisle indicated that she would like to see an educational plan in writing before proceeding on this request. The possibility and consequences of delay were discussed.

- **Request Withdrawn.** On behalf of Denair Charter Academy (#357), Mr. Marshall withdrew the determination of funding request from consideration at this time. He expressed the school’s intent to present the matter to the ACCS at its January 2007 meeting, and indicated that additional materials would be provided to CDE staff in keeping with the discussion at today’s meeting.

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In view of the request's withdrawal, a motion made earlier by Ms. Hunkapiller (seconded by Mr. Conry) was voided. The motion was to recommend approval at the 85 percent level for two years, subject to the conditions proposed by CDE staff, and with an additional condition for submission of a summary of expenditure plans to improve the school's educational program.

Lunch Break

Acting Chair Barber called for the lunch break at 11:51 a.m. She reconvened the meeting at 12:20 p.m.

Orange County Academy Appeal

Deborah Probst, Charter Schools Division, presented the CDE staff recommendation that (1) the petitioners withdraw, revise the petition, and resubmit it locally, or (2) the ACCS recommend that the petition be denied. The petition envisions a hybrid school (partially independent study), which would be a first for the SBE. The petition envisions combining Core Knowledge with California's content standards, but it is not clear how the combination would work. Lots of additional materials were provided beyond the charter itself. The petitioners appear to lack a thorough understanding of independent study requirements.

Todd Winkler, president of charter board, gave a power point presentation. He indicated that he felt the CDE staff concerns could easily be addressed. He introduced the presentation team.

Dan Adelseck, vice president of the charter board, explained the hybrid model which he indicated would be tremendously beneficial to the target student population. He listed many supporters of the model. He also provided some historical perspective on the charter's development, and the petitioners' experiences with Newport-Mesa Unified School District and the Orange County Department of Education. He indicated that the OCDE staff "worked with us, but reached legal road block" and the petition was denied on appeal. We are trying to stay positive and constructive. Acting Chair Barber posed several clarifying questions regarding the actions of the district and county boards, as well as the contributions of consultants to the writing and development of the charter.

Jay Streeter, consultant, indicated that he had recently been retained to work on the key issues related to finances and student services. He commented that the charter appears "very compliant" with all applicable requirements. Mr. Kushner inquired about the degree of educational expertise on the charter board. It was indicated that Jim Christensen, who is very knowledgeable and experienced, has been retained to be principal.

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Michael Martinez Scott, teacher and petitioner, spoke on the charter's behalf. He explained the educational program, including professional development and accountability measures, as well as special education. Mr. Piscal inquired as to what organization is actually petitioning for the charter. It is Classical Kids. Mr. McNair inquired about any other charters or business activities being conducted by Classical Kids. Apparently there are none.

David Patterson, consultant to petitioners, indicated that the charter presented an opportunity for a very, very strong academic program. He described materials pertaining to the Core Knowledge program that were distributed. He commented on the educational progress of the Rocklin Academy using Core Knowledge. It has improved every year. Core Knowledge is the overarching umbrella with several strong programs underneath. Students need a knowledge base upon which to build knowledge, and Core Knowledge provides that. Rocklin Academy exceeds state expectations. Core Knowledge provides specific examples for teachers. Teachers using Core Knowledge develop specific ties to state content standards.

David Brooks, president of the Newport-Mesa governing board, introduced the opponents to the charter appeal. We generally concur with the CDE staff report. Very little support for the charter was demonstrated in the community. There appeared to be an absence of support among teachers. There were no signed statements from individuals that the academy will be non-sectarian. It is important to have a high level of support for an independent study program. Petitioners did not demonstrate that the proposed educational program is sound. It is unlikely that the school would mirror the diversity of the district. We offered two groups of petitioners the opportunity to work with us. This group chose not to accept our offer. We had no choice but to deny the petition.

Jeffery Hubbard, superintendent of the Newport-Mesa district, indicated that the petition's lack of specifics was troubling. Serious issues were not addressed. He provided several examples. He noted that the governance section appeared to have significant conflict of interest issues. He urged the ACCS to deny the petition. There are just too many questions.

Following the conclusion of the opponents' presentation, Mr. McNair cautioned that this petition appeared to have undergone "substantial modifications" since originally signed, and he suggested that it may no longer represent the intent of signators. He complemented the CDE staff analysis. He indicated that he saw no reason not to support the staff recommendation. The petitioners should modify the proposed charter and go back through the local review process.

Ms. Belisle indicated that she did not disagree with Mr. McNair's analysis, but that she had a somewhat different perspective about modifying charters as they proceed through

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the review process. She commented that she would not be inclined to modify this one, but she believes that the SBE has discretion to make modifications in approving a charter if the members wish to do so. Mr. McNair clarified that he felt “some degree” of changes could be made. The question is how substantial changes are. Ms. Belisle indicated that she had compared the CDE analysis with the OCDE analysis and found them both on target.

Mr. Piscal concurred that the CDE analysis is right on money, although he indicated that he was “torn on this, because the people behind this petition can do a really good job.” He commented that he is a big fan of Core Knowledge. He encouraged the petitioners to go back and work with the local agencies. He did not see any “deal breakers” in the staff comments. He indicated that spending another year on this charter would be worthwhile, even if not desirable from the petitioners’ standpoint.

Mr. Conry indicated that he would support a motion to recommend denial. It would be preferable to have oversight at the local level. It does appear that Newport-Mesa is willing to work with the petitioners. Mr. Kushner indicated he, too, would vote to recommend denial. This is a “painful process” and the petitioners are quite dedicated people, but there are still issues to work through. There is not lots of education-related experience represented among the petitioners. He recommended getting more individuals “on the team” with substantial expertise, not just paid consultants. Ms. Hunkapiller indicated that this petition is not well developed enough. She concurred with the district superintendent that there are too many questions.

Prior to entertaining a motion, Acting Chair Barber asked if the petitioners wished to withdraw at this point, or to continue forward to a recommendation from the ACCS.

- **APPEAL WITHDRAWN.** On behalf of the petitioners, Mr. Winkler withdrew the Orange County Academy Appeal from consideration by the SBE.

Mr. Winkler commented that Orange County has relatively few charters, and expressed hope that the positive choice this charter represents will eventually be recognized and approved. Mr. Piscal encouraged the petitions to “keep plugging away at this.”

Micro-Enterprise Charter Academy Appeal

Mr. Geeting presented the CDE staff recommendation that, although the charter was somewhat of a marginal call, it was reasonable for the ACCS to recommend its approval with various conditions on opening and with modifications as noted in the analysis. He identified key areas where the charter needed to be modified.

Marvin Smith, lead petitioner, explained his involvement in the effort to develop this charter and see it approved. He provided background on the charter in the form of a

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power point presentation. He also ran a brief video exemplifying the type of project-based learning envisioned at the school.

Mr. McNair inquired as to the actual writer of the charter. Mr. Smith indicated that it was a cooperative effort, but that the Insight Education Group was instrumental in preparing the document. Mr. McNair also inquired about the facility issue. Apparently the charter would have actually been located in the housing project at one time, but not currently. Mr. Smith indicated that the petitioners have identified a location just one block from the housing complex. Mr. Smith also indicated that the petitioners are currently establishing a non-profit corporation. The non-profit's governing board will be composed of the school's founders.

Mr. Piscal indicated that he was "really impressed that you're going into an area where government has simply failed." He indicated that he was "not a fan of project-based learning," but that the example Mr. Smith had provided was a good one. The petitioners look very competent, and this is an area where "kids don't have hope." They need this opportunity. It presents "a clear path to another way."

David Verdugo, superintendent of the Paramount Unified School District, praised Mr. Smith as "a man of honor," even though he disagreed that this petition was sufficiently prepared for approval. He noted that Paramount's academic growth has been a leader in Los Angeles County. We do serve our communities. We have passed a bond for new facilities. There is solidarity. This is only the second petition to be received by the district. We sought the advice of counsel in developing reasons for denial, and we believe the reasons are solid and rooted in fact.

Marsha Brown, deputy superintendent, indicated that she was primarily responsible for coordinating the petition's review. The petitioners' are well intentioned, but the charter is not sufficient to be successful. We convened a committee of experts to review the petition. We tried to work cooperatively. We even visited another Insight Education school in the LAUSD. We allowed additional signatures to be submitted. The explanations provided by the petitioners were not sufficient. The charter does not present a researched-based program for English learners, and the district has over 40 percent English learners. The facility issue was a major consideration. The SELPA issue raised serious concerns, as did the proposed budget. If the charter is to be approved, the district would strongly recommend no more than a two-year approval period.

Mr. Kushner posed some specific questions regarding the district's reasons for denial. The package of reasons for denial simply "doesn't ring true." He asked, "What is really the issue?" Ms. Brown indicated that if she had to identify one issue, it would be "the overall education program."

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Ms. Belisle echoed Mr. Kushner's concerns, commenting that the district's reasons were very broadly based and vague, not specific. She indicated that she too was having difficulty understanding what the issue is. Ms. Brown indicated that the district's concerns started with the visit to Insight's school in the LAUSD. It did not appear to have a strong research base. It was not a consistent education program.

Mr. Piscal indicated that he was troubled by the district's presentation. They appear to want to nit-pick. The opposition does not appear credible.

Mr. McNair indicated that he appreciated the passion and commitment, having grown up himself in a federal housing project. He also indicated that even districts that are moving forward (like Paramount) should embrace more options. However, he indicated that he believed strongly in NACSA's foundation for good charter authorizing, namely that success will be undermined by people who want to be overly helpful. He indicated that the charter "looks good on paper," but he expressed worry that "the words on paper won't be turned into a successful school." He indicated that the CDE staff analysis pointed out significant areas of concern. He also indicated that he was not certain who would be the operators of the school. School outcomes are not sufficiently detailed and specific. We do you a better service by denial. You need to go back and do this right.

Ms. Belisle indicated that though, seeing "lots of good," she had many reservations about this charter. It has "lots of lingo" that does not necessarily mean anything. She also indicated, however, that she was concerned that Paramount is not a charter-friendly district. More choice is needed for parents and students in that district.

Ms. Hunkapiller indicated that she appreciated the district's comments about its own schools. They have "understandable pride" in what they are accomplishing. However, it is important to put the "kids first." She inquired as to what Mr. Smith's continuing involvement would be if this charter appeal were not approved. He indicated that he was in this for "the long haul" to get more options for the district's students. Ms. Hunkapiller also inquired about what the district would do to keep Mr. Smith involved. Mr. Verdugo indicated that the district is providing a solid education for the students targeted by the charter petitioners. He also addressed the English learner issue.

Mr. Conry indicated that, looking at the CDE staff analysis, he saw lots of things that need to be changed in the charter. If petitioner were to change these things, he asked whether the district would "fairly evaluate" the revised proposal? Mr. Verdugo indicated that the district would want to be sure that the changes were "not just superficial." He also indicated that the district "would not be antagonistic." We "clearly hear the petitioners' passion," but we have to be sure the charter is sound.

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Mr. Piscal indicated that the district's responses to Mr. Conry's questions did not give him great comfort. He commented that this school "has about a 100 percent chance of success" with Mr. Smith at helm. He has the drive and commitment to make this work, and in general the charter is a strong document. The problems identified by CDE staff could be addressed "with about two hours' work." If this charter goes back to the district, it is unlikely to be approved. When even as respected a charter operator as KIPP began, mistakes were made. Mr. Smith's strength is that he has expressed the willingness to change and to explore ideas; that's fundamental. He is focused "on the kids."

Mr. Smith commented that the petitioners are "asking for the opportunity. We will come back to you with success."

Ms. Hunkapiller commented that she was eager to see this area served and wanted to be sure the school would be located "very close" to the housing project. Mr. Smith reiterated that the property now being sought is about one block away.

Acting Chair Barber indicated that, though very impressed with the petitioners' passion, she had serious reservations. Significant issues have been identified. Moreover, she commented that she no evidence that the district "won't be supportive" if the charter is revised.

Mr. McNair commented that he was "disappointed" in the inordinate delay the petitioners experienced in the charter's consideration. He also commented that Mr. Verdugo's response "did not give great comfort" that a revised charter would be fairly evaluated. He indicated that he was now somewhat "torn." In some respects, the state may be "the best place for this to happen," although he indicated that he continued to have significant misgivings as to whether the charter was sufficiently well developed. Mr. Smith indicated that he has been willing to make changes and refinements in the charter from the beginning.

Mr. Kushner and Mr. Piscal reiterated their view that on balance the petitioners should be given the opportunity to proceed. Acting Chair Barber asked for a motion.

- **MOTION DEFEATED.** Mr. Piscal moved that the ACCS recommend to the SBE that the Micro-Enterprise Charter Academy Appeal be approved, subject to the conditions on the opening and operation of the school identified by CDE staff, and subject to incorporation of the charter modifications identified and described in the CDE staff analysis. Ms. Hunkapiller seconded the motion, and it was defeated by a roll vote of 4-4-1. Ms. Hunkapiller, Mr. Kushner, Mr. Piscal, and Ms. Reyes voted in favor of the motion. Acting Chair Barber, Ms. Belisle, Mr. Conry, and Mr. McNair voted against the motion. Mr. Barr was not present.

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Following further discussion, including consideration of whether to have the matter proceed to the SBE without recommendation, Acting Chair Barber asked if there was another motion on the matter.

- **ACTION:** Mr. Conry moved that the ACCS recommend to the SBE that it
 - (1) Deny the Micro-Enterprise Charter Academy Appeal, with the written reasons for denial to be identified by CDE staff based on the CDE staff analysis; and
 - (2) Encourage the district to work cooperatively with the charter developers to ensure parent choice is provided to the target student population.

Mr. McNair seconded the motion, and it was approved by a roll call vote of 5-3-1. Acting Chair Barber, Ms. Belisle, Mr. Conry, Mr. Kushner, and Mr. McNair voted in favor of the motion. Ms. Hunkapiller, Mr. Piscal, and Ms. Reyes voted against the motion. Mr. Barr was not present.

[Subsequent to the ACCS' decision, the lead petitioner withdrew the Micro-Enterprise Charter Academy Appeal from consideration by the SBE.]

Afternoon Break

Acting Chair Barber called for a brief afternoon break at 3:12 p.m. She reconvened the meeting at 3:23 p.m.

Aim High Community Charter Academy Appeal

Deborah Connelly presented the CDE staff recommendation that the appeal be denied because the petition lacked sufficient detail to demonstrate that the educational program would be sound, and because the petitioners have been involved in a charter school of the San Francisco Unified School District that has been only marginally successful. She reviewed the 16 charter elements, noting areas of deficiency. Substantial detail is lacking, and the charter is unclear as to the target student population. Key deficiencies were identified in the educational program, measurable student outcomes, assessment of pupil progress, governance structure, admission preferences, dispute resolution, and proposed budget.

Mr. Kushner indicated that, having reviewed the CDE staff analysis, he saw two major issues: (1) the track record of the Aim High charter run under the district's auspices, and (2) the proposed governance structure. Ms. Connelly responded that those are indeed major issues, but that overall the petition lacked enough information "to make a solid decision."

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Alec Lee, lead petitioner, expressed appreciation for the comments included in the CDE staff analysis. He indicated that the concerns could be addressed with relatively minor amendments. He commented that we can bring “a great and needed choice” to charter middle school parents in San Francisco. He discussed in some detail the history of Aim High’s involvement in operation of a middle school under the auspices of the SFUSD. He also described the core program envisioned, the proposed organization and governance, the track record of the Aim High summer program, and the school’s location.

Sandra Corizon Lee, petitioner, also discussed the history of Aim High Middle School. The district “controlled everything.” In contrast, she indicated, the proposed charter will permit the petitioners to serve a diverse student population with the “greater latitude” needed to demonstrate high academic achievement and “close the achievement gap.”

Mr. Lee provided more information about Aim High Middle School. The decision to leave the partnership with the district was “a difficult one.” However, the charter will give us the opportunity to create an exemplary middle school based on our successful summer program. He also indicated that the petitioners have explored the possibility of participating in SFUSD’s single district SELPA. He reiterated that the petitioners are willing to address all issues identified by CDE staff. We believe this is “a gold standard” petition. The environment in SFUSD is “toxic to new charters,” making appeal to the state the only realistic route.

Brady Williams, speaking in support of the charter, described her experiences with the Aim High summer program and urged approval of the appeal.

Gregory Peters, also speaking in support of the charter, explained his background with the Aim High petitioners and urged approval.

Roberta Achtenberg, Chair of the CSU Board of Trustees, commented that the Aim High petitioners’ work, particularly with Hispanic/Latino and African American students, has been “incredibly effective,” and she urged approval.

Everness McKnight, speaking in support of the charter, indicated that she had been a “parent and grandparent” with Aim High “from the beginning.” She has served as parent liaison, and a board member with the summer program. She urged approval.

Mr. Kusher indicated that Aim High is recognized as an outstanding program. He commented that he has “admired Alec Lee from afar” from some years, but that neither he nor the schools with which he is associated have any direct connection to Aim High. He did not feel that he had any conflict that would lead him to recuse from participation in the consideration of the Aim High petition.

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Colin Miller, California Charter Schools Association, indicated that CCSA was supportive of the petition's approval. This is a "very high quality proposal." He also reminded the ACCS members that the Aim High petitioners did not have the two-step appeal process (district and county) that other charter petitioners have, since SFUSD is both a district and a county. CCSA pledges its support and assistance.

Eric Premack, Charter Schools Development Center, indicated that this is a "23½ carat gold standard" charter, and he urged approval.

Acting Chair Barber asked if there were any opponents to the charter who wished to address the ACCS. There were none.

Mr. McNair commented that this is "not a gold standard petition." However, he indicated that he would vote to recommend approval if the petitioners agreed to improve the petition in keeping with the CDE staff analysis. Mr. Conry indicated that he saw no difference between this petition and the MECA charter. There is not enough detail in the petition. We should be consistent and send these petitioners back to the SFUSD. They should modify the charter and present it again at the local level. Ms. Reyes indicated that she could not support the petition unless the items identified as "supplementary information" were actually to be integrated in the charter.

Ms. Hunkapiller asked for an update on the target student population. Mr. Lee indicated that the student population is expected to be demographically similar to the population served in the Aim High summer program. Ms. Connelly indicated that the charter itself is inconsistent in identifying the target student population. Ms. Hunkapiller indicated that, while "not the most complete petition" she had seen, the petitioners appear to have "demonstrated ability." She indicated that she would be "willing to take the leap" in this case.

Ms. Belisle commented that she thought this petition was better than the other two, except for some of the "buzz words" incorporated (e.g., "relevance, rigor, and relationships") which did not add to its clarity. She inquired specifically about the reference to standards adopted by the National Council of Teachers of Mathematics (NCTM). She indicated that the NCTM standards had been cited as being contradictory to California's mathematics content standards. "How do you propose to harmonize them?" Ms. Lee indicated that the NCTM standards and the state standards are "not that far apart" in her opinion. The school "will cover the state standards by using strategies outlined in the NCTM standards." Ms. Belisle indicated that she would like to see "on paper" how the two sets of standards are in sync. The petitioners indicated that they would submit a document showing how the two sets of standards can be taught simultaneously. It was agreed that CDE staff would review the document prior to the

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SBE meeting. Ms. Belisle also inquired about the number of instructional days planned at the Aim High Community Charter School. The response was 185 instructional days.

Acting Chair Barber inquired about the “blank” entries in the proposed budget. Mr. Lee indicated that the petitioners planned to submit a Proposition 39 facilities request to the SFUSD, which made certain aspects of the budget impossible to project. Mr. Lee also indicated that the petitioners were agreeable with making the “supplemental information” part of the charter itself. Moreover, if the vote is favorable, he indicated that the petitioners would work to address all of the specific concerns identified in the CDE staff analysis.

Mr. Conry indicated that recommending approval of the Aim High appeal with all of the changes and amendments proposed was the same as recommending approval of “a different charter.” The facts are the same as the other charters we looked at today. If we recommend approval, we are treating these petitioners more favorably than the others. We should treat them alike and recommend denial of this petition.

Mr. Conry and Ms. Reyes discussed the status of the “supplemental information” and the process for incorporating it in the charter. Mr. Piscal noted that the SFUSD “had the opportunity to work with the petitioners, but chose not to.” Therefore, the ACCS would be justified in recommending approval with the proposed changes.

- **ACTION:** Mr. Kushner moved that the ACCS recommend to the SBE that it approve the Aim High Community Charter School Appeal, subject to (1) the conditions on opening and operation proposed by CDE staff, (2) incorporation of the supplemental information into the charter itself, and (3) incorporation of revisions to address all of the concerns identified in the CDE staff analysis. Mr. Piscal seconded the motion, and the motion was approved by a roll call vote of 6-2-1. Acting Chair Barber, Ms. Belisle, Ms. Hunkapiller, Mr. Kushner, Mr. Piscal, and Ms. Reyes voted in favor of the motion. Mr. Conry and Mr. McNair voted against the motion. Mr. Barr was not present.

Informal Policy Regarding Treatment of One-Time Revenues

Further consideration of the proposed informal policy (distributed earlier in the meeting) regarding the treatment of one-time revenues in the determination of funding process was put over to the January 2007 ACCS meeting.

Charter School Facilities (Proposition 39) Regulations

Mr. Geeting provided a brief overview of the draft proposal prepared by CDE staff for purposes of initiating the rulemaking process. He also provided a brief summary of the rulemaking process from this point. Acting Chair Barber asked for brief presentations from those wishing to address the ACCS on the draft regulatory package.

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Stephanie Farland, CSBA, indicated that she and other members of the audience had “divided up” their concerns about the draft regulatory package, so each will focus on a few points, but that all of the organizations share the same concerns. Ms. Farland expressed appreciation for being included in the workgroup that provided input to the CDE on the existing regulations. The concerns she noted were:

- (1) The proposed language in Section 11969.3 designed to incorporate a key provision of the Ridgecrest decision is “slightly at odds” with the decision in its totality.
- (2) The proposed addition to Section 11969.7 pertaining to oversight fees is beyond the scope of these regulations and belongs in a different area of Title 5.
- (3) The proposed dispute resolution provisions are outside of the scope of Proposition 39 and require legislative authorization.

Sandy Silberstein, CASBO, also expressed appreciation for being included in the workgroup. She highlighted the following areas of concern:

- (1) The proposed Section 11969.3(d) would add mandatory provisions related to conversion charter schools after the first year of operation. These provisions exceed the scope of Proposition 39 and should be changed to permissive provisions.
- (2) In Section 11969.9, the proposed new time lines are good. However, the ability of charter schools to “modify” their projection of average daily attendance as the process proceeds is worrisome, as it could result in wholly new projections late in the consideration. Any authority to modify should be for the purpose of “narrowing down” a projection, not increasing it.
- (3) Proposed Section 11969.9(k)(3) would require a reciprocal hold-harmless indemnification provision regarding facilities provided for use by charter schools. This should be removed. It should be a local decision whether to have such a provision.
- (4) Proposed Section 11969.3(d) sets up different “rules” for conversion charter schools. All charter schools should be governed by the same rules in relation to Proposition 39 facilities.

Laura Jeffries, ACSA, also expressed appreciation for being included in the workgroup. She highlighted the following issues:

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- (1) The proposed additions and changes to sections 11969.7(e) and 11969.7(f) create a public disclosure process for per-square-foot changes. This information will be misleading without knowing the full context of districts' circumstances. However, requiring districts to provide information could have mandate implications. The provisions should be eliminated.
- (2) In proposed Section 11969.9(c)(3)(B), a statewide form is proposed to be developed in consultation with the ACCS. The nature of this form demands consultation with an organization that has specific expertise in the area of facilities, such as the Office of Public School Construction or the State Allocation Board.
- (3) The proposed dispute resolution provisions exceed the scope of Proposition 39 and require legislation.

Eric Premack, Charter Voice, expressed appreciation for being included in the workgroup. He presented a document summarizing concerns and briefly highlighted them.

- (1) Streamline dispute resolution, perhaps providing for "immediate appeal" to an administrative law judge.
- (2) Clarify and focus the specific information pertaining to attendance projections.
- (3) Create clear entitlement of hybrid charter schools to facilities.
- (4) Lengthen time line for new charter schools to apply for facilities.
- (5) Entitle new charter schools to facilities if they obtain charter approval (local, county, or state) by March 15.
- (6) Have per-square-foot charges based on maintenance costs exclusive of facilities income earned.
- (7) Entitle charter schools to reasonable access to the data and methodology upon which per-square-foot charges are based.
- (8) Allow charter schools to have the option of providing maintenance on their own.
- (9) Eliminate references to the form now used in determining reasonably comparable space and, instead, require "reasonably comparable numbers of teaching stations based on comparable definitions of average daily attendance."

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Colin Miller, CCSA, expressed appreciation for being included in the workgroup. He presented a document summarizing concerns and briefly highlighted them.

- (1) Streamline the dispute resolution process, ensuring that the grieving party maintains the ability to seek judicial review at any time and removing all permissive and mutual agreement language.
- (2) Clarify procedures and time lines, including documentation requirements and revisions of pupil projections. Consider a common time line for all requests.
- (3) Clarify use of the classroom inventory.
- (4) Clarify how a conversion charter accesses facilities.
- (5) Include nonclassroom-based average daily attendance to the extent students are served in the classroom. The proposed regulations essentially leave this optional with school districts.

David Patterson, Rocklin Academy, identified six areas of concern with the proposed regulatory package and discussed them briefly.

- (1) Clarify that all classrooms, including portables and unused classrooms, must be included in the facility inventory.
- (2) Place greater emphasis on the contiguous requirement. Assume that a charter school will not be split or divided onto multiple sites. The draft regulations harm charter schools that do not follow “lockstep” the classroom configuration of the district.
- (3) Include a requirement that districts consider needs of charter schools in facility plans.
- (4) Include sanctions for noncompliance with the dispute resolution provisions.
- (5) Clarify that classroom space cannot be allocated on a fractional basis, and that at least one classroom per grade level must be offered.
- (6) Specify that charter schools cannot be charged (in the per-square-foot charge) for costs paid by facility funding (including state bonds), local bond funds, or developer fees.

Mr. McNair indicated that he feared the proposed regulations may “encourage litigation” and may “reach beyond” what is authorized by statute. Nonetheless, he indicated that he would support moving forward, as some changes to the existing regulations are

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definitely needed. Mr. Kushner indicated that he thought the proposed regulations would have exactly the opposite effect, i.e., that they would reduce litigation. Ms. Hunkapiller indicated that addressing the issues of dispute resolution, time lines, and transparency in regulatory reform is clearly needed, but some important points were raised in the presentations. She expressed hope that these points could be considered further.

Ms. Belisle agreed with many of Mr. Premack's comments. We need to compress dispute resolution to make it more workable, and we need to keep open the option for litigation. However, she indicated that she was supportive of moving ahead with initiation of the rulemaking process. At the same time, she expressed encouragement for CDE staff to review the concerns raised in the presentations when finalizing the proposal to present to the SBE and to make changes that might help narrow differences among the various parties. Mr. Piscal indicated that the written comments from Charter Voice and CCSA raised important concerns.

Mr. Conry indicated that he would vote to recommend that the rulemaking process be initiated, but that his vote should not be regarded as agreement with the whole of the regulatory package presented by CDE staff. Moreover, if the draft regulations are changed by CDE staff prior to presentation to the SBE, he requested that a listing of the changes be included in the SBE agenda item for purposes of full disclosure. Ms. Reyes indicated that a listing of any changes would be included in the SBE agenda item.

- **ACTION:** Ms. Belisle moved that the ACCS recommend to the SBE that it initiate the rulemaking process to modify the existing regulations regarding charter school facilities (Proposition 39), but with a request to CDE staff to reexamine various provisions of the draft regulations that were identified in presentations to the ACCS. Mr. Kushner seconded the motion, and it was approved by a roll call vote of 7-0-2. Mr. Barr and Mr. Piscal were not present when the vote was taken.

Conflict of Interest Regulations.

Deborah Probst provided a very brief overview of the draft regulations, including the philosophy and objectives. Jennifer McQuarrie, Charter Voice, suggested several changes which were outlined in a written document. Acting Chair Barber indicated that this item would come back for discussion in January. She suggested including county office of education-produced information among the reliable sources identified in proposed Section 11961.1(b)(2).

Adjournment

There being no further business to come before the ACCS, and in the absence of objection, Acting Chair Barber adjourned the meeting at 5:15 p.m.

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The next regular meeting is scheduled for Monday, January 29, 2007, and the regular meeting following that is scheduled for Monday, March 19, 2007.