

MEETING NOTES

Advisory Commission on Charter Schools

An Advisory Body to the State Board of Education

California Department of Education
721 Capitol Mall, Room 166
Sacramento, California

Wednesday-Thursday, April 10-11, 2002

Wednesday, April 10, 2002

MEMBERS PRESENT

Steve Barr
Tom Conry
Linda Frost
Beth Hunkapiller
Marta Reyes
Jan Sterling*
Johnathan Williams
Vacancy

MEMBER ABSENT

Mark Kushner, Chair

* Jan Sterling is the State Superintendent of Public Instruction's designee.

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

Greg Geeting, Assistant Executive Director, State Board of Education
Eileen Cubanski, Administrator, CDE Charter Schools Office

Call to Order. In Mr. Kushner's absence, Ms. Reyes called the meeting to order at 10:12 a.m.

Flag Salute. Ms. Reyes led the members, staff, and audience in the Pledge of Allegiance.

Introductions. The members of the Advisory Commission introduced themselves along with staff. Ms. Reyes invited audience members to introduce themselves briefly and indicate the organizations (if any) they represented.

Review of Determination of Funding Requests. Ms. Reyes explained that the Advisory Commission's principal business for the day would be the review and the making of recommendations regarding determination of funding requests that had been received (in substantially complete form) by the CDE after February 13, 2002. The requests had been sorted by CDE staff into four groupings:

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- The “green” group: Recommended for 100 percent funding (9 requests).
- The “pink” group: Recommended for 100 percent funding, but presenting some mitigating factors that CDE staff wished to call to the members’ attention (9 requests).
- The “blue” group: Recommended for 95 percent funding (6 requests).
- The “yellow” group: Recommended for 95 percent funding, but presenting some mitigating factors that CDE staff wished to call to the members’ attention (3 requests).

Recommendations on the “green” group. Ms. Reyes asked if there was a motion to approve the “green” group at the 100 percent level as recommended by CDE staff.

- **RECOMMENDATION APPROVED:** Ms. Hunkapiller moved that the Advisory Commission recommend that the State Board of Education approve the following nine schools’ requests at the 100 percent level. Each school’s expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school’s public revenue. Moreover, each school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Mr. Barr seconded the motion. The motion was approved by unanimous vote of the members present.

<u>CHARTER SCHOOL NAME</u>	<u>CHARTER SCHOOL NUMBER</u>
1. Audeo Charter School.....	406
2. La Vida Independent Study Charter	375
3. Lammersville Charter School	203
4. Monterey County Home Charter	327
5. Paradise Charter Network.....	155
6. Santa Barbara Elementary Charter School	20
7. Santa Barbara Middle Charter School	179
8. Summit Charter.....	301
9. Vantage Point Charter School.....	24

Recommendations on the “pink” group. The Advisory Commission next turned its attention to the “pink” group, considering each request in turn.

Academy for Academic Excellence (#137). Attention was drawn to the school’s major construction projects and minor audit findings. Rick Piercy spoke on the school’s behalf.

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- **RECOMMENDATION APPROVED:** Mr. Conry moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Ms. Hunkapiller seconded the motion. The motion was approved by unanimous vote of the members present.

Cornerstone Academy (#311). Attention was drawn to a substantial management contract and the method of appointment of members to the Board of Directors. The school's percentage of revenues spent on certificated staff costs was substantially above the 50 percent test.

- **RECOMMENDATION APPROVED:** Ms. Hunkapiller moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Mr. Barr seconded the motion. The motion was approved by a vote of 6-1. [Mr. Conry voted against the motion.]

Delta Charter High School (#393). Attention was drawn to the school's substantial excess revenues. It is a new school and is relatively small.

- **RECOMMENDATION APPROVED:** Ms. Sterling moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

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Ms. Hunkapiller seconded the motion. The motion was approved by unanimous vote of the members present.

East Bay Conservation Corps (#99). Attention was drawn to the school's relatively low certificated employee costs, as well as to the method for appointment of governing board members. The school serves a local conservation corps.

- **RECOMMENDATION APPROVED:** Mr. Conry moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Mr. Barr seconded the motion. The motion was approved by unanimous vote of the members present.

Escondido Charter High School (#109). Attention was drawn to the school's high pupil-teacher ratio, substantial number of contracts in excess of \$50,000 each, and high excess reserves.

- **MOTION FAILS:** Mr. Conry moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: The charter school's pupil-teacher ratio is greater than 25:1 and the school's percentage of public revenues expended for instructional costs was significantly below 70 percent in 2000-01. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to expend a greater percentage of public revenues for instructional purposes and lower the pupil-teacher ratio in this and forthcoming fiscal years. Ms. Frost seconded the motion. The motion failed by a vote of 4-2-1. [Ms. Hunkapiller and Ms. Reyes voted against the motion. Mr. Barr did not vote on the motion.]
- **FURTHER CONSIDERATION POSTPONED:** Mr. Conry moved that the Advisory Commission postpone further consideration of this school's request to

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the April 22 meeting. Staff are to invite a representative of the school to make a presentation and answer questions. Mr. Barr seconded the motion. The motion was approved by unanimous vote of the members present.

Gold Rush Home Study Charter (#392). Attention was drawn to the school's average salary being below the comparison range, method of appointment of members to the governing board, potential conflicts of interest, and substantial management contract. Ms Sterling indicated that this school had been operated under charters granted by several different entities, and that its history had been a troubling one.

- **MOTION WITHDRAWN:** Mr. Williams moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Mr. Barr seconded the motion. Following discussion, this motion was withdrawn.

- **RECOMMENDATION APPROVED:** Ms. Frost moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: The charter school's management contract represented a substantial portion of its public revenues in 2000-01, and there appears to be a significant conflict of interest on the school's governing board. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to terminate the management contract and ensure that no conflicts of interest exist in the granting of future contracts for any purpose. Mr. Barr seconded the motion. The motion passed by a vote of 6-0-1. [Ms. Hunkapiller indicated that this school has an association with the Aspire organization, as does she, and that therefore she did not participate in the discussion or the vote on this school's request.]

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Learning with a Purpose (#300). Attention was drawn to a possible conflict of interest on the school's governing board, lower than average certificated employee costs, audit findings related to internal controls over financial reporting.

- **RECOMMENDATION APPROVED:** Mr. Conry moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: There appears to be a significant conflict of interest on the school's governing board and internal financial controls appear questionable. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to ensure that no conflicts of interest exist on the governing board in the future and that appropriate financial controls are put in place. Mr. Williams seconded the motion. The motion passed by a vote of 5-1-1. [Ms. Hunkapiller voted against the motion. Ms. Reyes did not vote on the motion, indicating that she had a personal friendship with members of the school's executive staff and felt that friendship might influence her vote.]

Mountain Community Charter (#339). Attention was drawn to the school's relatively low certificated employee costs, as well as its relatively high excess revenue. This was a start-up school in 2000-01.

- **RECOMMENDATION APPROVED:** Mr. Barr moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Ms. Hunkapiller seconded the motion. The motion was approved by unanimous vote of the members present.

Olive Grove Home Study Charter School (#421). Attention was drawn to the school's relatively low certificated employee costs, as well as its high excess revenue. to the method for appointment of governing board members. The school was a start-up school in 2000-01.

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- **RECOMMENDATION APPROVED:** Mr. Williams moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Mr. Barr seconded the motion. The motion was approved by unanimous vote of the members present.

Break. 11:09 – 11:17 a.m.

Consideration of the "yellow" group. The Advisory Commission next turned its attention to the "yellow" group.

Hart-Ransom Academic Charter School (#80). In addition to the school's certificated staff costs being under the 50 percent threshold, attention was drawn to the pupil-teacher ratio being higher than 25:1, the total of instructional costs being below 70 percent of public revenues and of total expenditures, and the average cost per certificated employee being below the comparison range. Comments were offered by Sherry Smith (representing the school); she indicated that the school had endeavored to adhere carefully to the independent study rules; she pointed out that a district-employed resource specialist works 30 percent time at the school and, if that individual's costs had been included as certificated salaries, the school would have exceeded the 50 percent threshold test. District Superintendent R. Ream Lochry added that the school's director provides some instructional services; he suggested that some reworking of the figures on paper could make the difference in this case. Jonelle Pena (Axis 4 Learning) indicated that the facts in this case appeared similar to the Natomas Charter School for which the Advisory Commission had recommended (and the State Board had approved) the 100 percent level.

- **RECOMMENDATION APPROVED:** Ms. Hunnkapiller moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: The charter school's expenditures for certificated employees were less than 50 percent of its public revenues in 2000-01, and its pupil-teacher ratio was greater than 25:1. Taking

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into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to increase expenditures as a percent of public revenues above the 50 percent level and lower the pupil-teacher ratio in this and forthcoming years. Mr. Barr seconded the motion. The motion passed by unanimous vote of the members present.

Home Tech Charter School (#67). In addition to certificated staff costs being significantly below 50 percent of public revenues, attention was drawn to the school's relatively low average certificated employee costs, as well as potential conflicts of interest among governing board members and a high oversight fee. Jim Aird spoke on the school's behalf, indicating that the school's bylaws had been revised, the school would exceed the 50 percent threshold this year, and that the oversight fee included services rendered by the district. The school has a very low pupil-teacher ratio.

- **RECOMMENDATION APPROVED:** Ms. Hunkapiller moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 100 percent level. The school's expenditures for certificated salaries and benefits in 2000-01 were greater than 50 percent of the school's public revenue. Moreover, the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function. Mr. Conry seconded the motion. The motion was approved by a vote of 6-1. [Ms. Sterling voted against the motion.]

Pacific View Charter School (#277). In addition to the school's certificated employee costs being substantially below 50 percent of its public revenues, attention was drawn to substantial expenditures for management services. It was pointed out that a revised submission from the school indicated that certificated employee costs were actually 51.78 percent of public revenues. Ron Flenner spoke on the school's behalf; he mentioned the fact that the school has 9 learning centers, special education costs (a contract through TES), art and foreign language, library services, music; he indicated that management services contracts were being downsized as the school took over more responsibilities directly; the school is becoming a school within the district; the school operates a home-hospital program.

- **RECOMMENDATION APPROVED:** Mr. Barr moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code

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section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: The charter school devoted a substantial portion of its expenditures to management services. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to reduce expenditures for management services and devote more funds to instruction in this and forthcoming years. Mr. Williams seconded the motion. The motion passed by unanimous vote of the members present.

Consideration of the “blue” group. The Advisory Commission next turned its attention to the “blue” group.

Elise P. Buckingham Charter School (#56). In addition to the school’s certificated employee costs being substantially below 50 percent of its public revenues, attention was drawn to a high average pupil-teacher ratio, instructional costs being substantially below 70 percent of public revenues and of total expenditures, high average costs per certificated employee, and high excess revenues. Bob Hampton spoke on the school’s behalf, indicating that changes were in the process of being made; he also indicated that the form’s structure did not permit the school to account for some instructional costs; the excess revenues are associated with a plan for facilities acquisition.

- **RECOMMENDATION APPROVED:** Mr. Conry moved that the Advisory Commission recommend that the State Board of Education approve this school’s request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: The charter school devoted substantially less than 50 percent of its public revenues to expenditures for certificated employees. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to increase expenditures for certificated employees in this and forthcoming years. Mr. Barr seconded the motion. The motion passed by a vote of 5-0-2. [Ms. Reyes and Mr. Williams did not vote on the motion.]

Greater San Diego Charter Academy (#261). In addition to the school’s certificated employee costs being substantially below 50 percent of its public revenues, attention was drawn to a high pupil-teacher ratio, low average cost per certificated employee, and high excess revenue. Kathy Bass spoke on the school’s behalf; she indicated that the school

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uses the district's salary schedule; the school had endeavored to "stay in the black" by not hiring great numbers of new teachers as enrollment grew; the revenue from enrollment growth was not realized until late in the year; she pointed out a number of the school's features, including professional development for parents and newsletters for parents and for students. The school's facility is provided free of charge by the district.

- **RECOMMENDATION APPROVED:** Mr. Barr moved that the Advisory Commission recommend that the State Board of Education approve this school's request at the 95 percent level. In this case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason: The charter school devoted substantially less than 50 percent of its public revenues to expenditures for certificated employees. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to increase significantly the percentage of public revenues devoted to certificated employees in this and forthcoming years. Mr. Conry seconded the motion. The motion passed by unanimous vote of the members present.

All others in "blue" group. Noting that no one was present to speak on behalf of the "blue" group schools remaining to be considered, Ms. Sterling suggested that it would be appropriate to recommend the 95 percent level for all of them.

- **RECOMMENDATION APPROVED:** Ms. Sterling moved that the Advisory Commission recommend that the State Board of Education approve the following four schools' requests at the 95 percent level. In each case, the 95 percent funding level reflects a reduction (from the full funding requested) within the meaning of Education Code section 47634.2(b)(4). Therefore, reasons for the denial are to be stated and, if appropriate, a description of how any deficiencies or problems may be addressed is to be included. Recommended Reason (in each case): The charter school devoted substantially less than 50 percent of its public revenues to expenditures for certificated employees. Taking into account the totality of the information presented, the school did not present compelling evidence to justify funding in 2001-02 at the 100 percent level. One way in which the deficiency or problem could be addressed would be to increase significantly the percentage of public revenues devoted to certificated employees in this and forthcoming years. Mr. Barr seconded the motion. The motion passed by unanimous vote of the members present.

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<u>CHARTER SCHOOL NAME</u>	<u>CHARTER SCHOOL NUMBER</u>
1. Charter 101.....	101
2. Fort Ross Charter School.....	273
3. One Step UP Charter Academy	379
4. Plumas Charter School.....	146

Lunch Break. 12:57 – 1:58 p.m.

Consideration of how to proceed. The Advisory Commission discussed how to proceed, eventually agreeing that it would be best to hear from the one member of the public who wished to address the issue of the permanent SB 740 regulations (and who was unable to be present at the next day’s meeting) and then adjourn for the day.

- **CONDITIONAL MOTION TO ADJOURN.** Mr. Barr moved that the Advisory Commission stand in adjournment for the day after hearing from a member of the public who wished to address the permanent SB 740 regulations. Ms. Hunkapiller seconded the motion. The motion was approved by unanimous vote of the members present.

Public comment. Jeff Rice (horizon Instructional Systems) provided his perspectives on the permanent SB 740 regulations. He suggested that there are at least four distinct types of nonclassroom-based study in charter schools: (1) traditional independent study; (2) home schooling; (3) technology-based distance learning, and (4) personalized learning. He suggested that a growing body of research supported personalized learning which includes access to technology, greater parent involvement, and more educational choices. He commented that savings that result from the diminished need for facilities did not significantly offset the higher costs associated with personalizing the educational experience; personalized learning needs full ADA funding. He suggested that charter schools be permitted to justify full funding through a more detailed display of costs in a number of major categories of expenditures, including certificated employee salaries and benefits; technology-related costs; instruction-related costs, including facilities; contracted courses; resource libraries; staff development; parent development; and dedicated reserves. He estimated that as many as half the charter schools providing nonclassroom-based instruction are using the personalized learning model.

Adjournment of day’s session. Indicating that the next day’s meeting would focus primarily on the subjects of permanent SB 740 regulations and State Board chartering of schools, Ms. Reyes adjourned the day’s session at 2:17 p.m.

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Thursday, April 11, 2002

MEMBERS PRESENT

Mark Kushner, Chair
Steve Barr
Tom Conry
Linda Frost
Beth Hunkapiller
Marta Reyes
Jan Sterling*
Johnathan Williams
Vacancy

MEMBERS ABSENT

None

* Jan Sterling is the State Superintendent of Public Instruction's designee.

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

Greg Geeting, Assistant Executive Director, State Board of Education
Eileen Cubanski, Administrator, CDE Charter Schools Office

Call to Order. Mr. Kushner called the meeting to order at 9:25 a.m.

Flag Salute. Mr. Kushner invited Mr. Geeting to lead the members, staff, and audience in the Pledge of Allegiance.

Introductions. Mr. Kushner invited the members of the Advisory Commission to introduce themselves along with staff. He then invited audience members to introduce themselves briefly and indicate the organizations (if any) they represented.

Agenda for the day. Mr. Kushner suggested that the day's agenda include discussion of the following:

- Permanent SB 740 regulations.
- A technical issue related to the SB 740 Charter School Facilities Grant Program.
- Charter revocation.
- Investigation of complaints (support for charter schools).
- State Board chartering.
- Advisory Commission's future meeting schedule.

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Framework for permanent SB 740 regulations. Mr. Kushner presented his suggestion for a framework for decision-making to be embodied in the permanent SB 740 regulations.

TEST #	DESCRIPTION	FULL	90%	80%	70%	0%
1, or	At least 50% of revenues spent for certificated employees.	X		X		
2, or	At least 55% of revenues spent for instructional employees.	X		X		
3	At least 75% of revenues spent for instructional employees and instructional costs.	X		X		
4	200 or fewer ADA (exemption)	X		X		
5	First-year school (exemption)	X		X		

Proximity to threshold(s) could be used for weighting purposes to justify less than full funding.

Other possible tests (could result in automatic zero or reduced percentage):

- Governing board conflicts.
- Unreasonable amounts for contracts (e.g., management contracts).
- Exceptionally high reserve; must have plan for expenditure; must provide follow-up information as to how reserves were expended.
- Pupil-teacher ratio.

In addition, Mr. Kushner suggested:

- If the Governor’s proposal to reduce funding for independent study in non-charter schools is successful, then that reduced level (whatever it might be) should become the “full funding” level in the scenario above. In other words, nonclassroom-based instruction in charter schools should not be funded at more than the amount provided for independent study in non-charter schools.
- The Advisory Commission should encourage charter schools to make multiple-year requests so as to have a clear picture of their future funding levels. Although the “benchmark” statutory level is 80 percent in 2002-03 and then 70 percent in 2003-04 and thereafter, a multiple-year determination of funding could take that into account. It would be good to take 2002-03 (and thereafter) determinations of funding recommendations to the State Board in September if possible (which presumes approval of the permanent regulations at the June State Board meeting).

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- Charter schools that have multiple-year determinations of funding could be required to submit interim reports (e.g., how reserves were actually spent).
- A weighting formula involving two or more of these factors could be designed in order to make determinations of funding.
- A definition of “certificated employees” needs to be included which will include contract employees who are certificated (e.g., a district-employed RSP teacher who is assigned part-time to a charter school).
- A definition of “instructional employees” would need to be developed; it should include non-certificated teachers (e.g., arts, physical education).
- A definition of “instructional costs” would need to be developed; it should include technology, professional development, special education, and facilities.

Ms. Cubanski presented a three-part general framework for making determinations of funding.

1. Develop multiple criteria, each with its own clear standards, which Advisory Commission members use in measuring whether instruction is conducted for the instructional benefit of the student. These criteria should be weighted as appropriate (i.e., some criteria may be found to be more important than others).
2. Aggregate each school’s results in meeting the standards set forth in each criterion so as to derive a “score” for the school.
3. Use the “score,” which also has its own clear standard, to determine the percentage level to be recommended to the State Board.

In addition to the three statutorily prescribed criteria (certificated employee salaries and benefits; schoolsite costs; and pupil-teacher ratio), she provided the following list of potential criteria the Advisory Commission might wish to consider:

- Salaries and benefits for all instructional staff.
- Total instructional costs.
- Facilities.
- Size and age of school.
- Administrative contracts.
- District charges.
- Excess or unspent revenues.
- Teacher salaries.
- Academic performance of students.

She also suggested:

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- Requesting detailed fiscal data.
- Defining all terms and categories that are not explicitly covered in the California School Accounting Manual.
- Ensuring that the “default” percentage is 80 percent in 2002-03 and 70 percent in 2003-04 and thereafter. There must be a reason to grant a higher level.
- Considering a range of funding levels, not just two or three fixed percentage levels.

Mr. Kushner invited the members to comment on these various ideas presented.

- Ms. Sterling reiterated her support for being as specific as possible in the regulations. However, at the same time, there should be the ability for the Advisory Commission/State Board to exercise some discretion. 80 percent/70 percent need to be the “benchmarks”; schools need to justify more.
- Ms. Reyes indicated that excess profit is the real issue. What’s being discussed is too much of a general fishing expedition. Full funding should be the default, not a reduced level.
- Ms. Hunkapiller indicated that she would not have a high comfort level at this time with the rubric idea. We need to ensure that funds are being spent on instruction; the rubric may or may not reach that objective. We must not stamp out innovation. We need to focus on schools with high numbers of students but little substance in program. We should allow information to be submitted that explains the fiscal data well. Small schools need to be given some slack. We should allow some amount of facilities costs to be considered. We should proceed to try to establish ratios and ranges and see where various schools fit within them. In this way, we will come to recognize patterns.
- Mr. Barr indicated that giving first-year schools a “pass” seemed like a good idea to him. In the urban area, facilities costs are a major part of charter schools’ budgets. Management costs are a legitimate issue. We don’t want to promote “creative accounting” just to meet our definitions. The governing board conflict issue is a very important one.
- Mr. Williams suggested that including so many categories in a weighting system is problematic. It gets too cumbersome and difficult to understand. We should let charter schools demonstrate to us what good instruction is.
- Mr. Conry indicated that the 50 percent test should be retained for sure. We should consider other tests. Every request should be examined; there should be no exemptions (e.g., for start-up schools). A sliding scale of determinations of funding is difficult to defend in the real world. We need to look simply at the totality of the requests; something that teachers do every instructional day. We

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need information to make sound decisions. It's too easy to get around rules that are applied without reason. This is a difficult task.

- Ms. Frost indicated that excess profit or lack of success with students should both be considered. We should be worried about educational programs that lack substance, schools that skirt the STAR participation requirement, expensive management contracts, excessive part-time instructors, big reserves (for which there is no plan for expenditure), governing board conflicts, lack of “growth” in student performance over time. We should consider facilities costs, but only facilities that are used for instruction.
- Mr. Kushner pointed out that there is always a tension between micromanaging finances and promoting innovation. We should have clear, specific rules, but we should have the ability to exercise reason. We need practical ideas for the permanent regulations – ideas that we can “sell” to the broader audience (e.g., State Board and public generally).
- Mr. Barr commented that we must not confuse innovation with excessive management costs or excessive profit.
- Mr. Kushner suggested that there will always be some who want to “work the margins” in any rule- or criteria-based system. We need to pay attention to that, but not become obsessed with it. Any test involving facilities costs has to be carefully crafted. Charter schools tend to spend more than non-charter school on instructional materials; that fact should be taken into account.
- Ms. Sterling commented that she could support some measure of discretion in applying criteria, but that she would like to minimize areas where we have (and provide) no guidance at all to charter schools.
- Ms. Reyes reiterated that gross mismanagement should be the focus. She suggested a WASC-like set of standards to get full funding. Even the prospect of a 20 percent cut may be overly discouraging, especially to small schools. Profiteering is the real issue.
- Ms. Hunkapiller suggested that the list needs to be narrowed down. We should consider mitigating factors. We want to be sure we can find the “scams.” We should carefully think about what we want to promote, e.g., hiring certificated teachers, and be sure our criteria further those objectives. We should allow schools to show us success in terms of student achievement.
- Mr. Barr noted that much good has come from this process. It has brought to light important concerns, such as governing board conflicts. To the extent we employ specific numbers in our evaluation process, we should maintain some “wiggle room” to ensure we do not inadvertently discourage promising schools.

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- Mr. Conry suggested that it would be particularly important to have more detail about the services being provided under management contracts. It's difficult to analyze whether the school is receiving reasonable (market) value for the amounts being expended.
- Ms. Frost suggested that the "success rate" with students in the non-core areas (using non-certificated teachers) should be an area of concern.

Mr. Kushner invited the members to share their thoughts on the issue of considering student achievement in the review of determination of funding requests.

- Ms. Sterling suggested that API results (or STAR scores) be considered.
- Ms. Reyes commented that considering student achievement is a "mixed bag"; perhaps considering the percentage of students participating would be appropriate. If students are doing well, that's great; however, students achievement must be considered in the context within which the school is operating.
- Ms. Hunkapiller suggested that charter schools be allowed to present evidence of student achievement and to explain API results.
- Mr. Barr commented that it was unlikely to have the combination of high test scores and lots of funds being drained off for management. He did suggest that high student achievement be rewarded.
- Mr. Williams indicated that he would not consider high profit to be justified even if students scored well in the state testing program. In his view, this would be an opportunity to transfer funds someplace they are more needed.
- Mr. Conry concurred that high profit is an issue regardless of the circumstances. He indicated that he would be interested in a narrative about each school, giving the school operators the opportunity to tell us what they are passionate about.
- Ms. Frost indicated that the history in this round of consideration has been that it's helpful to the charter schools to have us point out (sunshine) high management costs.
- Ms. Cubanski indicated that if the members want narrative material, it is important that they specify the types of information to be included. In each case of requesting information, whether for the narrative or otherwise, she challenged the members to be clear in their own minds how this information will be used. We should not collect data that will not be useful in the evaluation of determination of funding requests.
- Mr. Kushner commented that it is important not to be burdensome to the schools. He suggested that the Advisory Commission consider "partial" submissions in cases where schools met clear thresholds.

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- Mr. Conry reiterated his thought that complete information needed to be required of all schools.
- Ms. Hunkapiller commented that information is vital to understand mitigating factors. We need to be consistent.
- Ms. Cubanski indicated that fiscal detail is essential to really know where a school stands.

Break. 11:24 – 11:38 a.m.

Public comments. Mr. Kushner invited public comments on the issues discussed during the morning.

- Peggy Schueler (Shasta Secondary Home School). Shasta Secondary Home School is a hybrid school; it works with the local non-charter high school, offering personalized learning. The tests being considered by the Advisory Commission seem fair. If schools are going to have reduced funding, the more warning that can be provided, the better. Also, lead time is essential for reporting requirements so that schools can be sure their bookkeeping procedures are sufficient to support the requirements.
- Jonelle Pena (Axis 4 Learning). SB 740 has brought about changes in their operations. They have gotten off boards of charter schools to resolve conflict issues. Work of the Advisory Commission has helped spotlight high oversight fees. Presented a specific rubric for purposes of making determinations of funding. Under this rubric, different point values would be awarded depending on, for example, the percentage of revenues devoted to certificated salaries and benefits. Some of the problems in the current year were the fact that the criteria for evaluation came out after the year was substantially over, and that the focus was on the preceding year. She suggested using current-year actuals to date. Also, she proposed that funding reductions take effect in the following year, not the year in progress. An increased level of local oversight needs to be encouraged. Schools should be allowed to fix problems before funding is reduced.
- Eric Premack (Charter Schools Development Group). The determination of funding process has been quite inconsistent; it is a compost pile in need of turning. The results have not been fair, just, or sound. The process has been a fishing expedition. The focus needs to be on profiteering. Schools should be required to explain all vendor contracts above a threshold amount; that's what will quickly root out schools with excess profits. New threshold tests are just new accounting hurdles that won't help. The current process collects far too much information; still more information will not provide any more clarity; in fact, just the opposite. It's a mistake to think that local oversight is best; some of the most

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egregious examples of lax local oversight are in classroom-based schools. The chartering authority issue, of course, is a larger-scope matter that will require legislative change.

- Rick Piercy (Academy for Academic Excellence). School Accountability Report Cards are good sources of information. It's important to keep in mind the different circumstances of hybrid programs (and other variations). Special education funding is an important issue; charter schools tend to serve fewer special education students and, thus, can be a source of additional special education revenues for SELPAs. More data would help the Advisory Commission make better decisions. Management contracts continue to be a major issue. The Advisory Commission has a great opportunity to help; its work to date has been significant in limiting the number of problematic charters in the state.
- Chuck Gehrke (Excelsior Education Center). Excelsior has made adjustments to the 95 percent funding level approved by the State Board. It's difficult to manage reductions in a year that already underway. Recommended that chartering districts be required to shoulder some or all of the reductions. Schools should have the opportunity to spell out how reserve funds are to be used. The process should include a "self study." Schools that are found to have excess reserves should be required to use those reserves to disseminate information to other schools about how to manage resources. Advisory Commission should collect information as to whether charter schools are dependent or independent. This process has been a learning experience for affected charter schools.
- David Patterson (California Network of Educational Charters). Profiteering is the problem. The SB 740 process should not try to address other issues. Exempting small schools is a wise course of action; there's simply no excess profit to be had in small schools. It's important to keep this process simple. The Advisory Commission (and the State Board) needs to maintain discretion to address situations that fall outside the norm. In some cases in the SB 740 process, additional information supplied by charter schools has been used against them. A 20 percent reduction next year would be enough to close some schools. Multiple-year determinations of funding should be encouraged based upon clear criteria. Have fewer tests – clear purposes.

Mr. Kushner invited the members to offer their reflections on the public comments.

- Mr. Conry reiterated the necessity in his view of collecting the full information necessary to making a sound decision from all schools submitting requests.
- Mr. Barr suggested that Mr. Premack's rather colorful analogy and comments were not helpful and that, by addressing the group in that way, he tended to make himself the subject of ridicule rather than (as he rightly should be) an individual whose opinion is respected. He went on to say that the problems of charter

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schools had not been effectively policed and that's what resulted in the enactment of SB 740. The Advisory Commission listened carefully and often endeavored to help presenters clarify their points. Though the process may have had imperfections, the Advisory Commission and the State Board gave the benefit of the doubt to charter schools where that was warranted.

- Ms. Reyes agreed that it was important to keep the process simple. We need to decide which data are the highest priority – to keep focused.
- Ms. Hunkapiller reiterated that it was important to retain the 50 percent test. Consideration of student achievement should be added, as well as special education costs and dependent-versus-independent status. By establishing ratios and ranges and analyzing where schools fall within them, we'll be able to address profiteering.
- Mr. Kushner indicated that profiteering is somewhat illusive in his view. How do we get to it? Without a grid (of the type he had proposed), it is difficult to impose discipline on ourselves. Would the grid approach be overly burdensome, or would it be an opportunity to achieve important objectives?

Following some additional discussion on defining profiteering, as well as the issues of instructional costs and certificated salaries, all members were encouraged to e-mail suggestions to Ms. Cubanski. She and her staff will endeavor to synthesize the discussion and prepare some specific ideas for consideration at the next meeting.

Lunch Break. 12:50 – 1:45 p.m.

Future meeting schedule. The meeting tentative planned for May 10 was dropped. The May meeting schedule was set as follows, each day's meeting to begin at 10:00 a.m.

- May 9.
- May 13.
- May 22.

Charter School Facilities Grant Program. Mr. Kushner explained that the program's basic qualification criterion is the percentage of students qualifying for free- and reduced-price meals in the attendance area of the elementary school in which the charter school is located. He pointed out that he knew of at least one situation in which a charter school was serving a vast percentage of qualifying students but, because of the attendance area being adjusted for desegregation purposes, the attendance area did not meet the threshold test. He pointed out that apparently this restriction could be waived. He asked if the Advisory Commission members would have any objection to supporting a waiver in the type of situation he outlined. Following some discussion, there was general consensus that if a waiver is submitted and if the State Board wants the Advisory Commission advice, the members would first want to review the specific request.

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State Board chartering. Deborah Connelly (School Fiscal Services Division, California Department of Education) presented a number of options for the Advisory Commission's consideration in regard to reviewing petitions for State Board chartering. These included:

- Receive as a base the type of written staff analysis that has been prepared for the State Board.
- Determine how long to devote to petitioners' oral presentations on their petitions.
- Determine whether to have a subcommittee of Advisory Commission members visit and interview petitioners in their communities.
- Determine whether to make a specific recommendation to the State Board, or whether to continue (as has been the CDE staff practice) to provide reasons for denial which the State Board may or may not accept.

There are two petitions now being reviewed by CDE staff, and a third is likely to be received soon. Ms. Connelly provided members a copy of the one petition (PACE Charter Academy) to be reviewed in more detail at the April 22 meeting; CDE staff comments on the petition will be forwarded to the Advisory Commission members in a week or so. There was some discussion of the State Board's legal options and a request for more information in that regard. Mr. Geeting indicated that, in practice, the State Board has (like a local education agency is required to do) provided reasons to justify a decision to deny a charter petition, although he did not think that technically that was necessary. David Patterson (California Network of Educational Charters) expressed the view that the State Board is obligated to state reasons for denying a charter petition. Mr. Patterson also mentioned that the State Board's adopted regulations provide a sound basis for the consideration of petitions.

Investigations of complaints/support for charter schools. To close out the meeting, Mr. Kushner asked that the Advisory Commission spend a few minutes discussing investigations of complaints and the providing of support to charter schools. He indicated that it would be helpful, in his opinion, to have an investigatory capacity developed in the CDE (perhaps in conjunction with CANEC) to respond to legitimate complaints and work to avoid sensational stories in the media. Also, he indicated that the development of specific "standards for renewal" could be considered to help local districts that may not know how to approach the renewal decision.

- Complaints need to be in writing, not anonymous.
 - Have to decide what gets pushed back to the local agency and what gets investigated by the state (e.g., public safety issues).
 - Important not to let local agencies escape responsibilities that are properly theirs.
 - CANEC can be a support mechanism to help charter schools operate properly.
 - We need to put out fires more quickly.
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- We need to build capacity in CDE over time.
- Ms. Sterling noted that the CDE does respond to written complaints in some instances.
- Ms. Reyes, speaking in her role as President of CANEC, stated emphatically that CANEC did not want a role as an investigatory body. Providing assistance with review and support activities is within CANEC's mission. We're willing to be a partner, but not the police.
- Mr. Premack indicated that patterns of complaints are important to track; individual complaints should not trigger major investigations. CDE staffing has limited ability to investigate, although the State Superintendent has authority to do that under law. Informal partnerships may be helpful. Many of the worst charter schools have a long history of complaints and documented problems. The State Controller's Office and the Department of Finance both have auditing capacities, but their motivations are suspect. Need to work to get CDE more flexibility to respond to situations that develop.

Adjournment. Mr. Kushner adjourned the meeting at 3:12 p.m.