

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, April 21, 2008

MEMBERS PRESENT

Rae Belisle, Chair
Jesse Barajas
Vicki Barber
Carol Barkley*
Brian Bauer
Paul Cartas
Tom Conry
Beth Hunkapiller
Mark Kushner

MEMBERS ABSENT

None

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

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

Deborah Domitrovich, Consultant, CDE Charter Schools Division
Keith Edmonds, Consultant, CDE Charter Schools Division
Deborah Probst, Consultant, CDE Charter Schools Division
Greg Geeting, Retired Annuitant, CDE Charter Schools Division

Call to Order

Chair Belisle called the meeting to order at 10:30 a.m.

Flag Salute

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

Reordering of Agenda

Chair Belisle invited Ms. Barkley to make an announcement regarding reordering of the agenda. Ms. Barkley indicated that Item 2 (Livermore) would be heard before Item 1 (Ridgecrest). From there, the agenda items will be considered as listed. Mr. Bauer has a

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matter related to career-technical education that he will discuss for information at the conclusion of the agenda items.

Introductions

Chair Belisle invited the members to introduce themselves, followed by the Charter Schools Division (CSD) staff members who were present.

Approval of Meeting Notes

Chair Belisle asked if there was a motion to approve the notes from the last ACCS meeting held on March 17, 2008.

ACTION: Ms. Barber moved that the notes of the meeting held on March 17, 2008, be approved as presented. Ms. Hunkapiller seconded the motion, and it was approved by a vote of 8-0-1. Mr. Kushner did not vote because he did not attend the March 17 meeting.

Public Comment

Chair Belisle invited comments from the public on matters not on the agenda. Jan Miller, CTA Liaison to the ACCS, introduced himself and commented on the paucity of information available to the public on matters coming before the ACCS, both prior to and at the meetings. He indicated that the basic intent of the Bagley-Keene Open Meeting Act is to ensure that a "seat at the table" has been "reserved for the public." However, the great volume of information, particularly as regards funding determinations (between five and 20 pages each) makes it impossible for the public to review and contribute meaningfully to the discussion without access to the information in advance of the meeting. He commented that information provided by representatives of Ridgecrest Charter School at the March meeting had still not been made available to him. He also cited the OFY/OFL funding determinations as matters where access to information in advance of the ACCS meetings would be vital for members of the public to reasonably take advantage of their "seat at the table."

Mr. Miller asked that public access be provided to all documents that will be considered by the ACCS by posting the documents on CDE Web site. As an alternative, he requested that he be provided access to all of the documentation. He inquired whether his oral request was sufficient, or whether a request in writing would be necessary. Chair Belisle indicated that she happened to be very familiar with the Bagley-Keene requirements and felt that the ACCS is in compliance with them. She also indicated that it was important for ACCS members to receive the information somewhat in advance of the public in order to have some reasonable opportunity to become familiar with the information prior to being contacted by interested parties. She noted that in the case of the Ridgecrest matter being considered today, the ACCS members got some information just prior to the weekend. Ms. Barkley concurred that key information regarding Ridgecrest arrived very late. She also pledged to check on ways that CDE

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staff could reasonably extend and enhance the amount of information provided to the public online. She indicated that her goal for the ACCS agenda is to make it more “in the style of” the SBE agenda, although the level of detail provided in the SBE agenda is not specifically required.

Jeff Rice, Association of Personalized Learning Schools and Services (APlus+), commented that ASAM schools really need longer-than-two-year funding determinations. He noted the very challenging student populations with which these schools work. ASAM schools by their nature are never going to reach the equivalent of 800 (or even 600) on the API. Moreover, these schools’ staffs never “get in the limelight,” but they are “heroes” nonetheless. He noted that ASAM schools are specifically exempt from minimum API thresholds when it comes to renewal. He suggested that the ACCS establish a policy of recommending a minimum of three-year funding determinations for ASAM schools that qualify for the 100 percent funding rate and consider four or five years under specified circumstances. Chair Belisle acknowledged that ASAM schools work with challenging students, but she did not support establishment of a policy as outlined by Mr. Rice because it would be tantamount to underground regulations. She commented that the existing regulations provide sufficient authority to consider the special circumstances ASAM schools confront.

ITEM 2: Charter Renewal Request for Livermore Valley Charter School

Deborah Probst introduced the item, indicating that LVCS is now winding up its third year of operation. It has had some organizational struggles, but has consistently achieved high API rankings. Moreover, LVCS staff has been very cooperative in addressing issues, and has welcomed the assistance and support of FCMAT. The CDE staff recommends renewal of the LVCS charter with amendments and conditions as outlined in the CDE staff report. She noted that LVCS representatives concur with the amendments and conditions.

LVCS Executive Director Matthew Brandstetter, Board President Bill Batchelor, and Principal Tara Aderman spoke on the school’s behalf. Mr. Brandstetter expressed appreciation for the ACCS’ consideration of the charter’s renewal, and indicated that the CDE staff report presented a “fair and accurate” picture of the school. LVCS has an outstanding academic record and a willingness to work on operational issues. He urged the ACCS to recommend approval of a five-year renewal.

Ms. Barber inquired whether the school was supportive of a continuing relationship with FCMAT. Mr. Brandstetter indicated in the affirmative. Mr. Conry inquired whether any representative of the district was present to explain why the district had decided not to renew the school. No district representative was present.

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Ms. Hunkapiller inquired about the school's ethnic composition. It is less diverse than almost all of the schools in the Livermore district. She noted that the potential lack of diversity had been a reservation about the school when it was created, and she asked for a description of the outreach efforts being made. Mr. Brandstetter commented that outreach is a "growth area" for the school. Ms. Aderman described the school's outreach efforts to Head Start preschools, community groups and clubs, and churches. She indicated that outreach efforts are particularly focused on Hispanic/Latino families. Recruitment materials are made available in Spanish and several other languages.

Chair Belisle inquired as to this year's "bottom line" on the school's finances. Mr. Batchelor indicated that the school is currently projecting a year-end reserve in the four to five percent range. He commented that the school had trimmed about 20 percent from current-year expenditures in relationship to the preliminary budget. Chair Belisle also inquired about the status of parental complaints from 2006-07. Ms. Probst commented that there were "lots of ups-and-downs during past two years," but that most issues had been resolved. The school now has stronger, clearer policies, particularly surrounding suspension and expulsion. There has also been "lots of change at the executive level," but the current leadership has brought about a welcome change in climate through professional development and other activities. The school environment is a "very positive" one this year. Ms. Probst went on to say that there had been a problem with the random drawing in the preceding year, but that it had been addressed and resolved.

Chair Belise invited public comment on this item. Jan Miller, CTA, indicated that no information beyond the subject title in the agenda was available to the public on this item. No information is on the back table. The public is not informed. Chair Belise took note of the concern and asked that Mr. Miller be given a copy of the documents available to the ACCS.

Roxanne Krutze, parent of child at LVCS, made specific mention of the services for students with disabilities that are provided at the school. She also noted that she had personally performed outreach activities on the school's behalf to diverse populations. She urged the ACCS to recommend renewal of the LVCS charter.

ACTION: Ms. Barber moved that the ACCS recommend to the SBE that it renew the charter of Livermore Valley Charter School for a five-year period, incorporating the amendments and conditions specified in the CDE staff report. Mr. Bauer seconded the motion, and it was approved by unanimous vote.

ITEM 1: Ridgcrest Charter School Notice to Cure

Ms. Probst introduced this item, noting that a fundamental premise of charter schools is "flexibility in exchange for performance." A charter establishes the outcomes to which a school is held accountable. She also noted that there are only a narrow set of reasons

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for revocation, one being failure to meet or pursue any of the pupil outcomes identified in the charter. The issue before the SBE is not whether RCS meets the minimum API-related threshold for renewal (it clearly does meet that minimum threshold). Rather, the question is whether RCS has adequately responded to the Notice to Cure (which addressed RCS's failure to meet or pursue the outcomes identified in the school's charter) and, if not, whether the school should be held accountable through revocation. The SBE felt strongly enough to issue a Notice to Cure. Months have now passed, and the CDE is still unsure whether progress has been made this year.

Ms. Probst described the process that would take place at the May SBE meeting. At the SBE's Wednesday session, the SBE would decide whether to proceed with a Notice of Intent to revoke the charter. If approved, the Notice of Intent to Revoke would be issued, and a public hearing and decision to revoke or not to revoke would be made at the Thursday session. All steps would have to be completed at the May SBE meeting in order to meet the statutory deadlines for action (barring a special meeting of the SBE).

Mr. Kushner indicated that he understood the process, but asked whether CDE staff was actually recommending revocation at this point. Ms. Probst responded that based upon the information received through today, there is substantial evidence to support revocation of the RCS charter effective June 30, 2008. Mr. Kushner expressed appreciation for the very thorough and clear explanation of options. He expressed concern about proceeding with revocation for a school that has a reasonable (though not great) API and that meets the minimum threshold for renewal. Ms. Probst responded that the question is whether the school is living up to its charter. The SBE wanted to see progress this year based upon its Notice to Cure, but whether progress has been made is at best unclear. Chair Belisle commented that it is important to keep separate and distinct (1) the minimum threshold for renewal and (2) the revocation criteria.

Chair Belisle invited the representatives of RCS to address the members. Lisa Corr (Spector, Middleton, Young & Minney) led off the presentation, apologizing for the absence of RCS Board President Craig Bradley who was unable to attend due to a job obligation. She identified others who might join in the presentation, including Dan Chernow, Executive Director of the UCLA School Management Program (an approved contractor for the School Assistance and Intervention Team [SAIT] process). Ms. Corr asserted that RCS had clearly "pursued" pupil outcomes as identified in the charter, and therefore the charter could not be revoked citing that reason. She acknowledged shortcomings in RCS's March presentation, but indicated that the school has now engaged the UCLA-SMP to analyze data, help identify and address deficiencies, and get the school on track for higher academic achievement. She indicated that the school had "strived to improve," listing various activities. She indicated that it is late in year for the UCLA-SMP to have a significant impact on current-year performance, having just begun work last Friday. She indicated that hiring the UCLA-SMP was not meant as an

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admission of failure to pursue outcomes, but as a reinforcement of the school's commitment to improve. The CDE staff report, she contended, only outlines a data deficiency, and that deficiency is being addressed. She proposed that the revocation action be discontinued, and that an agreement be made for the school to proceed into 2008-09 with three conditions: (1) RCS provides monthly updates to CDE staff on the work of the UCLA-SMP; (2) RCS provides updates to the ACCS on student achievement; and (3) all parties take a comprehensive look at the available data in conjunction with the renewal process in spring 2009.

Mr. Chernow described the background and expertise of the two individuals who would take the lead on the RCS evaluation for the UCLA-SMP. He indicated that it is unusual for a SAIT provider to be contracted for a school with an API as high as RCS' API. He described the typical way in which the UCLA-SMP conducts evaluations and formulates recommendations, including classroom visitations, discussions with faculty and parents, and review of data with teachers "to help them make sense of it." He identified "test thinking strategies" as an example of the type of elements the UCLA-SMP often recommends to bolster student achievement. However, he stressed the fact that the team needs to do further assessment before making any specific recommendations regarding RCS. He indicated that day-to-day activities would not start until 2008-09.

Ms. Barber inquired as to whether Mr. Chernow and his team had reviewed the CDE staff report and the information submitted by RCS. Mr. Chernow indicated that they had performed a "cursory review" in the plane on the way to Sacramento. Ms. Barber asked if any preliminary conclusions had been drawn. Mr. Chernow reiterated that the team would need to "get on the ground" and perform "a deep review" before making conclusions. Ms. Barber asked when the contract with the UCLA-SMP had been completed. Ms. Corr indicated that it had been approved by the RCS Board on the preceding Saturday (April 19, 2008).

Ms. Barkley inquired about the baseline data submitted by RCS. Education Director Tina Ellingsworth explained how the baseline data had been assembled over time because of limitations on site licensing of the software.

Chair Belisle indicated that her quick review of the UCLA-SMP contract suggested that the team would be doing a needs assessment, which is fine. However, it was unclear whether the team would engage at the level of curriculum and instruction. Mr. Chernow suggested that the UCLA-SMP typically made that determination on a case-by-case basis. The UCLA-SMP does have capacity in that regard if needed. Chair Belisle indicated that her training as a lawyer suggested that the lack of a direct answer meant that engagement at the curriculum and instruction level was not anticipated in the existing contract. She commented that failure to address curriculum and instruction improvement would be a major concern for her. Mr. Chernow indicated that the work of the UCLA-SMP often "impacts" curriculum and instruction, even if that is not specifically

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part of contract. Ms. Corr commented that RCS anticipates help from the UCLA-SMP on curriculum and instruction issues.

Chair Belisle suggested that the ACCS turn its attention to the issue of revocation, and she read the four legal grounds for revocation actions. It does appear that failure to “meet or pursue” pupil outcomes identified in the charter is the appropriate legal ground for the revocation action. She indicated that the statute is worded broadly enough that it is clearly within the prerogative of the SBE to revoke the RCS charter if the SBE wishes to do so. The statutory wording “gives lots of authority to the authorizer,” which in some ways “makes the decision more difficult.” On one hand, this school has a 2007 growth API of 721, but on the other it is one of the lowest performing schools in the district. However, there are no schools of the district that are precisely comparable in terms of grade levels served. Also, RCS is relatively small, which makes the data somewhat less reliable. She concluded by reminding the members that the statutory concept was for SBE to be authorizer of last resort, i.e., when a district has been systematically denying charters and, thus, denying access to better educational programs. In the case of RCS, the educational program has not proven stronger.

Ms. Barkley reflected on data that had been provided by the UCLA-SMP on Friday. A cohort analysis suggests that while a substantial percentage of RCS students upon enrollment in the school achieved proficient and advanced levels in the early grades, the percentage dwindles alarmingly as the students proceed into the upper elementary and middle grades. Ms. Hunkapiller commented that the cohort declines in proficiency provided “very compelling” evidence in support of revocation in her view.

Ms. Barber inquired as to what commitments were actually made by RCS in regard to student achievement. Ms. Probst provided a copy of that documentation taken directly from the RCS charter. Ms. Barber indicated that the school’s response deepened her concern. The critical issue is demonstrating an understanding of what constitutes progress and of how progress is achieved. With relatively small numbers of the students at RCS, the school leadership could practically plot out data on a student-by-student basis. She also commented that low (and declining) achievement is “not a new issue.” The school should have been addressing this at least a year ago. RCS’s similar schools ranking may have been odd due to data reporting abnormalities, but the statewide ranking was not affected. She concluded that her concerns had not been relieved.

Mr. Kushner indicated that he was “struggling” with several issues. He understood that the SBE has a higher standard than local chartering authorities might, and that a 721 API is good, but not great. However, he was not sure about revoking a school that had met some, but not all of its goals. He indicated that he was “not feeling the energy here.” He asked rhetorically why the school should not be given a fifth year. There are certainly grounds for revoking, he said, but concluded that he did not “hear the passion” for revoking.

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Chair Belisle commented that a number of members appeared to be wrestling with the same issues outlined by Mr. Kushner. In addition, she indicated that she was struggling with whether RCS had adequately addressed pedagogical interventions, particularly with respect to ELA. The 721 API is not unreasonable, but the 2008 testing is now in progress. It is frustrating that the SBE will not have the results of this current testing cycle when having to make its decision. She then suggested a “possibility for consideration: Shrink RCS to its “core” by dropping the middle grades, and proceeding into the final year (2008-09) as a K-5 or K-6 school. She noted that the school does have to return to the Sierra Sands Unified School District for consideration of renewal in the fall, if the SBE were to have adequate time to consider a renewal appeal next spring.

Ms. Probst commented that the possibility of RCS dropping the middle grades had previously been discussed with RCS leadership. However, the school’s charter has provided for a K-8 from the beginning, and the school leadership did not look favorably upon reducing grade level offerings to K-5 or K-6, even for an interim period. She noted, though, that implementing the idea would not necessarily require a charter revision. It could be accomplished by simple agreement among the parties (i.e., the school could remain a K-8 school under its charter, but temporarily reduce its grade offerings). Mr. Bauer asked for clarification that the proposal was for the school to shrink to a K-5 beginning in 2008-09, and that the proposal was independent of the school’s charter renewal. Chair Belisle indicated that such was her intent in making the proposal. Mr. Kushner inquired whether there was consensus that such a proposal could be implemented without a charter revision. That appeared to be the case.

Mr. Cartas indicated that he was unsure that reconfiguring to K-5 would make any difference. RCS representatives are “always coming up with things at the last moment” and what they present is “never done well.” The school has not addressed issues in a timely and substantive way. Chair Belisle concurred, except with respect to the idea of hiring the UCLA-SMP, which she felt showed some degree of initiative on the school’s part.

Mr. Conry indicated that he concurred with Mr. Cartas, and noted that the contract with the UCLA-SMP had been completed just two days before the ACCS meeting. He commented that the ACCS is “not seeing real action to solve problems.” He indicated that eliminating grades 6-8 simply because they are hard to teach was problematic in his view. He also indicated it was “not impressive” to hear that the most significant review of data by the UCLA-SMP had taken place on the flight to Sacramento.

Ms. Barber noted that ITBS is still referenced and wondered if it is in fact being used. It was indicated that ITBS had been used at one time, but is not in use currently. The school was counseled to use something that would tie more closely to the CSTs. Ms. Probst and Ms. Domitrovich provided some additional history on interim assessments.

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Ms. Barber commented on the major achievement drop in 2004-05. "Where's the evidence of being attentive at that time?" she asked. Ms. Corr noted that the school had undergone a significant change in administration and that the school had consistently been corresponding with the CDE. She acknowledged that there had been "issues" regarding the clarity and extent of communications, but that the school had a record of communicating nonetheless. Somehow the school kept "missing the mark," which is why it has now contracted with the UCLA-SMP. It is not a fair characterization to say that the school has "done nothing." Chair Belisle indicated that the ACCS needed to move toward action on this item. Ms. Probst acknowledged Ms. Corr's point regarding changes in the school's leadership and previous efforts to improve academic achievement. The school has had three different leadership teams in three years.

Ms. Barber indicated that balancing all of the evidence and comments, she might be comfortable with Ms. Corr's proposal of foregoing the revocation effort based upon three conditions: (1) RCS provides monthly updates to CDE staff on the work of the UCLA-SMP; (2) RCS provides updates to the ACCS on student achievement; and (3) the ACCS and SBE take a comprehensive look at all available data in conjunction with the renewal appeal (which would likely come forward in spring 2009). On the negative side, however, she commented that the ACCS could find itself back here in spring 2009 with little in the way of solid data and merely a plan for improvement by the UCLA-SMP. The results of next year's efforts will not be available until August 2009. The ACCS could be in essentially the same uncomfortable position in a year. Chair Belisle indicated her view that with the involvement of the UCLA-SMP there would be better interim data.

Ms. Hunkapiller commented that she foresaw curricular changes in store as a consequence of the involvement of the UCLA-SMP and that the effort would not produce results in time to be pertinent for the renewal decision. She indicated that she had been convinced the SBE has the option to revoke and that revocation, per the CDE recommendation, is the proper course of action.

Mr. Conry reiterated his concern that nothing substantial had been done to date by RCS to address declining academics. The UCLA-SMP was hired just two days ago. The SBE wanted something substantial this year. He indicated that he felt an obligation to vote for revocation based on the facts presented.

Ms. Barber indicated that even though RCS had not fully complied with expectations, it had "done something." They "haven't been arrogant; they have made attempts." They had met the test of having "pursued" pupil outcomes in her view. She emphasized, though, that there is "nothing more critical" than the 2008 STAR testing as regards renewal. She concluded that she could not conclusively say that there was "substantial evidence" in support of the ground cited for revocation.

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Mr. Kushner expressed respect for the views presented in support of revocation, but that he had “come down on the other side.” Among several things he found persuasive were the fact that there is just one more year on charter and that the school had achieved a 2007 growth API of 721.

Mr. Barajas commented that, as always, he came down “on the side of the students.” It is fine to hold charter schools to higher standards, but at the same time it is important to remember that charter schools are about innovation. The 2007 growth API of 721 is a good record. Many charter schools are renewed with much lower APIs. He concluded by saying that he felt unnecessarily “pressured” when members announced how they would vote. He suggested that there simply be a discussion and weighing to the facts, then let the vote be taken.

Ms. Barkley clarified that the CDE recommendation was actually one regarding process. The outcome of the process would effectively be the business of the SBE. Chair Belisle commented that while understanding the technical point, the effect of supporting the CDE staff recommendation would not be lost on the SBE, so the ACCS should go ahead and make its intentions clear and unambiguous.

MOTION FAILS: Ms. Hunkapiller moved that the ACCS recommend to the SBE that it proceed with the steps outlined by CDE staff to revoke the RCS charter and that, following the completion of those steps, the SBE revoke the RCS charter. Mr. Conry seconded the motion, and it failed by a vote of 4-5. Ms. Barkley, Mr. Cartas, Mr. Conry, and Ms. Hunkapiller voted in favor of the motion, and the remaining members voted against it.

Ms. Barber indicated that upon further thought, she concluded that the third condition mentioned by Ms. Corr (pertaining to renewal) should not be addressed in the resolution of the matter at hand.

MAIN MOTION MADE: Ms. Barber moved that the ACCS recommend to the SBE that it not proceed with the steps outlined by CDE staff to revoke the RCS charter, provided the school agrees to the following conditions: (1) RCS will provide monthly updates to CDE staff (in the format specified by CDE staff) regarding the work of the UCLA-SMP and (2) RCS will provide timely updates to the ACCS on student achievement using all available sources of data. Mr. Kushner seconded the motion.

Mr. Conry sought recognition to make a substitute motion. Chair Belisle recognized him for that purpose, although commenting that she felt the substitute motion outlined reflected only a “nuance of difference” from the motion earlier defeated. Still, she recognized that it was a different proposal in the minds of the maker and seconder.

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SUBSTITUTE MOTION FAILS: Mr. Conry made a substitute motion that the ACCS recommend to the SBE that it proceed with the steps outlined by CDE staff to enable the SBE to revoke the RCS charter and that the SBE be provided and specifically consider all information that had been provided to the ACCS, including Ms. Corr's proposal to conditionally forego revocation. Ms. Hunkapiller seconded the substitute motion, and it failed by a vote of 3-6. Ms. Barkley, Mr. Conry, and Ms. Hunkapiller voted in favor of the motion, and the remaining members voted against it.

The substitute motion having failed, Chair Belisle indicated that the main motion was back before the group. She called upon Ms. Barber to reiterate it.

ACTION: Ms. Barber moved that the ACCS recommend to the SBE that it not proceed with the steps outlined by CDE staff to revoke the RCS charter, provided the school agrees to the following conditions: (1) RCS will provide monthly updates to CDE staff (in the format specified by CDE staff) regarding the work of the UCLA-SMP and (2) RCS will provide timely updates to the ACCS on student achievement using all available sources of data. Mr. Kushner seconded the motion, and it was approved by a vote of 5-4. Mr. Barajas, Ms. Barber, Mr. Bauer, Mr. Kushner, and Chair Belisle voted in favor of the motion, and the remaining members voted against it.

Mr. Conry requested that the SBE be provided information on each motion at the May meeting, either in the written agenda item (if time still permitted) or in an oral presentation.

Introduction

Chair Belisle introduced Debora Merle, newly appointed Executive Director of the State Board of Education, and expressed appreciation to Ms. Merle for being present for the discussion and votes on the RCS matter.

Lunch Break

Chair Belisle called for the lunch break at 12:40 p.m. She reconvened the meeting at 1:25 p.m.

ITEM 3: SB 740 Funding Determinations

Chair Belisle indicated that the ACCS would proceed to Item 3.

Announcement on Behalf of Vicki Barber

Chair Belisle announced that the first funding determination request to be considered involved a school chartered by the El Dorado County Office of Education. Being that Ms. Barber is the El Dorado County Superintendent of Schools, Chair Belisle indicated

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that Ms. Barber would not participate in the deliberation or vote on the request. Chair Belisle noted that Ms. Barber was not present in the meeting room.

Charter Community School and Extended Day #005

Mr. Edmonds presented the CDE staff recommendation for approval of a 100 percent rate for this school prospectively for three years (2008-09, 2009-10, and 2010-11). He noted that it is a continuing ASAM school. The school did not have a growth API posted in 2007 due to a test administration incident. No speakers.

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

- Approve a 100 percent rate for the school listed above prospectively for three years (2008-09, 2009-10, and 2010-11).
- Determine in this case that a rate greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a three-year period, instead of the five-year period requested, is advisable based upon review of the information presented in its totality.

Mr. Conry seconded the motion, and it was approved by a vote of 8-0-1. As noted above, Ms. Barber did not participate in the discussion or vote on this matter.

Gorman Learning Center #285

Mr. Edmonds presented the CDE staff recommendation for approval of an 85 percent rate for this school for two years. The school had a 60 percent funding determination for 2006-07, which will be the rate given in 2007-08 absent the granting of an increase by the SBE. Though qualifying for a 100 percent rate based upon 2006-07 expenditures alone, CDE staff recommends that mitigating factors be considered to increase funding only to the 85 percent rate. The mitigating factors are issues identified in an extraordinary audit conducted by MGT of America for the Los Angeles County Office of Education. When all remaining issues have been resolved, CDE staff would recommend that Gorman Learning Center (GLC) submit a new funding determination request. It is unlikely that the new request would be submitted prior to July 1. Therefore, the 85 percent rate would likely apply for 2007-08, but a 100 percent rate would be definite possibility in 2008-09 assuming the remaining audit issues are resolved.

GLC Board President Jeff White briefly touched on the serious issues identified in the audit. There were “terrible abuses” at GLC. However, he stressed that all former GLC

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board members have been replaced, along with most of the top-level administration. There was serious question as to whether the school would survive last year, but employees took major pay cuts and other savings were identified as well. It was a courageous act to keep the school open, and many people sacrificed to make it possible because they are dedicated to serving GLC's student population. Academic achievement was up about 25 percent. The school has "taken its spanking" and is "ready to move forward." Mr. While urged the ACCS to recommend a 100 percent rate because 2006-07 expenditures had met the necessary benchmarks.

Jan Miller (CTA) inquired regarding the relationship between GLC and Lifeline Education Charter School that was chartered by the SBE last September. He suggested the possibility that some of GLC's difficulties may be attributable to Lifeline.

Cecelia Cummings (Co-Director, Operations), Dianna Costanzo (Co-Director, Curriculum), and Denice Burchett (Co-Director, Instruction) all spoke on the school's behalf. Ms. Cummings noted that the former Executive Director position had been eliminated and co-director positions established to help ensure that funds are used properly. Approval of at least two co-directors is now required for expenditures. The school is now serving approximately 865 students, considerably down from the approximately 2,000 students served in 2006-07. Yet, the school is still functioning. This demonstrates the dedication of staff. The school is looking at the current year and into the future, not dwelling in the past. The school closed six learning centers, and staff took pay cuts in order for the school to stay open. Ms. Burchett commented that the school's staff members are effective because "we know our families and students. They stuck with us." She also commented that the school has an "awesome range of students" and that GLC "wants to do things right" and "provide a solid environment." Ms. Costanzo commented that she had been with the school "during the nasty times." She said that the school does not want to "excuse" what happened, but rather "to take care of every abuse." She noted that a waiting list for admission is now forming. She indicated that the staff is "very conscious of a high standard of accountability and trust."

Ms. Barkley inquired about the outstanding audit issues. Mr. Edmonds noted that misreporting in relation to an SB 740 funding determination request (from several years ago) was one of the issues, which was (in part) why CDE staff had come down on the side of recommending the 85 percent rate. He noted that LACOE has not given final sign-off on the audit issues. He also mentioned that the audit showed money owed by GLC to Lifeline Education Charter School (about \$100,000). Ms. Barkley inquired as to whether GLC's 2006-07 audit included any findings or exceptions. It did not.

Mr. Kushner indicated that he was wrestling with the justification for not recommending that the school receive a 100 percent rate. Mr. Edmonds reiterated that the mitigating factor is that some issues from the extraordinary audit still remain unresolved. Mr. Kushner asked whether LACOE had been "responsive" in regard to clearing away the

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audit issues. Mr. Edmonds indicated that he felt LACOE had been responsive and he noted that the school could return once the audit issues are resolved. He commented that the difference from the 60 percent rate to the 85 percent rate will be “a big increase” in funding for the school this year.

Ms. Hunkapiller inquired about the status of the pending audit issues. Some are awaiting sign-off by LACOE, and some are before EAAP. Mr. Kushner inquired whether there was “any appropriate way” to give full funding since the school meets the expenditure criteria. Chair Belisle indicated that she had initially leaned toward the 100 percent rate, but had been convinced that the lower rate (85 percent), combined with leave to return when the audit issues are resolved, was the more prudent course of action. Mr. Edmonds reiterated that the school could come back for a higher funding determination once the audit issues are resolved. Lisa Corr (Spector, Middleton, Young & Minney) commented that the audit issues will not be resolved during the remainder of 2007-08. Ms. Hunkapiller inquired about preparing a “placeholder” request in case the audit issues are resolved. Chair Belisle concluded that there appears sufficient justification for either the 85 percent rate or the 100 percent rate. Mr. Kushner indicated that he applauded the school’s efforts to rectify past problems, but that he had been persuaded to go with the 85 percent rate. Going with the 100 percent rate may place the school in a situation where the CDE has to “reclaim” funds.

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

- Approve an 85 percent rate for the school listed above for two years (2007-08 and 2008-09).
- Determine in this case that a rate greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et seq., taking into account as a mitigating factor the unresolved issues from the extraordinary audit of the school conducted under the auspices of the Los Angeles County Office of Education.
- Determine that approval for a two-year period, as requested by the school, is advisable based upon review of the information presented in its totality.

Ms. Hunkapiller seconded the motion, and it was approved by a vote of 8-0-1. Ms. Barber was not present when the vote was taken.

Pathways Charter School **#492**
Mr. Edmonds presented the CDE staff recommendation for approval at the 70 percent rate for two years. The school is currently pursuing an audit appeal through EAAP

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pertaining to previous years. There were no audit exceptions in 2006-07. While audit resolution is in progress, Mr. Edmonds indicated that the 70 percent level is in order. The school may return for further consideration when the audit is resolved. Sara Wilson (area coordinator), Mike Panas (board member), and Lisa Corr (Spector, Middleton, Young & Minney) appeared on the school's behalf. Ms. Wilson emphasized the fact that there is "strong evidence in support of full funding" and no evidence of "nepotism or other inappropriate use of funds." She also noted that the 70 percent rate has been applied to school that are "way lower" than Pathways. She noted that the audit finding in question was essentially technical, and that the 70 percent rate would be "punitive and exceedingly harsh." She commented that closure of the school might result. Ms. Corr noted that the audit finding pertained to "a single sentence" in the board policy, which has "nothing to do with the funding determination." The EAAP decision will not affect the funding determination process at all. Mr. Kushner inquired about the specific "missing sentence." It has to do with the number of missing assignments. The reference appears in students' master agreements, but not in the board policy. Chair Belisle inquired as to the school's projected year-end financial condition. Mr. Panas indicated that the school expects to end the year with a three percent reserve. Jeff Rice (Aplus+) indicated that the 70 percent rate would be "exceedingly harsh" and "way out of line." Eric Premack (CSDC) indicated that the missing sentence was a "pretty minor error" and was properly resolved by EAAP. The SBE should not exact an additional penalty.

Chair Belisle commented that the Pathways' situation was "definitely distinguishable" in her mind from other situations where audit resolution has been pending. She indicated that she favors the 100 percent rate. Mr. Edmonds commented that the CDE staff recommendation is typically "the more conservative recommendation." Given that the "benchmark" rate established in statute is 70 percent, that was the CDE staff recommendation in this case. It was noted that this is "not a new audit exception" and that the school needs to get the audit resolved before coming back with future funding determination requests. Mr. Edmonds indicated that CDE staff does not recommend full funding with a major audit finding pending. Ms. Barkley reiterated that CDE staff does bring conservative recommendations to the ACCS and SBE. Mr. Kushner, in view of the special circumstances involving this particular school, indicated he would like to move a recommendation of 100 percent for two years. Ms. Hunkapiller inquired whether it would be inconsistent with the 85 percent recommendation just approved for GLC. Chair Belisle reiterated her comment that the two cases appeared distinguishable from one another.

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

- Approve a 100 percent rate for the school listed above for two years (2007-08 and 2008-09).

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- Determine in this case that a rate greater than 70 percent is appropriate within the meaning of *Education Code* Section 47634.2(a)(4), because the recommended level is consistent with the criteria specified in the regulations pertaining to funding determinations as contained in *California Code of Regulations*, Title 5, Section 11963 et seq.
- Determine that approval for a two-year period, instead of the three-year period requested, is advisable based upon review of the information presented in its totality.

Mr. Cartas seconded the motion, and it was approved by a vote of 8-0-1. Ms. Barber was not present when the vote was taken.

ITEM 4: Impact of 2008-09 State Budget on SB 740 Funding Determinations

Mr. Edmonds commented that the CDE staff review of this issue suggested that there is sufficient flexibility within the existing regulations to respond to the impact of budget reductions as a mitigating factor. Chair Belisle inquired whether the SB 740 funding determination request form needed to be modified. Mr. Edmonds indicated that the form is being redesigned now, and that CDE staff will consider that possibility. "We could add a question on the issue," he commented. Chair Belisle indicated her preference for including the matter on the form, and asked if there was consensus on that point. No member raised objection.

Jeff Rice (APLUS+) asked whether more could be done. "With budget cuts looming," he commented, "decisions need to be made now." He suggested some "precise guidelines" so that schools would have a better idea of what will be permissible. Chair Belisle commented that the more "precise" instruction becomes, the more it takes on the appearance of "underground regulations." Acknowledging that problem, Mr. Rice suggested that there might still be some things the ACCS and CDE staff could do, e.g., stating that both categories of expenditures (certificated salaries and instruction-related costs) would be "open to flexibility," not just certificated salaries. Chair Belisle indicated that flexibility with respect to both categories appeared evident. Mr. Edmonds echoed that thought. Mr. Rice responded that just that piece of information was "very helpful." Colin Miller (CCSA) expressed appreciation to the ACCS for "acknowledging the flexibility we already have." He indicated that schools are now trying to create more substantial reserves as a hedge against possible budget reductions. They "need assurance" that the reserve funds will not be held against them. He indicated that "offsetting" at least part of a school's reserve is one way to protect the prudent schools. Mr. Edmonds indicated that carryover funds are not "held against" schools in the SB 740 funding determination process.

ITEM 5: Plan for 2008-09 ACCS Meeting Schedule

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The ACCS approved two additional meeting dates: Wednesday, August 27 (for matters to be presented to the SBE in November 2008), and Wednesday, November 12 (for matters to be presented to the SBE in January 2009). Ms. Barkley indicated that staff will return with recommendations for meeting dates in 2009 once the SBE dates are announced.

ITEM 6: Update on UC a-g Requirements for Non-classroom Based Charter Schools

Mr. Geeting presented this item, including a follow-up letter from Susan Wilbur (Director of Undergraduate Admissions) that had come by fax the preceding Friday. The follow-up letter covered (1) data regarding the success of students graduating from independent study high schools who are admitted to the UC; (2) the University of California College Prep (UCCP) business model and the fact that the UCCP's approved status is not expected to change; (3) the fact that the UC policy on non-site-based independent study schools is intended to put in place a set of minimal safeguards to ensure that students who participate in non-site-based independent study schools are fully prepared to be academically successful at the UC; and (4) the fact that the UC will distribute the policy on non-site-based independent study schools next week and invite the schools to begin the course approval process. The UC will monitor implementation of the policy closely and make adjustments should the evidence suggest that changes would be beneficial to the schools, students, and the UC.

Appreciation was expressed for Ms. Wilbur keeping the ACCS informed. Mr. Bauer commented on UC's policy of accepting principal certification as to course equivalence in school's where only small number of pupils take courses by independent study. He indicated that the policy appeared "problematic" and may be "unfair," resulting in some non-comparable coursework being accepted. There were no public comments.

Other: Career-Technical Education and Charter Schools

Mr. Bauer presented and summarized a paper on career-technical education and charter schools prepared by the Secondary, Postsecondary, and Adult Leadership Division of the CDE. Funding issues put charter schools at a serious disadvantage in providing occupational training. This issue needs to be revisited. Ms. Barber commented that ROP funds flow through consortia. The funding distribution issue provokes "strong emotions" she cautioned and is "a very complex issue" that extends beyond charter schools. Mr. Kushner echoed Ms. Barber's comments. He asked rhetorically if there was "a way to break the monopolies" on the funding. Chair Belisle noted that the SBE can approve additional ROPs, in theory, but each additional approval "exacerbates the problem" because the funding is "zero-sum." She noted that ROP advocates are "very much opposed" to changing the funding system. Chair Belisle asked if there was a desire to have further discussion. Ms. Barber indicated that "this is an ROP issue" that the ACCS does not have the means to address. If ACCS members are looking for issues to address, she continued, special education would be a higher

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priority for her. She suggested that perhaps ACCS members “take this on as individuals.” Mr. Bauer indicated that he would still like to know more about this issue, because he knew that some charter schools are accessing ROP funding, while others appeared to be excluded. Chair Belisle asked for public comment on this item; there was none. Chair Belisle suggested that Ms. Barkley request a presentation from knowledgeable staff within the CDE.

Adjournment

There being no further business to come before the ACCS, Chair Belisle adjourned the meeting at 2:50 p.m.

The next meeting will be held on Monday, May 19, 2008, at the CDE Building, 1430 N Street, Room 1101, Sacramento.