

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

East End Auditorium  
1500 Capitol Mall  
Sacramento, California

Monday, December 1, 2008

**MEMBERS PRESENT**

Rae Belisle, Chair  
Jesse Barajas  
Vicki Barber  
Carol Barkley\*  
Brian Bauer  
Beth Hunkapiller  
Mark Kushner

**MEMBERS ABSENT**

Paul Cartas  
Tom Conry

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

**PRINCIPAL STAFF TO THE ADVISORY COMMISSION**

Deborah Domitrovich, Consultant, CDE Charter Schools Division  
Deborah Probst, Consultant, CDE Charter Schools Division  
Michelle Ruskofsky, Consultant, CDE Charter Schools Division  
Greg Geeting, Retired Annuitant, CDE Charter Schools Division

**Call to Order**

Chair Belisle called the meeting to order at 10:32 a.m.

**Flag Salute**

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

**Introductions**

Chair Belisle invited the members to introduce themselves.

**Agenda Order**

Chair Belisle indicated that Item 8 would be heard first, and that Item 2 had been withdrawn by the petitioners. Otherwise, she indicated that she intended to follow the agenda as printed.

**Recognition of Rae Belisle**

Recognizing that this was Chair Belisle's final meeting on the ACCS, Ms. Barkley commended her for outstanding service and leadership. She presented a gift on behalf of the members. Chair Belisle expressed appreciation and indicated she would have more to say at the meeting's end.

**Approval of Meeting Notes**

Chair Belisle asked if there was a motion to approve the notes from the last ACCS meeting held on October 31, 2008.

**ACTION:** Mr. Kushner moved that the notes of the meeting held on October 31, 2008, be approved as presented. Mr. Barajas seconded the motion, and it was approved by unanimous vote of the members present.

**Public Comment**

Chair Belisle invited comments from the public on matters not on the agenda. There were none.

### **ITEM 8: Update – Ridgecrest Charter School**

Ms. Probst provided introductory remarks, reminding the ACCS members of the difficulties Ridgecrest Charter School (RCS) has confronted. She noted that the school's board and staff were "really working hard" to address the deficiencies that had been identified, and that RCS staff had been "asked to come back and give an update" periodically. She also noted that RCS will be seeking renewal of its charter this year, returning to the SBE for renewal if denied renewal by the Sierra Sands Unified School District.

RCS principal/director Tina Ellingsworth distributed some data to the ACCS members and made a brief presentation. She emphasized that RCS is implementing a "results-driven, standards-based curriculum." She described the educational program and strategies, and she provided some examples of instructional practices. She discussed the school's "added support" from its contract with the UCLA School Management Program. She indicated that "positive changes are taking place." Benchmark assessments aligned to the content standards and CSTs are showing "continuous growth." She reviewed the RCS' 2007-08 goals and the school's actual achievement in relationship to those goals. The school is "struggling" in grades seven and eight, but even there students' performance is "still showing growth."

Ms. Barber noted that the data Ms. Ellingsworth distributed related to language arts. She inquired about mathematics. Ms. Ellingsworth indicated that the pattern of growth is in mathematics "basically mirrors language arts." She also indicated that RCS will provide "a more comprehensive update" later in the academic year. Chair Belisle thanked Ms. Ellingsworth for her presentation. There were no public comments.

### **ITEM 1: Petition by the Pacific Technology School to Establish a Statewide Benefit Charter School**

Prior to the CDE staff presentation, Ms. Barber indicated that representatives of the Pacific Technology School (PacTech) had informally discussed with staff of the El Dorado County Office of Education the possibility of the statewide benefit charter school, if approved by the SBE, joining the El Dorado County SELPA. However, no application had yet been submitted. Therefore, that disclosure having been made, she indicated that she would participate in the consideration of the petition.

Ms. Ruskofsky reviewed the CDE staff report on the PacTech petition, indicating that it appeared to be an "exemplary candidate" for a statewide benefit charter school. It meets the statute's "high threshold of uniqueness." The detailed petition demonstrates the petitioners' ability to replicate their comprehensive academic and operational programs on a statewide basis. The multifaceted statewide benefit would (1) provide opportunities to students seeking to gain enrichment in science, mathematics, and technology; (2) attract historically underrepresented students into the fields of science and engineering; (3) grow the state's economy and workforce in these fields; and (4) assist the state in recruiting and retaining highly-qualified teachers in science and mathematics. CDE recommends approval of the petition with certain relatively minor changes and with essentially the same conditions on opening and operation that were applied to the Aspire and High Tech High statewide benefit charters. The school's initial campuses would be located in the Santa Ana Unified School District in Orange County and the San Juan Unified School District in Sacramento County. Opening in fall 2009, each campus would have approximately 150 sixth graders and 100 seventh graders and build out over time to approximately 450 students in the middle grades and 430 in the high school grades.

Joseph Hurmali, representing the petitioners, introduced the PacTech team. He expressed appreciation to CDE staff for a thorough analysis of the petition and indicated that the petitioners had no objections to the changes and conditions recommended. He emphasized that PacTech's mission is to "inspire students." The campuses will have small class sizes (22-25) and will specialize in mathematics, science, and technology. He provided some historical background on the statewide benefit charter's development. The petitioners operate several schools in Los Angeles and one in San Diego. He discussed these schools' API growth over time, as well as their demographics. Overall, the schools are approximately 70 percent Hispanic/Latino, and 76 percent of the students qualify for free and reduced-price meals. He discussed the interest of educational researchers in the organization's schools. The schools' students have earned recognition in academic competitions countywide, statewide, nationally, and even internationally.

Mr. Hurmali discussed the schools' culture and core principles. He noted the grant funding the organization had secured, including grants from the PCSGP, Walton Foundation, and others. The goal of the statewide benefit charter is to open ten campuses over five years, beginning with campuses in the Santa Ana Unified and San Juan Unified School Districts. Each campus will begin with grades six and seven and will build out through grade 12 over time. He outlined the statewide benefit as envisioned by the organization. He noted the "increased competition" we face as a state and a nation in the areas of mathematics, science, and engineering, and how the statewide benefit school would address that serious issue. He noted that the organization has more than 100 employees in all of its schools,

including 40 teachers trained in other nations. He discussed the “exchange teaching program,” including how the teacher credentialing issue is addressed with international faculty. He commented that the organization’s existing schools have “many applicants for teaching positions in history, but few in mathematics.”

Mr. Hurmali indicated that the organization views its model as both successful and replicable. Collaborating with university and high tech corporations is a key focus. The schools reflect the local communities in which they are located. Emphasis is placed on “results-driven instruction.” The schools have a solid information system, and technology is thoroughly integrated in instruction. The schools feature advanced courses and academic clubs, after-school programs, and collaboration. He urged the ACCS to recommend approval of the statewide benefit charter and again expressed appreciation to CDE staff.

Chair Belisle asked if anyone present wished to express opposition to the statewide benefit charter petition. No opposition was expressed.

Chair Belisle invited discussion among the ACCS members. Ms. Hunkapiller commented on the exceptional academic outcomes the organization has been able to achieve with a very challenging student population. She noted in particular the organization’s success in regard to enrollment of graduates in four-year postsecondary institutions. She inquired as to what the organization regarded as the most important techniques in achieving that outcome. Mr. Hurmali indicated that “home visits” were a real key to success in his view, as well as the schools’ strong information systems which keep the faculty and staff focused on critical achievement data. He also mentioned the organization’s emphases on training for teachers and on engagement of parents. These elements create “a school culture of success.” All staff members are “good role models,” and all contribute to student achievement.

Ms. Hunkapiller asked for more specifics on the organization’s collaboration with colleges and universities to enable students’ successful transitions. Mr. Hurmali discussed the organization’s specific work with CSU Northridge (CSUN). CSUN sends university students to the schools as tutors, and they are able to show the schools’ students how their academic work connects with what they will experience at the university level. Students are also allowed to earn some postsecondary credits. Ms. Hunkapiller commented on the particular challenges facing students who are not citizens. She asked what, in particular, helps those students “overcome the barriers” to college enrollment. Mr. Hurmali commented that parent engagement is particularly important with these students.

Chair Belisle indicated that the presentation had “given a good flavor” for the statewide benefit that the proposed charter would provide, as well as the specific techniques that would be employed at the school’s campuses to ensure student success, including “early college exposure” and alumnae returning as mentors. Mr. Hurmali emphasized that PacTech’s goal will be enrollment in four-year postsecondary institutions, not two-year institutions.

Mr. Bauer inquired as to why Santa Ana Unified and San Juan Unified had been selected as the first two locations. Mr. Hurmali indicated that the demographics of the two districts are similar to what the Magnolia schools have experienced to date, and potential sites have been identified in these two districts. For the future, PacTech is looking at areas with substantial numbers of PI schools, including East Palo Alto, Modesto, and Bakersfield. Mr. Bauer noted that Magnolia has several schools that are locally chartered, and asked if the intent was for all new campuses to be established through the statewide benefit charter. Mr. Hurmali indicated that the organization still plans to create some charter schools through districts while, at the same time, operating the statewide benefit charter. The educational program will be “exactly the same.” Mr. Bauer asked if the organization felt its model was “replicable across the state.” Are other groups able to do this? Mr. Hurmali indicated that he felt it was indeed a replicable model. He commented on his experiences operating the equivalent of charter schools in Turkey. He indicated that a number of the techniques developed in that experience are being replicated here. However, he felt it would be “tough” to replicate the techniques across a whole district.

Ms. Barber commended the petitioners and commended Ms. Ruskofsky for a very thorough analysis. She inquired about the criteria for approval of a statewide benefit charter versus a local charter and, specifically, why PacTech was being proposed as a statewide benefit charter. Mr. Hurmali indicated that the organization has met with rejection of its overtures to Santa Ana Unified to establish a school there. He also commented that the organization receives “so much pressure from parents” to expand to places like Santa Ana Unified and San Juan Unified. He indicated that the statewide benefit route is “the best way to go for replication.” It enables the organization to “plan ahead” and “address the needs of the target areas.”

Mr. Kushner commented that the organization had presented a very “worthy” educational program, but that it did not fit the statewide benefit criteria in his view. Chair Belisle responded that she did see the petition as presenting a

charter consistent with the statewide benefit statute. Specifically, she noted that the state faces nothing short of a crisis in the areas of mathematics and science. The state can no longer depend upon foreign countries to produce mathematics and science teachers for its public schools. The petitioners have a replicable model that helps develop mathematics and science teachers. They should be authorized through the statewide benefit to go into needy communities and provide a model that works. In that way, they will help “elevate” the surrounding schools. The petitioners have also demonstrated the ability to successfully recruit teachers from outside the United States. They should collaborate in this regard with the CDE and SBE. Moreover, the proposed statewide benefit charter school will focus on underrepresented students, enabling many more to qualify for admission to four-year universities. These students, as university graduates, will then “go back into their communities” and be positive role models. Santa Ana Unified and San Juan Unified are excellent places to establish the first two campuses. Chair Belisle concluded that this complete package was clearly a “statewide benefit” in her view. She indicated that she had no comments on the charter beyond the items mentioned in the CDE staff analysis.

Mr. Kushner inquired about the organization’s Momentum School, which did not appear to be as socioeconomically diverse as other Magnolia schools. Mr. Hurmali agreed that Momentum is not as diverse, but it does “reflect the community in which it is located.”

Chair Belisle called for any public comment on the statewide benefit petition, again noting that there had been no opposition. There were no public comments. She asked if there was a motion.

**ACTION:** Ms. Hunkapiller moved that the ACCS recommend to the State Board of Education that it approve the PacTech petition to establish a statewide benefit charter school, subject to the conditions and modifications recommended by CDE staff, noting that substantial evidence had been presented to support a finding that the proposed school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county, and noting that no opposition to the petition had been expressed to the petition either orally or in writing. Mr. Bauer seconded the motion, and it was approved by unanimous vote of the members present.

**Announcement.** Ms. Barber noted that the Livermore Valley Charter School (LVCS) is a member of the El Dorado County SELPA, and that the petitioners for the school proposed in the forthcoming item are the operators of LVCS. Therefore, she indicated that she would not participate in the consideration of the forthcoming item. She left the meeting room.

### **ITEM 3: Appeal of Denial at the Local Level – Livermore Charter High school**

Ms. Probst presented the CDE staff report on the appeal. Her presentation covered issues related to the start date and build-out plan. She provided some historical perspective on the petition. The petitioners do not have a specific facility as yet, but are pursuing a Prop 39 facility from the district. The LVCS has had consistently excellent academic performance. There are some technical amendments needed in the petition. Ms. Probst commented in more detail on the signature requirement. She recommended that the size of the opening (first-year) class be limited to match the signatures provided. She also noted that the petition proposes that enrollment preference be provided for LVCS students. She indicated it was “a question you’ll need to resolve.” She concluded by noting that CDE staff recommended approval of the appeal with conditions for a five-year period, July 1, 2010, to June 30, 2015.

Chair Belisle asked for the presentation in support of the appeal. Tara Aderman, Chief Academic Officer of LVCS, indicated that the proposed high school would focus on college-prep courses and would be a small school environment, unlike other high school options in Livermore. The school will be designed to provide students the opportunity “to prepare for the academic challenges of college.” The educational program will be standards-based, and topics will be covered in depth. There will be “innovative elements,” and a number of AP classes. The school plans on a maximum pupil-to-teacher ratio of 27:1. A block schedule format is anticipated, with daily collaboration for teachers and substantial parent involvement. The school’s racial-ethnic balance should be reflective of the district.

LVCS Chief Operating Officer Bill Batchelor provided some historical perspective on the petition. Revamping of the fiscal management of LVCS caused a rethinking of earlier ideas. The petitioners agree with CDE staff as to the resolution of the signature issue. The proposed school is “financially viable” even with a somewhat lower enrollment.

Chair Belisle inquired whether anyone present wished to speak in opposition to the appeal. There was no opposition. Chair Belisle invited discussion by ACCS members.

Mr. Kushner inquired about the petitioners' relationship with the district. Mr. Batchelor indicated that the relationship "has improved" in his view. The petitioners thought there was a good chance of the petition being locally approved, and they were disappointed when it was not.

Ms. Hunkapiller commented that the budget appeared to be based on more students than would be enrolled under the CDE-proposed limit. She also expressed concern about the proposed school having limited ethnic diversity, which has been a concern with LVCS. Mr. Batchelor commented that the school will be financially viable even if it has a smaller opening enrollment. A small enrollment will "make things a bit tighter," but it is "absolutely realistic."

Chair Belisle commented that the enrollment preference for LVCS students creates a problem with the PCSGP grant. She inquired how the school could be financially viable without the PCSGP grant in its first year of operation. Mr. Batchelor indicated that the petitioners hope to maintain the preference and will have a significant outreach program to ensure diversity. Mr. Kushner asked for more information about the enrollment preference issue. Ms. Aderman read off the proposed list of preferences. Ms. Barkley indicated that the preferences for all staff (not just teachers) and for LVCS students would preclude the school from receiving a PCSGP grant. Chair Belisle inquired whether the petitioners would want to forego the grant. Mr. Batchelor indicated that the school could forego the grant and still be financially viable. Ms. Barkley inquired whether the preference for LVCS students would effectively eliminate any chance for students from the outside. Mr. Batchelor indicated that there should be sufficient slots not only to accommodate LVCS students, but also to provide room for others. A number of LVCS students "want the traditional, larger high school" and will not enter the proposed high school.

Ms. Hunkapiller noted that the petitioners appear to be "aiming to reflect the demographics of the district's high schools," not a cross-section of the district. She indicated that the school should aim for the demographics of "the whole community." Mr. Kushner indicated that he would be concerned about the school's ability to make up the loss of the \$600,000 PCSGP grant over the first three years. Chair Belisle commented that LVCS had a history with fiscal issues (even though it is currently on a solid financial footing), which makes foregoing the PCSGP grant all the more worrisome. The financial question plus the potential demographic issue may make it difficult for the SBE to approve the appeal. She indicated that she had not heard "steps to change" in the face of lower funding, and she inquired again how the school would address the lack of the PCSGP grant and respond to the demographic issue while maintaining the preference for LVCS students.

Mr. Batchelor indicated that the school had budgeted \$175,000 from the PCSGP grant in the start-up year, but "could make it" without the grant, although it would certainly be a "tough decision." He also mentioned the ongoing outreach at LVCS to create a more diverse student body. The outreach has worked. Ms. Aderman commented that only kindergarten and grade 6 have space available, and that there has been extensive outreach. Flyers have been distributed in both English and Spanish, and other informational documents have been prepared in multiple languages. LVCS staff visit area preschools, and translators are available for meetings.

Chair Belisle commented that broad-based outreach is essential for the proposed high school, which needs to be more diverse than the district's high schools. The proposed high school should be reflective of the community as a whole. Mr. Kushner concurred that the school needs to be more diverse than the district's high schools. Chair Belisle inquired whether reflection of the community's demographics was the petitioners' goal. Ms. Aderman indicated that community diversity is in fact the goal. Given that assurance, Chair Belisle suggested setting aside the issue of demographics. She inquired whether the petitioners were still committed to the preference scenario in the charter. Mr. Batchelor indicated that the petitioners wanted "to work with CDE staff on the outreach issue," but could not abandon the preference issue absent consultation with the governing board. Chair Belisle commented that the second-year projected COLA of four percent was not realistic and needed to be reconsidered as well.

Mr. Bauer indicated that the proposed preferences appeared to cover almost all of the available openings in his view. He commented that it was not clear whether there would be any space for "outreach students." He asked what percentage of the grade eight students would want to continue on to the high school. Mr. Batchelor indicated that he could not provide a precise percentage. It is a matter that would have to be evaluated over time. He acknowledged, however, that "a significant percentage" of the grade eight students would apply. The preference issue is "not a simple decision." There would be a significant number of "cross-over parents" to consider. The petitioners represented at this hearing "can't arbitrarily agree to eliminate this preference." Mr. Bauer inquired further about the school's outreach activities. Mr. Batchelor reiterated that the outreach efforts at LVCS had been "very successful." Mr. Bauer responded that outreach is much more meaningful in his experience in the lower grades, and that he is not convinced that it makes much difference at the high school level.

Chair Belisle inquired further about the signature issue, expressing her understanding that the school would be limited to opening with 110 students at grade nine only. After the first year, more could be accommodated. Mr. Bauer indicated that fiscal viability with only 110 students seemed problematic. Ms. Probst commented that fiscal analysis of the appeal was based on a start-up year with grades nine and ten, and that if the school were to open with only grade nine, CDE staff would need to review revised fiscal projections. Mr. Batchelor indicated that the petitioners thought they had sufficient signatures to open with 110 students in grade nine, plus 135 students in grade ten. However, he commented that the school could be established with grade nine only, although he did not have a “stand-alone budget” for presentation at this time. Chair Belisle indicated that a realistic budget “would be critical for me, given the charter’s history.” Mr. Kushner inquired whether the ACCS could give “conditional approval” to a recommendation with CDE staff to subsequently review a revised budget prepared by the petitioners. Chair Belisle suggested it would be better for the petitioners “to go back for a thoughtful analysis.” If the school is not opening until fall 2010, then she suggested it was “probably not good to force the issue.”

Ms. Hunkapiller indicated that there were two issues in her mind: the stand-alone budget based on grade nine only, and the enrollment preference issue. This shapes up as a “trade-off” between financial viability and preference for the LVCS eighth graders. She commented that the “fairness issue” is a big one for her. She indicated that she was not sure she could support the appeal. The school will likely need the PCSGP grant to be successful, and the second-year COLA “is a pipedream.”

Mr. Kushner indicated that the LVCS petitioners “have a track record of success, which is a good thing.” The matter is really “down to the two issues” in his view. He suggested the possibility of suspending the preference during the time of the grant. He noted that the SBE “really does care about underserved kids” and diversity would be an important consideration. He indicated that there is some question as to whether the petitioners “can truly deliver” on what has been promised in terms of diversity. He concluded by saying that he would probably support the appeal, even though he did not necessarily agree with the proposed preferences.

Chair Belisle summarized by saying that she heard some flexibility on the issue of preferences, but not on the issue of financial viability. She suggested that the petitioners consider postponing further consideration to the ACCS meeting in February and take the time to “reflect on the preference issue and look at the budget implications,” which would then put the petitioners “in a much stronger position.”

On behalf of the petitioners, Mr. Batchelor indicated that he wished to postpone further consideration of the appeal to the February 2009 ACCS meeting.

#### **Break**

Chair Belisle called for a short lunch break at 12:30 p.m. She reconvened the meeting at 1:00 p.m.

#### **ITEM 4: Determinations of Funding – Nonclassroom-Based Instruction**

Mary Ann Goodwin, Charter Schools Division, presented the CDE staff recommendations for funding determinations.

#### **Audeo Charter School #406**

#### **Heritage Peak Charter School #687**

#### **Family Partnership Home Study Charter School #763**

Ms. Goodwin indicated that, contingent upon no negative audit findings for 2007-08, all three schools met the criteria for a funding rate of 100 percent, and that, in accordance with a new internal procedure, CDE staff recommended that approval be granted for the full five-year period allowed by law. Chair Belisle noted the departure from previous CDE staff recommendations which have generally been for a more conservative three- or four-year period. She also noted that, by statute, a funding determination rate must be approved for five years if the school has an API of 6 or higher for the preceding two years. She indicated that a change in regulations now being developed by CDE staff “might take us in the direction” of a five-year default. She cautioned, though, that simply moving ahead with a five-year default in the absence of the regulatory change might not be wise. However the ACCS chose to proceed, she continued, it will be important to “maintain consistency moving forward.” There was considerable discussion about the processing of funding determination requests by CDE staff, the development of staff recommendations, and follow-up once funding determination rates have been established. Up to this point, CDE staff has generally recommended (1) two-year approval for first-time applicants, for applicants qualifying for less than 100 percent, and for applicants with identified fiscal irregularities; (2) three-year approval as the default for continuing schools qualifying for 100 percent,

but with the suggestion that the ACCS consider four-year approval for schools that have a solid academic record (e.g., a high similar schools API ranking); and (3) five-year approval only where a school qualifies by statute.

Ms. Barkley indicated that CDE staff review of annual audits was largely to determine whether schools have any audit exceptions in areas that might affect funding determinations (e.g., average daily attendance exceptions that would materially lower a school's revenue). If audited figures do not support the funding determination rate granted, then the CDE staff returns the matter to the ACCS for further consideration. Ms. Barkley expressed concern that it has been difficult to maintain consistency in regard to the three- and four-year approvals. Chair Belisle suggested that, for the time being, the ACCS remain with the general default of three-year approval, with an agreement to recommend four years if the ACCS is "impressed with the school's academics."

Ms. Barber indicated that, when it came to the matter of a vote on this item, she would request a separate motion regarding the request from Audeo Charter School (#406), as that school is a member of the El Dorado County SELPA. She indicated that she regarded the funding determination issue as a somewhat remote issue and that, therefore, public disclosure combined with recusal on the specific vote pertaining to Audeo Charter School was sufficient to respond to any conflict in fact or appearance. She expressed concurrence with the approach iterated by Chair Belisle, though she also expressed appreciation to CDE staff for responding to the discussion at a previous ACCS meeting on this topic. Chair Belisle echoed the appreciation to CDE staff and indicated that the forthcoming regulatory changes will provide an appropriate venue to set a different course if that is the desire of the ACCS.

Chair Belisle noted that all three schools from which requests were under consideration had superior academic performance and, thus, would be appropriate candidates for four-year approval in keeping with previous ACCS recommendations. There were no public comments on any of the three funding determination requests.

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

Approve a 100 percent funding determination rate for Family Partnership Home Study Charter School (#763) for four years (2008-09, 2009-10, 2010-11, and 2011-12), and approve prospectively a 100 percent funding determination rate for Heritage Peak Charter School (#687) for four years (2009-10, 2010-11, 2011-12, and 2012-13).

Determine in each 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 in each case that approval for a four-year period, instead of the five-year period requested, is appropriate taking into account the information presented in its totality.

Ms. Barber seconded the motion, and it was approved by unanimous vote of the members present.

Chair Belisle asked for a motion on the request from Audeo Charter School.

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

Approve prospectively a 100 percent funding determination rate for Audeo Charter School (#406) for four years (2009-10, 2010-11, 2011-12, and 2012-13).

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 in this case that approval for a four-year period, instead of the five-year period requested, is appropriate taking into account the information presented in its totality.

Ms. Hunkapiller seconded the motion, and it was approved by a vote of 6-0-1. Ms. Barber did not vote for the reasons stated above.

Ms. Goodwin indicated this school's request meets the criteria for a 100 percent funding determination rate, but it is a new school and, therefore, two-year approval would be appropriate. There was no public comment on this request.

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

Approve a 100 percent funding determination rate for Orcutt Academy (#967) for two years (2008-09 and 2009-10).

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., in particular the criterion that schools in the first year of operation be given serious consideration for full funding.

Determine in this case that approval for a two-year period, instead of the five-year period requested, is appropriate taking into account the information presented in its totality.

Mr. Bauer seconded the motion, and it was approved by unanimous vote of the members present.

**Gorman Learning Center..... #285**

Ms. Goodwin summarized the issue with respect to this school's 2003-04 funding determination. Gorman Learning Center received a 100 percent funding determination rate for that year. However, a subsequent audit found that the school over-reported average daily attendance in 2003-04 (thereby lowering revenues) and should submit a revised funding determination request for that year. The school submitted a revised request which was reviewed by CDE staff. CDE staff found that the revised request still justified the 100 percent funding rate. Accordingly, CDE staff recommends that the ACCS recommend that the SBE reaffirm Gorman Learning Center's 100 percent funding rate for 2003-04.

Chair Belisle asked if there was any public comment on this matter. There was none. Ms. Barber inquired as to whether this matter also involved Lifeline Education Charter School, which is a member of the El Dorado County SELPA. Mr. Geeting indicated that Lifeline was always a separate charter school from Gorman Learning Center, although Gorman Learning Center did provide some assistance and support to Lifeline. Ms. Barber indicated that if Lifeline was not part of Gorman Learning Center, then she did not have a conflict and that she would proceed to vote on this matter.

**ACTION:** Ms. Hunkapiller moved that the ACCS recommend to the SBE that it reaffirm its approval of a 100 percent funding determination rate for Gorman Learning Center (#285) for 2003-04. Mr. Barajas seconded the motion, and it was approved by unanimous vote of the members present.

**ITEM 6: Regulations – SB 319**

Mr. Geeting made a brief presentation regarding a CDE staff memorandum on the SB 319 regulations. He noted that SB 319 (Chapter 355, Statutes of 2005) provides for the creation of a unique funding rate per ADA for each conversion charter school established in a unified school district. The rate is based on the actual revenues expended at the school site during the preceding year divided by the ADA generated at the site. The rate is adjusted annually for inflation and other adjustments made to unified district revenue limits. He indicated that the memorandum set forth three general areas of concern with regard to the statute: (1) composition of the expenditures to be included in the rate calculation; (2) transparency and time line for the calculation; and (3) various procedural issues. Some regulatory suggestions had been developed in collaboration with a broadly based workgroup process conducted under the auspices of the School Fiscal Services Division. He reviewed the suggestions briefly and asked how the members wished to proceed.

Chair Belisle reviewed the issues, taking note of what the ACCS had previously iterated as its concerns and requests in relationship to SB 319 regulations:

Incorporate in the regulations the Legislature's intent that charters be provided operational funding equal to the funding that would otherwise be available to a similar school, and provide some illustrative examples of how the SB 319 general-purpose entitlement would be calculated.

Provide for disclosure before the charter is approved of the means by which the initially certified general-purpose entitlement was determined, including source data, calculations, formulas, and methodologies, and

state that the actual recertified entitlement is to reflect the same means for determination (simply replacing estimated data for actual data) unless changes in the means for determination are by mutual consent. Encourage disclosure of the entitlement in time for consideration at the public hearing on the charter.

Provide that a charter shall not be denied solely based upon the calculation made by the district, which is also the chartering authority that reviewed the charter petition.

She also recalled the history of the ACCS consideration of the Ronald Reagan Charter School appeal and commented on it as an example of how leaving unified districts completely without guidance can produce “odd” results. There is a need for more clarity. She indicated that while she personally would tend to be more prescriptive in order to have consistency among unified districts in their application of SB 319, she understood the importance of retaining flexibility within the confines of the statute.

Ms. Barber inquired as to which agency is actually responsible for the SB 319 calculation. Chair Belisle responded that “in a perfect world” the responsibility would be “shared,” but that there is never a perfect situation. The statute per se is clear as to the district certifying the rate, but oblique as to actual entity (or entities) preparing the calculation. She indicated that a plain reading of the statute suggests that the expenditure side of the equation includes some portion of expenditures made at the district level but “for the benefit” of the school.

Ms. Barber asked if there had been consideration given by the workgroup to taking the prior-year expenditures actually made at the site (e.g., teachers, site administrators, custodial and classified, supplies, etc.) and adding the district’s approved “indirect cost rate” to the total. Mr. Geeting indicated that he did not specifically recall that possibility being discussed, but that the lack of a uniform site-level expenditure reporting system made it unfeasible. Ms. Barber indicated that the regulations cannot impose “an onerous process” and that it was likely that a statutory change would be needed. The statute could either reverse SB 319’s provisions or take the steps necessary to provide for a rate that is fairly and uniformly determined.

Chair Belisle commented that the regulations outlined in the CDE staff memorandum “don’t go far enough” in her view to respond to the critical issues as previously identified by the ACCS. She felt the SBE’s regulatory authority was broad and could easily support more specific direction with respect to SB 319’s implementation. Ms. Barber indicated that the proposal within item two in the memorandum was helpful in her view, but the proposals within item one were not. Ms. Hunkapiller inquired about the tracking of expenditures by site. Ms. Barber responded that the complexity of accounting systems (i.e., how well accounting system track expenditures to the site level) generally varies with the size of the district. Mr. Kushner indicated that the indirect cost rate idea intrigued him as a “way to move forward” with the proposal. Mr. Geeting commented that SACS is not necessarily sufficient to capture all site-level expenditures. Uniformly determining the expenditures to which to apply the indirect cost rate would be challenging, if not impossible.

Chair Belisle commented that, unfortunately, regulations tend to be based upon the “lowest common denominator” in relationship to reason and responsibility in the application of statute. Ms. Barber suggested the possibility of establishing “variance factors” in relationship to the charter schools block grant. If a district-approved rate fell within the variance factor for a given school (based on its grade spans), it would be deemed acceptable. Chair Belisle indicated that she could support that concept. Mr. Geeting pointed out that the whole idea of SB 319 was to depart from the charter schools block grant, so it might be inconsistent to then turn around and use the block grant as a benchmark.

Ms. Hunkapiller commented that a legislative remedy might be the most appropriate way to proceed. Chair Belisle noted that legislative remedies often come with unintended consequences. She suggested the possibility of considering an approach that says, “If this rate has not been established by mutual agreement, then do the following...”

Chair Belisle called for public comments. Eric Premack (Charter Schools Development Center) suggested that there are three important questions in regard to SB 319 rates: (1) What is a “fair share”? (2) How do you calculate a fair share? (3) What happens when nothing is done or when the figure is too low? He indicated that the process “needs closure,” particularly in regard to appellate situations (where a charter is being considered on appeal by a county board or the SBE).

Mr. Kushner inquired as to whom the certified rate is reported. Mr. Geeting indicated that the rate is certified to the SSPI. Ms. Barber elaborated that the SSPI is not specifically empowered by statute to modify the rate (as certified and, subsequently, recertified), except for annual COLAs and related adjustments. Mr. Kushner asked where charter

school petitioners would go if a rate is not certified, or if a rate appears to be too low. Chair Belisle indicated that the petitioners could go to court, but that is not a realistic option for petitioners in most cases. Chair Belisle suggested a proposal for consideration by the ACCS:

- Recommend approval of the proposed regulatory language in item two of the memorandum;
- Recommend approval of the proposed regulatory language in item one of the memorandum with a modification in the second proposal (strike out “such as” and insert “that benefit the school, including, but not limited to”); and
- Study further the issue of rates either not being certified at all, or being certified in amounts that are unreasonably low.

There was substantial discussion of how to proceed, during which Ms. Barber suggested adding a provision to the effect that a mutually agreed upon rate is acceptable whether or not compliant with the regulations.

Eventually, Chair Belisle indicated that the group might be close to agreement on a package and called for public comment. Colin Miller (California Charter Schools Association) commented that the regulations “should be as instructive as possible.” He suggested that, in lieu of calling for a “study” of legal authority by the SBE, the ACCS simply recommend the policy outcome it felt to be desirable and “not worry about whether a regulation or statute is needed.” Mr. Premack reiterated his earlier comments, particularly as regards establishing a process with finality. Chair Belisle indicated that she liked the approach mentioned by Mr. Miller. Under that approach, the SBE could determine that its authority is perhaps already sufficient to just direct the ACCS to consider SB 319 rates as part of an appeal (making recommendations for establishment or modification as necessary), or alternatively that a regulation is needed or that a statutory amendment is preferable.

**ACTION:** Mr. Kushner moved that the ACCS recommend to the State Board of Education that it commence the rulemaking process to establish regulations that do the following, based upon the language presented in the CDE staff memorandum as modified in the discussion:

- Identify which school districts and proposed charter schools are impacted and provide general guidance on the necessary calculations;
- Indicate that nothing in the regulations prevents affected charter school petitioners and school districts from mutually agreeing to alternatives to specific compliance with the regulations;
- Require consideration by affected districts of certain district-level expenditures in determining SB 319 general-purpose funding entitlements, as well as overarching legislative intent; and
- Require disclosure of information pertaining to the determination of SB 319 general-purpose funding entitlements, as well as preparation of preliminary estimates of the entitlements to allow petitioners to develop necessary financial information.

The ACCS also recommends that the SBE implement an appeal process regarding compliance with the requirements of SB 319 pertaining to general-purpose funding entitlements, including the pursuit of a regulation or statutory amendment if necessary.

Ms. Hunkapiller seconded the motion, and it was approved by unanimous vote of the members present.

#### **ITEM 7: Regulations – Charter School Revocations**

Ms. Ruskofsky presented a report on the efforts made to date to prepare a regulatory proposal for implementation of AB 2030, which added provisions to the Charter Schools Act relating to charter school revocations. She noted that consultations had been made with CDE staff and legal counsel, and that two workgroup meetings had been held involving a broadly based panel of representatives of charter schools and chartering authorities. The workgroup’s input has been incorporated in the draft regulatory package. It is fair to say that the workgroup agreed on some basic principles, such as the need for an orderly procedure. Ultimately, though, the CDE had to make a decision about the elements of a package to bring forward.

Ms. Barber inquired whether the package actually represented a “consensus” of the workgroup. Ms. Ruskofsky indicated that CDE staff “had not asked the group for consensus” and, therefore, the package cannot be represented in that way. Ms. Barber asked if representatives of the Los Angeles COE participated. Ms. Ruskofsky indicated that they did. She then went on to note that the package would represent a new regulatory effort and that key features

include (1) defining what "chartering authority" means; (2) creating a formal procedure for revocations, including necessary protocols; (3) integrating terms that are now in common use, but are not defined; (4) providing guidelines for what constitutes a "reasonable opportunity to remedy" a violation; (5) establishing time lines to clarify statute; (6) outlining how to proceed with "imminent health and safety" revocations; and (7) creating a process for determining whether substantial evidence exists.

Ms. Barber inquired how many public meetings would be required to complete a revocation under normal circumstances (i.e., not involving imminent health and safety concerns). Ms. Ruskofsky went through time line. The number of public meetings could be a few as three, but would likely be four, depending upon how the chartering authority chooses to proceed: (1) when issuing a notice of violation, (2) when determining whether the notice of violation has been resolved; (3) when issuing a notice of intent to revoke (which could be at the same meeting as the immediately preceding matter); and (4) when making the final decision to revoke. Mr. Bauer requested that the time line be prepared in the form of a chart so that it would be clearer. The regulatory text is a bit confusing.

Chair Belisle agreed that the proposed regulations are confusing in some respects and that some provisions appeared merely to restate the statute, which is unnecessary and does not clarify. She also indicated that some provisions appeared to place constraints on the SBE and, in her experience, "the SBE does not regulate itself." Chair Belisle, though appreciative of the work done, expressed the view that the regulation package needed further development. In the interim, the ACCS and SBE will simply have to proceed on charter revocations based on the statute alone as "we don't have a back up plan." Ms. Barber, while also expressing appreciation for the work done, felt that those involved "may have become too steeped in the specifics." She suggested that something simpler would be preferable if that is possible. Ms. Barkley indicated that the matter would be postponed to the February meeting so that staff can reflect on the comments made and make modifications to the proposed regulatory package. Chair Belisle commented that she would be happy to provide staff her written notes.

Chair Belisle asked for any public comment. Colin Miller (CCSA) indicated that the regulatory package is "moving in the right direction," although it is "not there yet." He commented that "clarifying procedures and getting things tighter" is a very worthy objective. CCSA has appreciated the opportunity to be part of the workgroup and will look forward to "continuing to work on this package." Eric Premack (CSDC) expressed concern about the proposed process-based definition of substantial evidence. He indicated that the workgroup had considered at one point language that referenced the judgment of "a reasonable person" in relationship to substantial evidence. He suggested that the language be reconsidered by staff. He also emphasized that "neutral fact finding" was an essential element in the revocation process in his view.

### **Recognition of Rae Belisle**

Mr. Kushner expressed his sincere appreciation to Ms. Belisle for her years of service as chair of the ACCS. Ms. Hunkapiller concurred, commenting that Chair Belisle had "steered us well" and had frequently provided "leadership that helped us make our way to consensus." Ms. Barber expressed her gratitude to Chair Belisle for her "leadership and wisdom" and indicated that one of Chair Belisle's most endearing qualities was her "great tolerance for all of us!" Chair Belisle concluded the meeting by expressing her appreciation to the members for their dedication and service. "Being chair," she said, "has truly been my pleasure."

### **Adjournment**

Chair Belisle adjourned the meeting at 3:28 p.m.

The next meeting will be held on Tuesday, February 3, 2009, at the CDE Building, 1430 N Street, Room 1101, Sacramento. It was agreed that the meeting would start at 10:00 a.m. (instead of the usual 10:30 a.m.), so that a recess could be taken (a little before 11:00 a.m.) in order for the ACCS members to attend State Superintendent Jack O'Connell's "State of Education" address at the East End Auditorium.