

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, September 30, 2002

MEMBERS PRESENT

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

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

PRINCIPAL STAFF TO THE ADVISORY COMMISSION

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

Call to Order. Mr. Kushner called the meeting to order at 10:16 a.m.

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

Tentative Agenda. Mr. Kushner announced that this meeting would be one-day only and that the agenda would be generally as follows: (1) special education and charter schools; (2) continuous enrollment in charter schools of individuals over the age of 19; (3) criteria for non-renewal or revocation of charter schools; (4) legislative update; and (5) brainstorming on pressing issues affecting charter schools that the Advisory Commission should consider during the coming year.

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

Future Meeting Schedule. Mr. Kushner indicated that the future meeting schedule (for the balance of 2002-03) is as follows:

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2002

October 17
November 21
December 16

2003

January 21-22
February 19-20
March 19-20
April 11
May 21-22
June 18-19

Special Education and Charter Schools. Mr. Kushner noted that the hoped-for presentation from Don Shalvey of Aspire Public Schools will have to be rescheduled for another time. Mr. Shalvey called early in the morning to apologize for not being able to attend this day's meeting due to a deposition obligation that he had not anticipated. Mr. Kushner noted that staff had developed a draft proposal that focused on a narrow part of the issue of special education and charter schools: the participation of charter schools as local education agencies (LEAs) within special education local plan areas (SELPAs). He asked if there were any public comments either on the larger issue of special education and charter schools or on the narrow issue addressed in the proposal.

- David Patterson (CANEC) noted that, obviously, special education is a very difficult issue facing charter schools. He indicated that the definition of residency that has been adopted administratively by the California Department of Education (CDE) is at the root of the problem. The definition is seriously flawed in that it separates the fiscal model from the delivery of service. [For example, if a student who lives in San Diego is enrolled in a charter school that (though operating in San Diego) was chartered by a school district in Nevada County, the student's special education funding flows to the Placer/Nevada County SELPA and that SELPA is the one of which the charter school is considered a part. However, the Placer/Nevada County SELPA is too far removed geographically from the charter school to provide services or supervise the delivery of services to the student effectively.]

Mr. Patterson commented that the current system tends to "point all of the fingers" at the charter school for service delivery, while not helping the charter school deal realistically with the special education population it confronts. Too often, the chartering entity just "passes through" a portion of the special education funds generated by the charter school's students and then "washes its hands" of any other responsibility. He suggested that in some cases school districts either directly or indirectly worked to send particularly costly or difficult-to-serve special education students to charter schools to relieve themselves of responsibility for those students. He indicated that reconnecting the fiscal and service delivery aspects of special education and charter schools would be a fundamental ingredient in addressing the issue.

Ms. Sterling indicated that clearly there was a difference in interpretation of the requirements of law between CDE and CANEC. She commented that one of the

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frustrations she had experienced was the lack of alternative proposals. She indicated that this may be an area where a legislative solution needs to be crafted, but even that will be very difficult to develop and even more challenging to get through the legislative process.

Mr. Patterson responded that there is no compelling reason to treat special education students in charter schools differently from special education students in non-charter schools, but that's exactly what's happening. He indicated that CANEC had put forward substantive counter proposals to the one adopted by the CDE. He commented that the CDE's definition creates a serious issue with respect to compliance with federal law.

- Jean Hatch, Shasta County Office of Education, discussed how special education issues are handled in Shasta County which has many small school districts. Among other things, she explained the power-weighted representation of districts in the SELPA, the allocation of "free" slots for the provision of services to special education students, and the allocation of remaining funds among the constituent agencies. Ms. Hatch indicated that she would send Mr. Geeting information on the "rules" used in Shasta County for transmittal to those on the Advisory Commission's e-distribution list.

Ms. Hunkapiller indicated that "excess costs" of special education is a major issue confronted by all charter schools. Charter schools must share in these costs, but some charter schools are not sophisticated in evaluating the advantages and disadvantages of the proposals made to them by districts and/or SELPAs. Sometimes charter schools get a fair deal, but other times they do not.

Ms. Cubanski explained that the revenue generated for special education programs and services (based on total average daily attendance) flows through SELPAs. The local plans determine the extent to which funds are distributed to individual, constituent local education agencies, and the extent to which they are expended for centralized programs and the like.

Mr. Kushner inquired about where funds go when a charter school is located in one SELPA, but some of its students reside in another SELPA that may be a considerable distance away. Ms. Cubanski indicated that the funds go the SELPA in which the charter school is located. In some cases like this, interagency agreements have been worked out between the SELPA receiving the funds and the SELPA in which the student resides.

Mr. Conry inquired about how schools chartered by the State Board worked out the issue of SELPA participation. Deborah Connelly (School Fiscal Services Division, CDE) and Mr. Geeting explained the different situations of the four operating State Board chartered schools. Specifically it was noted that two of the schools are located in single-district SELPAs. In these cases, memoranda of understanding have been worked out between the charter schools and the districts (SELPAs) regarding special education programs and services.

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- Mr. Patterson reiterated that as a matter of policy special education funding should “follow the child” (i.e., be sent to the SELPA in which the child resides). Moreover, the funding system for special education should ensure that there are no “windfalls” resulting from the location of charter schools in one SELPA or another, or from the enrollment of special education students in a charter school or a non-charter school.
- Laurie Gardner (Charter Schools Development Center) commented that their reviews have indicated that charter schools tend to agree to more liability than they should in relation to the amount of special education funding they receive. Special education costs can quickly undercut a charter school’s financial viability. Mike McDermott (student, McGeorge School of Law) commented on the rather “open-ended” commitment imposed by law for the providing of programs and services to special education students. He suggested that this open-ended commitment worked to the detriment of equality in the education programs and services provided for non-special education students. Chuck Gehrke (Excelsior Education Center) commented that the Desert-Mountain SELPA is in his opinion a model of how to treat partners fairly and ensure that special education students receive the programs and services to which they are entitled.

Mr. Kushner concluded the discussion by noting that he hoped Mr. Shalvey would be able to attend a meeting of the Advisory Commission in the near future to present his ideas on a statewide SELPA for charter schools. Mr. Geeting noted that such a proposal would face a considerable challenge, given that SELPAs (as conceptualized to date) are unique, geographically bounded territories. There is no precedent for overlapping jurisdictions.

Continuous enrollment of individuals over 19 years of age in charter schools. Mr. Kushner invited Mr. Geeting to brief the members on the materials provided. Mr. Geeting commented that the proposal for regulations was essentially the same as that reviewed by the Advisory Commission in August, except that it now specifically recognized the exemption for certain charter school programs included in AB 1994, including charter school programs in exclusive partnership with the California Conservation Corps, local conservation corps certified by the CCC, and certain federal job training programs. He noted that the Secretary for Education and Department of Finance had submitted letters urging the Advisory Commission to recommend (and the State Board to adopt) the proposed regulatory changes to narrow the allowance for adults in charter schools to reflect the intent of the law.

Ms. Reyes commented that there was a disagreement over the intent of the law and inquired as to whether an adult education diploma was equivalent to a high school diploma. Mr. Conry asked whether action would be taken soon on whether to recommend or not to recommend the proposed regulations. Mr. Geeting indicated that there was a degree of obligation for the State Board to take up the joint recommendation

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of the Secretary and DOF, but that the matter was not scheduled on the October 2002 agenda. He suggested that nominally the matter would probably appear on the November 2002 agenda, but that he thought it would be acceptable to defer the matter for a month (to December) if such was the Advisory Commission's desire.

Mr. Kushner inquired about the existing regulations regarding satisfactory progress toward a high school diploma, the funding level for adult education versus the K-12 revenue limit, and whether adults can be enrolled in non-charter public schools and earn the K-12 revenue limit.

Vickie Anderson-Prader (Adult Education Office, CDE) indicated that a high school diploma earned through adult education may be the same as a diploma earned through traditional high school matriculation, depending on the policies of the local governing board. In some cases, local governing boards chose to issue certificates to adults in recognition of their educational achievement that are not equivalent to a high school diploma, but there is no statewide legal restriction on individuals earning high school diplomas through adult education. She indicated that it's possible for adults to be served in traditional high schools (and earn the K-12 revenue limit), but that the instances of that happening are very limited. In the vast majority of cases, K-12 districts encourage adults to matriculate through adult education and provide adult education classes that cater to the schedules and needs of adult students. The problem with the existing regulations on satisfactory progress is that they are vague; some charter schools have enrolled adults (and received the K-12 revenue limit for them) even though they are clearly incapable of pursuing curricula that lead to a high school diploma. These individuals need the curricula available to them in adult education as a means of developing the foundation skills necessary to proceed toward a high school diploma.

Ms. Frost indicated that there are some places in the state where adult education is not available. Ms. Anderson-Prader commented that typically these are isolated places where enrollment of adults in a traditional high school may be the alternative. Ms. Reyes raised the equity argument: If non-charter public high schools can enroll adults, then charter schools should be allowed to do so as well. Mr. Geeting pointed out that the difference is the existence of the statute which is specific to charter schools on continuous enrollment of individuals over the age of 19; there is no analogous statute for non-charter public high schools. The statute applying to charter schools cannot be ignored or circumvented, thus the recommendation of the Secretary and DOF.

Mr. Kushner indicated that he was in a quandary. On the one hand there are no doubt some instances of worthwhile programs being provided to adults in charter schools. On the other hand, the higher funding level charter schools receive (versus adult education) makes the situation problematic.

Ms. Sterling commented that CDE staff had become concerned about reports of substantial (and growing) numbers of adults being served in charter schools (at the K-12 revenue limit). The existing administrative interpretation was guided by a desire to be

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flexible, but without perhaps as full an appreciation of the consequences as should have been developed. The interpretation is under study for change. This regulatory proposal may be the appropriate way to effectuate that change by providing for an orderly transition.

Mr. Geeting commented that the existing regulations on satisfactory progress were not really useful in terms of the annual auditing process. They are vague on some points (e.g., whether individuals are required to have passing grades in all classes or just some classes and what constitutes full-time matriculation which can vary considerably in a traditional high school).

Mr. Kushner called for public comments.

- Chuck Gehrke. Perhaps the thing to do is allow charter schools to provide adult education and be reimbursed at the rate applicable to adult education. Some of the rules applicable to independent study in non-charter schools do not apply to independent study in charter schools; you have to look at the rules on a case-by-case basis. Even if the proposed regulations are in place, there may be loophole, i.e., creating MOUs between districts and charter schools under which the districts would claim the K-12 revenue limit for the adult students. Rather than pursue these regulations, it might make more sense to try to equalize the funding levels for charter schools and non-charter schools who serve adults.
- Buzz Breedlove (Deputy Director, California Conservation Corps). This is the first day back from vacation. We had not been aware of the exemption in AB 1994 for the CCC and local conservation corps; however, the issue is broader. The Advisory Commission needs to explore these proposed regulations carefully. The analysis you have received does not present a fair, balanced picture of the situation. You need to hear all sides. Adults have the right to pursue a high school diploma, and they should be able to do so in charter schools. Your action could deny older students their right to a diploma. You need to think carefully about what you are being asked to do. The proposed regulations would chill the opportunities available to adult students.
- David Patterson. The CDE administrative interpretation and the existing regulations were developed were the product of thoughtful consideration. Former CDE staff member John Gilroy took the lead in the process of developing both. Before endorsing any change, you need to spend more time understanding the issues. You should get more analyses and information.
- Jessica Hawthorne (Spector, Middleton, Young & Minney). The existing regulations establish rigorous criteria governing the enrollment of adults in charter schools. Age per se should not become a criterion. These regulations would be arbitrary. The important issue is to look at the progress towards a high school diploma.

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- Fadi Saba (Escuela Popular Accelerated Family Learning Center). The issue here should be the delivery of quality education, not the age of the students. Why shouldn't adults be entitled to go to charter schools? Charter schools do not compete with adult schools. Through charter schools, adults can receive culturally sensitive curricula. It is important to monitor progress as is now required.
- Dwight Washabaugh (Association of Local Conservations Corps). There are many compelling stories of success of adults served in charter schools. You need to look carefully at the pros and cons of the proposed regulations. The proposed regulations seem to be rewriting statute; that's difficult to accept. Age should not matter, just progress toward the goal of a diploma.
- Laurie Gardner. The proposed regulations do not appear consistent with legislative intent. There doesn't appear to have been a mad rush to shift students from adult education to charter schools to take advantage of the higher funding level. The existing regulations reflect appropriate policy – once an adult student is “in the door,” the issue should only be the student's progress toward a diploma (satisfactory progress). There is no evidence of charter schools claiming funds illegally. The proposed regulations endeavor to fix something that's not broken. Mr. Geeting noted that Ms. Gardner's vision of the existing regulations appeared to imply a once-in-a-lifetime opportunity for adults to enroll in charter schools for pursue a high school diploma; he commented that enforcing the regulations in that way placed an unreasonable burden on charter schools, but that (without enforcement in that way) the existing regulations were virtually meaningless, as adults who fail to make satisfactory progress could simply enroll again and again (each time re-starting their period of “continuous enrollment”).
- Jayna Gaskell (Prosser Creek Charter School). The FCMAT review of Prosser Creek identified only 23 “over age” students. At Prosser Creek, adult students take roughly seven months to earn their high school diplomas. The curricula provided adult students are as rigorous as traditional high school students receive; they must take five courses. The school has dropped some adults on independent study for failing grades; in fact, a somewhat higher percentage of adults than other students.

Following further discussion, Mr. Kushner indicated that this matter would need to come back for further consideration at the next meeting. Ms. Reyes and Ms. Hunkapiller asked whether data could be gathered on the extent to which adults are now being served in charter schools. Mr. Geeting, Ms. Sterling, and Ms. Cubanski indicated that no such data were collected by the CDE. Ms. Gardner indicated that the CSDC might be able to pull together some information. There was also a request for more specific information as to which independent study statutes/regulations apply to charter schools and which do not.

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Finally, there was a request for any additional information that might exist on the intent of the continuous enrollment provision of AB 1115. In that regard, Ms. Cubanski noted that she was on the staff of the Department of Finance at the time of the enactment of AB 1115 and that it was DOF's clear understanding that the intent of the language was to prohibit ADA claims for adults in charter schools, with the narrow exclusion of students who (while enrolled as 19 year olds) needed some additional time (beyond their 20th birthday) to finish up their high diploma coursework, consistent with the regulatory language recommended by the Secretary for Education and DOF.

Lunch Break. 12:39 – 1:52 p.m.

Update on AB 1994 (Reyes). Mr. Kusher invited staff to provide an update on perhaps the major charter school legislation of the recently completed legislative session, AB 1994 (Reyes). Mr. Geeting noted that the bill had been signed into law by Governor Davis on the preceding Saturday. He and Ms. Cubanski then highlighted the bill's major provisions:

Accountability.

Requires each charter school (on or before September 15) to approve an annual statement of all receipts and expenditures for the preceding fiscal year and file it with the chartering entity in a format prescribed by the State Superintendent pursuant to regulations to be adopted by the State Board of Education.

Requires charter schools to respond to reasonable inquiries from county offices of education that have jurisdiction over the chartering entity. [Existing law required responses to inquiries from chartering entities and the State Superintendent of Public Instruction.]

Empowers county superintendents, based upon written complaints, to monitor the operations of a charter school located within the county and conduct an investigation into the operations of that charter school.

Requires a charter school to notify county superintendent of the county in which it is located of the location of the charter school prior to commencement of operations.

Geographic and Site Limitations.

Requires that each charter school number assigned after January 1, 2003, correspond to a single petition that identifies a charter school that will operate within specified geographic and site limitations. Sites that share educational programs and serve similar pupil populations may not be counted as separate schools, but sites that do not share a common educational program shall be considered separate schools.

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Requires that a charter petition identify a single charter school that will operate within the geographic boundaries of the school district to which the petition is submitted. Allows multiple sites as long as each location is identified in the petition.

If “unable” to locate within the jurisdiction of the chartering entity, allows a charter school to establish one site outside the boundaries of the district, but within the county.

In the case of an original submission of a charter petition to a county board of education, requires that the charter school be located within the geographical boundaries of the county.

Exempts from jurisdictional limitations a charter school that provides instruction “exclusively” in partnership with (1) federal Workforce Investment Act, (2) federal Youth Build programs, (3) federal job corps training or instruction, (4) California Conservation Corps or local conservation corps certified by the CCC, and (5) juvenile court school pupils in a residential facility.

Requires that subsequent addition of sites (once a charter petition has been approved) to be done as a material revision to the charter, subject to approval by the chartering entity.

Generally defers applicability of geographic and site limitations to existing charters until June 30, 2005, or the expiration of any charter in existence January 1, 2003, whichever is later.

Limitation on Authority of Chartering Entities.

After January 1, 2003, prohibits a school district from granting a charter for a school that will serve pupils in a grade level that is not served by the district, unless the petition proposed to also serve “all” of the grade levels served by the district.

New Elements in Charter Petitions.

For charter schools that will serve high school pupils, requires that charter petitions include a description of how parents will be informed about transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements.

Requires that charter petitions to describe procedures to be used if the charter school closes, including a final audit, plans for disposing of assets, and transfer of pupil records.

When submitting an original petition to a county board of education, requires demonstration by petitioners that school will offer services to a pupil population that “cannot be served as well” by a district-approved charter (in addition to other criteria applicable to petitions submitted to districts).

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Allows submission of an original petition to the State Board of Education that “may” operate at multiple sites through the state. Requires the State Board to adopt regulations governing review of such petitions. Forbids the State Board from approving such a petition unless finding that it will provide instructional services of a statewide benefit that “cannot be provided” by a district- or county-approved charter.

Appeal of the Denial of a Charter Petition.

If denied at the district level, requires that petitioners desiring to appeal do so first to the county board of education. If denied by the county board, petitioners may appeal to the State Board of Education. If granted by the county board or State Board, geographic limitations would still apply (as though the petition had been approved by the district).

If an original petition is submitted to a county board of education and denied, prohibits appeal to the State Board of Education.

Other Provisions.

Exempts from existing provisions of law that limit apportionments for pupils over 19 years of age (to those pupils who have been continuously in public school and making satisfactory progress toward a high school diploma) those charter school “programs” that provide instruction “exclusively” in partnership with (1) federal Workforce Investment Act, (2) federal Youth Build programs, (3) federal job corps training or instruction, (4) California Conservation Corps or local conservation corps certified by the CCC, and (5) juvenile court school pupils in a residential facility.

Allows charter schools within charter districts to elect not to be funded under the charter school block grant (which otherwise now applies to all charter schools).

Clarifies the process for providing advance apportionments to schools chartered by the State Board of Education.

Requires new charter schools to commence operations between July 1 and September 30. If not operational by September 30, a charter school is excluded from apportionments for the entire fiscal year.

Ms. Connelly provided some additional information on the specific changes related to advance apportionments for State Board chartered schools.

Mr. Kushner called for public and member comment on AB 1994.

- David Patterson. Mr. Patterson commented on the following provisions: (1) the new requirement that any expansion of sites be done through a material revision of a charter, which triggers time deadlines already specified in law; (2) the exemption from geographic limitations for instruction provided through independent study; (3) the limitation on petition approval by elementary and high

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school districts; (4) the submission of an original petition to a county board or to the State Board. Mr. Patterson suggested as an example of a possible original petition to the State Board one that might be constructed around the Montessori educational philosophy which would operate in at least two counties; he emphasized that this example was merely illustrative and did not reflect any information about an actual petition under development. Mr. Geeting noted that the “material revision” requirement for site expansion underscored the need for thoughtful planning to expand; material revision takes time to accomplish. He also noted that AB 1994 establishes an additional, specific test to be met for approval of a petition submitted directly to the State Board: additional requirement: that the school will provide instructional services of a statewide benefit that “cannot be provided” by a district- or county-approved charter.”

- Mr. Barr commented that the Green Dot Public Schools organization he heads had just opened a high school as a State Board chartered school. He indicated that he would be pleased to share that school’s charter as a model for groups or individuals who are endeavoring to develop a high school charter. It is a charter that would be useful in developing a petition to submit to a district, but not necessarily a countywide or statewide petition.
- Maram Alaiwat. Ms. Alaiwat suggested that the Advisory Commission strongly consider a regulation to limit what charter schools can be obligated to produce as a “reasonable inquiry.” She commented that her school had receive a “reasonable inquiry” demanding production of original teaching credentials in a relatively short period of time. She felt this was unreasonable because it is not typical to have original credential on file, only copies.
- Chuck Gehrke. Mr. Gehrke inquired about an exception to the geographic limitations for resource centers. He also inquired the status of schools that serve some conservation corpsmembers, but are not in an exclusively partnership with a the California Conservation Corps or a local conservation corps.

SB 740 Charter Facility Grant Program. Ms. Cubanski provided a brief update on the SB 740 Charter School Facility Grant Program. She expects that notices will be sent to qualifying schools in the near future. She indicated that she was uncertain whether enactment of SB 2039 would expand the pool of eligible charter schools to such an extent that pro rata reductions in grants would be necessary.

Renewal and Revocation. Mr. Kushner outlined a proposal (envisioned as a legislative proposal) to begin a dialogue on the subject of minimum criteria for renewal (and, under some circumstances, revocation) of charter schools. The heart of the proposal is:

- Charters may only be renewed if in two of the three prior years at least one of the following conditions has been met:
 - Growth target met.

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- API rank of 6, 7, 8, 9, or 10.
- API “similar schools” ranking of 6, 7, 8, 9, or 10.
- Charters with less than 100 ADA are exempted (specialized programs generally).
- Appeals can be filed with the State Board, being vetted through the ACCS.
- Principal guideline for appeals would be “demonstrate outstanding academic achievement despite inadequate API results.”
- Schools with no API would have to go through appeal process to be renewed.
- Provide for early intervention (e.g., review through appeal process) to revoke if minimum achievement is not demonstrated – not on a reasonable trajectory to meet renewal criteria (or already such poor achievement that criteria cannot be met in time remaining).

Mr. Kushner commented that this proposal would be useful in weeding out weak charters and helping foster a public perception that charters promote high achievement.

Ms. Frost suggested that the proposal could be detrimental to charter schools that focus on challenging school populations. We shouldn’t move forward too quickly with this idea.

Mr. Barr indicated that the fact that charter schools (generally) do about the same as charter schools is a problem. They appear to be in just as much need as non-charter schools for state intervention. Just being the same as non-charter schools is not good enough. We have to policy our own and push toward higher student achievement. We need to set the bar high. A proposal like this would be an important step toward halting the erosion in freedom from micromanagement of inputs that charter schools have traditionally had. When charter schools are doing any better than non-charter schools, there’s no argument against them being subject to many of the same rules as non-charter schools; the result is a progressive chipping away” of freedom.

Ms. Sterling commented that this looked like a positive, constructive proposal to pursue. Mr. Kushner echoed that comment. This type of proposal will strengthen the charter movement. There are certainly some details to work out, such as the timing. Should charter schools be allowed to operate three, four, or five years before being subject to these types of criteria? With regard to those schools that don’t generate an API, what alternative criteria would be used when they come up for review? We would need some standards for evaluation to determine when outstanding achievement has been demonstrated despite a disappointing API.

Ms. Hunkapiller indicated that meeting one of three tests did not seem unreasonable, but pointed out her understanding that it is very difficult for a school to raise its “similar schools” ranking. She and other members suggested that a presentation be invited on the

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appropriateness of the API (in general) for the purposes of this proposal, and the “similar schools” ranking (in particular).

Mr. Conry indicated that charter schools need to provide options different from non-charter public schools. If they are the same as non-charter schools, there no need for them. This proposal may not be exactly the tool for the job of evaluation for renewal and revocation purposes, but it is worthy of study. We should also look at other possibilities.

Ms. Reyes indicated that it would be important to look at the data in setting up criteria like these. There is a “plateau effect” that can occur in a charter school, i.e., student achievement moves upward quickly, but then levels out. It’s one thing to start out well, but quite another to sustain growth. We should explore the idea of requiring contract with the local districts regarding growth in achievement instead of establishing statewide criteria.

Mr. Kushner commented that it is important to use multiple tests in this type of endeavor. Mr. Williams indicated that he felt the proposal was headed in the right direction; the spirit is good. Ms. Frost reiterated her thought that sufficient latitude had to be built into the proposal to take account appropriately of schools that address greater challenges.

Mr. Barr commented that it is much easier for a charter school to move academic achievement from bad to good, than it is to move it from good to great. A comfort level sets in, and it becomes difficult to continue to sustain growth. You’ve got to keep pushing, to raise the bar, to do better.

Mr. Kushner indicated that he wanted to learn more about the “similar schools” ranking. When is it fair? When is it not fair? He inquired when alternate assessments might be more accurate and sensitive measures. He challenged CANEC to develop proposals that might, at once, be more diverse than the one proposed, and be equally clear and straightforward from the standpoint of public communication (that charters are generally doing a superior job to non-charter public schools).

Ms. Hunkapiller commented that, even if nothing better could be found in terms of evaluation criteria, just the public airing of information about charter schools that don’t have an API, haven’t met growth targets, or have a disappointing API would be an important improvement in accountability.

Ms. Reyes reported on the partnership effort between CANEC and the Western Association of Schools and Colleges (WASC) in reviewing charter school programs. The effort works from the philosophy of searching for things that are being done well and building on them. We are looking for ways to support more effectively the independent study learning model in charter schools. We are also looking to have a system of local level support for charter organizers.

Mr. Williams indicated that the proposal presented a good “first cut” mechanism for accountability. For those that don’t pass the initial test, we can then consider other measures of achievement. We want to work out of the system the schools that aren’t

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being operated to promote the best interests of students. It isn't acceptable to allow students to achieve at low levels; our kids are not substandard.

Mr. Kushner called for public comment.

- Sonja Cameron. The Standardized Testing and Reporting (STAR) program and, by extension the API that is based upon it, are riddled with error, much being the fault of the state contractor (Harcourt Educational Measurement). It behooves charter schools to check their data carefully.
- Fadi Saba. It's important to have a system of evaluation that is culturally sensitive – more open-ended than the one being proposed. More discussion and consideration are needed. In our school, K-1 instruction is mostly in Spanish – students are not ready for the STAR program in English in the second grade.
- Laurie Gardner. Where does the idea come from that charter schools must be academically superior? The legislative intent covers a variety of topics; academic achievement is not weighted more heavily than the other priorities mentioned. Any system of evaluation should have multiple measures; the focus of accountability should remain local not be shifted to the state. The “similar schools” ranking is suspect; it's heavily dependent on sorting data that may be inaccurate. These types of measures place independent study instruction at a considerable disadvantage. More desirable would be a system that measures the “value added” by attendance at a charter school.

Mr. Williams reiterated his view that charter schools have to be better. Charter schools are being attacked on many fronts. They need to demonstrate more accountability. The proposal draws a meaningful line, then establishes a process to consider exceptions fairly.

Ms. Hunkapiller commented that the ability to track individual students (through the California School Information System) will provide a major boost to the state's accountability system. However, even though we're not to the point of having CSIS, we have to take positive steps forward, to “counsel out” those charter schools with low APIs unless they can demonstrate effectiveness with other objective measures.

- Ms. Gardner suggested that it was important to explore better measures of accountability, such as pre- and post-testing.

Mr. Barr indicated that he would welcome alternative, objective measures of schools' success. We ought to look at those measures, but we know that everything is not fine. We have to get weak charters out of the system.

Mr. Kushner commented that he liked the general idea of a “value added” measure, but such a measure would be difficult to design and implement in a way that produces valid and reliable results. We know that sustained high performance is difficult; the system of evaluation should take that into account. However, student performance is nonetheless clearly part of the original intent of charter schools. We must keep focused on it.

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Ms. Reyes noted that pre- and post-testing is an option under the alternative school accountability model. That model endeavors to emphasize high quality indicators. Mr. Kushner commented that whatever measure are used need to be objective.

- Maram Alaiwat. We need to keep in mind that charter schools are often endeavoring to find a niche of underserved students. By their nature, these students are difficult to test fairly. It's vital for any system of evaluation to have other measures than achievement testing.
- David Patterson. Charter schools are all about accountability. In keeping with the suggestion of Paul Hill (who addressed the State Board of Education on the topic of charter school accountability), charter schools need to be evaluated in relation to the challenges they have undertaken. It's important that the criteria be fair and equitable. Where schools are "close to the line," it's important to apply good professional judgment as to whether "value is being added" to the students attending the schools. It's important to track progress year to year. It's also essential that if a charter school is to be closed (or not renewed) there are good alternatives available for the students being served in that school. The Advisory Commission should consider inviting Mr. Hill to make a similar presentation to that he provided the State Board.

Mr. Kushner expressed concern that lots of alternative accountability measures cobbled together may be perceived as a system with no teeth. This proposal provides three ways to demonstrate success on the API: growth in achievement, an absolute high level of achievement, or a relatively high level of achievement. It allows exceptions to be granted for good cause. It's a good proposal.

- Mr. Patterson acknowledged that the API is a political reality, but we should look at more powerful measures to success.

Ms. Hunkapiller suggested that cohort growth be explored as an additional measure, along with charter schools' relative success in keeping students in school (versus dropping out).

Brainstorming Session. Mr. Kushner asked each member to comment on major issues that the he or she felt should be key areas of focus for the Advisory Commission in the coming months.

- Accountability. All of the members agreed that accountability is a major issue facing charter schools and on which the Advisory Commission should take a lead role.
 - Identifying appropriate measurement tools (indicators).
 - Improving aggregation and analysis of data to address the diverse challenges that charter schools face.
 - Focusing on academic as well as fiscal accountability.

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- Special Education. A number of members listed special education as a major issue area for charter schools. The problems of SELPA participation and financial liability for providing programs and services to special education students are interrelated. We should endeavor to build on models of success in dealing with these difficult problems.
- Facilities. Charter schools face severe facilities challenges in the urban areas. There is much work to do vis-à-vis implementation of Proposition 39 and otherwise ensuring that charter schools have parity with other public schools for facilities.
- Funding. Review the charter schools block grant. Are there other funding sources that could/should be consolidated in the block grant (eliminating separate applications)? What is the percentage of funds going to charter schools per student versus other public schools? Review the timing of the receipt of funds by charter schools. Do current allocations processes discourage growth (too much lag time between delivery of instruction and receipt of funds)?
- Philosophy. Are charter schools fulfilling their mission in terms of school reform? Are they a mechanism to improve student achievement that works in partnership with other public schools?
- Governance/Oversight. Study the role of charter authorizers. What are the appropriate roles for districts, county offices, and the state? Is there a need for training/technical assistance to improve the effectiveness of charter authorizers? Are there fiscal incentives in the current system that affect the behavior of charter authorizers inappropriately?
- Fiscal Liability. Do charter schools face challenges in fiscal liability that are unfair in relation to other public schools?
- State Charters. Given the changes in AB 1994, how should the evaluation of petitions to State Board chartering be modified?

Mr. Kusher invited public comment.

- Jayne Gaskell. Credentialing is a major issue. Also, clear communication with the field.
- David Patterson. In addition to those already mentioned (particularly accountability, special education, liability, and facilities), attendance accounting deserves some attention, as does the “got’cha” factor and the Advisory Commission’s role as a “critical friend” (providing advice to the State Board).
- Mike McDermott. Parent and student rights in charter schools is deserving of attention, e.g., sex education, invasive test questions. There should also be some study of the applicability of federal law to charter schools.

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Adjournment. Mr. Kushner adjourned the meeting at 4:20 p.m.