

SOLANO COUNTY BOARD OF EDUCATION  
5100 Business Center Drive  
Fairfield, California

**MINUTES**

Special Meeting – DMCS Appeal  
July 30, 2009

The Solano County Board of Education met in special session on Thursday, July 30, 2009, at 5100 Business Center Drive in Fairfield, California.

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE TO THE FLAG**

Board President John Galvan called the meeting to order at 6:02 PM. Dr. Verder-Aliga, Trustee Area 7, led those present in the Pledge of Allegiance to the flag.

**II. ROLL CALL**

Members Present

John Galvan, President  
Mayrene Bates  
Doug Ford  
Raymond Silva  
Rozzana Verder-Aliga

Members Absent

Larry Asera, Vice President  
Maria Kennedy

Mr. Galvan noted that a quorum was present as was Solano County Superintendent of Schools Dee Alarcón, serving as Secretary to the Board.

Others Present

County Superintendent of Schools Office –

Rob Phillips

Lettie Allen

Lisette Estrella-Henderson

Jay Speck

Laryn Bishop

Sam Neustadt

Monica Ross

Margaret Merchat, School & College Legal Services

Roger Halberg, Dixon Unified School District

John Gabby, Dixon Unified School District

Shana Levine, Dixon Unified School District

Scott Hill, Dixon Montessori Charter School

Caitlin O'Halloran, Dixon Montessori Charter School

**III. APPROVAL AND ADOPTION OF AGENDA**

Motion was made by Mrs. Bates, seconded by Dr. Verder-Aliga, and unanimously carried by those Board members present to approve and adopt the agenda as presented.

**IV. PUBLIC HEARING**

Mrs. Alarcón thanked the Board members for their attendance at the special meeting. Rob Phillips, Associate Superintendent of Student Programs and Educational Services, stated that the purpose of this special meeting was to conduct a hearing of a charter school appeal. The petition filed for the Dixon Montessori Charter School (DMCS) is the same proposal presented to the Dixon Unified School District on May 7, 2009, and denied on June 25, 2009. By law, the County Board must hear the appeal within 30 days and make its decision within 60 days of the date the petition was filed, in this case July 1, 2009. The Board may take action at this meeting or at a later date within the 60-day timeframe. If the Board approves the petition, it becomes the chartering agency; if the Board denies it, the petitioner can appeal to the State Board of Education.

The hearing was called to order at 6:04 PM.

DMCS petitioner Scott Hill thanked the Board for its attendance at this extraordinary meeting. He explained that there had been a miscommunication with the Dixon Unified School District (DUSD) regarding the charter's length of term. The charter was initially established for a five-year term. DMCS thought the charter term was valid for five instructional years, but the district calculated the term to be for five calendar years, which included the first year of planning followed by four years of instruction. When DMCS realized its charter was expiring in 2009, a swift renewal became necessary. Mr. Hill has reviewed the findings by SCOE's staff and feels a fair evaluation was done of the documents at hand; however, the information submitted by DMCS was limited, and he understands it would be difficult to vote in favor of the charter renewal based solely on these records. The law contains clear criteria for renewing a charter, and DMCS does not currently meet that criteria. He believes, though, that when school performance scores (e.g., Academic Performance Index (API), Adequate Yearly Progress (AYP), etc.) are released by the California Department of Education in September, the story will be compellingly different. He would appreciate the Board taking action at this meeting so, if denied, the appeal can move quickly forward to the state level.

There being no further public input, the hearing was closed at 6:12 PM.

#### **V. ADMINISTRATIVE REVIEW PANEL REPORT AND POSSIBLE ACTION**

Mr. Phillips stated that an Administrative Review Panel evaluated the charter school appeal submitted by DMCS on July 1, 2009, to determine whether the petition adequately addressed all the provisions required by law. The Panel consisted of the following individuals:

- Rob Phillips, Associate Superintendent of Student Programs and Educational Services
- Lettie Allen, Associate Superintendent of Administrative Services and Operations
- Sam Neustadt, Assistant Superintendent of the Special Education Local Plan Area (SELPA)
- Lisette Estrella-Henderson, Assistant Superintendent of Educational Services
- Margaret Merchat, General Counsel, School & College Legal Services of California

Panel members provided an overview of the findings based on a thorough analysis of the DMCS petition submitted. Copies of the written report were previously distributed to the Board members, DUSD, and DMCS for review.

#### Special Education Services

Mr. Neustadt identified three areas of concern pertaining to special education services: (1) Relationship between the appellate body and SELPA – Although the County Board has authority to approve a charter on appeal, the Board is not a member of the Solano SELPA or any other SELPA and, therefore, has no legal mechanism to draw down state and federal special education dollars; (2) Change to Local Plan may be required – Given the current partnership between the County Superintendent and the appellate body, if the Board approved a charter on appeal, it would be necessary for the Council of Superintendents to vote to change the existing service funding model and Local Plan; (3) SCOE currently provides services to students with low-level and severe disabilities but may need to expand its continuum of services to meet the present and anticipated needs of the approximately 23 charter students with different disabilities than what the SELPA now serves.

#### Academic Achievement

Mrs. Estrella-Henderson reported on the analysis of student achievement data readily available from the California Department of Education (CDE). In the past two years, DMCS has seen declines in several areas:

- Statewide decile rank (year 2007 = decile 4, 2008 = decile 2)
- API is an indicator of how much a school is improving (year 2007 = 739, 2008 = 695, a decline of 43 points over 2 years, 51 points lower than the API of DUSD, and 29 points lower than the school with the lowest API in the district)

- AYP is an indicator of how many students are performing at the proficient or above level in math and English/language arts (ELA) (year 2007 = 36.4% vs. 63.8% of DUSD students in each significant subgroup – a gap of 27.4%; 2008 = 33.3% vs. 60.2% of DUSD students in significant subgroups – a 26.9% gap); furthermore, DMCS tests a much smaller number of students than DUSD
- English language (EL) proficiency is fairly commensurate with DUSD; however, the program for EL students as described in the petition is incomplete

#### Financial Operations

Mrs. Allen reported that Education Code Section 47605.6 requires that the petitioner provide certain financial data pertaining to its proposed operation and the potential effects on the school including facilities, administrative services, and potential liability issues. Information vital to performing a thorough financial analysis was not provided by DMCS including a 2009-10 budget; 2009-10 cash-flow projection; 3-year fiscal projection; expenditure and revenue assumptions; facilities information; identification of administrative, human resources, or fiscal services to be secured and the vendor providing such services; or the cost of securing a special education service provider. Without these items, the Panel could not assess financial position causing concern as to how DMCS funds would be managed.

#### Legal Review

Ms. Merchat addressed several legal matters that surfaced during the Panel's review of the petition. Although the petitioner suggested that information favorable to DMCS is scheduled to be released in September, it is not currently available and could not be included in the Panel's evaluation. If, however, both parties agree to an extension, the data can be reviewed and considered after CDE makes it public.

The purpose of holding a public hearing is to gauge support by the community, teachers, and parents. A charter renewal is different than the initial approval of a petition because a charter that is already in existence must meet one of four criteria found in Education Code §47607. By its own admission, DMCS has not met the criteria. Among the legal concerns are:

- Signatures of support are required, but none were included with the petition submitted to DUSD or the Panel.
- The petition fails to identify a location for its school or details regarding site requirements for classrooms, play areas, and so forth. It is also unclear how DMCS determines capacity.
- The absence of critical financial information made it impossible to assess whether DMCS can support its plan.
- DMCS admission standards require parents to present certain special education documents and contribute 40 hours of volunteerism annually, but the school cannot make these requirements because admission should be open to all children.
- The ability of the DMCS board to delegate its governance is too broad, making it difficult for the chartering agency to monitor the charter if it does not know whom to contact or hold responsible for certain tasks.
- The interrelationship between the governance structure, the charter, and the bylaws indicates that the DMCS board can change its bylaws independent from the chartering agency.

Mr. Phillips explained that the Panel's report previously distributed to the Board included a recommendation based on the information initially submitted by DMCS. A few hours prior to tonight's meeting, however, DMCS submitted an additional 48 pages of information including a 15-page response to DUSD's denial findings and 33 pages of e-mail correspondence between DUSD and DMCS. The Panel did not have the opportunity to review this new information, and it was not known whether it contained facts that would revise the recommendation.

Mr. Galvan said that the Board would not know whether the newly submitted documents would make a difference in its decision until they had been reviewed. He stated that it is the Board's duty

to perform due diligence and make the most informed decisions possible by looking at all pertinent information. Although Mr. Hill had requested that the Board take action during this meeting, Mr. Galvan recommended that the Panel and Board evaluate the newly submitted information and meet at a future date within the 60-day legal timeframe.

Ms. Merchat added that the 60-day period begins with the original filing of the petition and would conclude at the end of August unless the petitioner agreed to an extension. It might also be argued that the Board did not receive a complete petition as is required by Board Policy 9000.21, therefore the 60 days would begin now.

Since DMCS cannot open the 2009-10 school year without a charter approval by either this Board or the State Board of Education, there was further discussion about concern for the best interests of the affected students, DMCS staff, and district.

Roger Halberg, Superintendent of DUSD, assured the Board that the district is prepared to absorb the displaced DMCS students. Space is available in the applicable district classrooms, and no additional staff or equipment is needed.

Mr. Ford encouraged the Board to make an immediate decision to deny the charter based on the information DMCS previously provided. He did not believe the additional information would be sufficient to make the petition compliant, and, with school about to begin, a denial now would give DMCS time to appeal to the State Board of Education.

Mr. Hill stated that the documents submitted earlier today were not intended to provide additional information that would influence the Board's decision. Instead, they were submitted to ensure inclusion in the packet when it goes to the state level, in the event the Board denied the appeal. Instructions from DMCS's legal counsel were that the documents had to be introduced prior to the hearing in order to become part of the packet going to the state. He regretted the late submission saying that the attorneys had just finished the documents late yesterday, and DUSD had not yet seen the information either. He said he could not agree to an extension of the timeline and did not feel comfortable withdrawing the newly submitted documents. He acknowledged that the information presented today would not change anything or help DMCS meet the legal criteria for charter approval by the Board.

Mr. Galvan said he believes there is a widespread assumption that when a charter appeal goes to the state level, a county board has reviewed all the documentation presented in the denial packet. To make a decision by simply taking someone's word, relying on data that has not yet been released, or without seeing all the information is bad for the Board's credibility.

Motion was made by Dr. Verder-Aliga, seconded by Mrs. Bates, and carried by the following roll call vote to direct the Administrative Review Panel to analyze the additional documents submitted by DMCS today and schedule another meeting within the required 60-day timeframe at which the Panel will make a recommendation for the Board's consideration, and the Board may make its final decision to grant or deny the charter.

- Yea (4): Mrs. Bates, Mr. Silva, Dr. Verder-Aliga, Mr. Galvan
- No (1): Mr. Ford
- Abstain (0): None
- Absent (2): Ms. Kennedy, Mr. Asera.

## **VI. COMMENTS FROM THE COMMUNITY**

There were no comments from the community.

## **VII. ADJOURNMENT**

There being no further business, the meeting was adjourned at 6:59 PM.