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April 11, 1994

Honorable Gary Hart
Senate District 18
Chairman
Senate Committee on Education
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OPPOSITION TO SENATE BILL 1264 (G. HART)

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The SCLC/LA, MALDEF, LAFLA, BLCE and NAACP, LDF are opposed to SB 1264 which would drastically change the Charter Schools Act of 1992. The intent of the legislation was to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

- Improve student learning;
- Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving;
- Encourage the use of different and innovative teaching methods;
- Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- Provide parents and pupils with expanded choices in the types of educational programming that are available within the public school system;
- Hold the school established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method of change from rule-based to performance-based accountability systems.

The original act called for no more than 100 schools in the state to be granted charter status in any school year, we find that this should continue to be the case. We see the Charter Schools Act of 1992 as but one method of school reform among many methods being tried in the State and across the nation. We further see the question of reform/restructuring being driven by the need to find ways of educating all children so that they will have real, viable options in the economy and social life the nation in the 21st century. We have seen, nor heard nothing to the contrary in any of the literature or case studies we have researched. In looking at the work of such educational reformers as James Comer, Joyce Epstein, Milbrey McLaughlin, Wade Nobles, and the like, transformation, or reformation, is driven by the need to:

○ end disparate student achievement - we feel that means by the following categories; race, ethnicity, gender, socio-economic/linguistic group and physical and mental challenges;

○ and to address the disparity of student achievement between what is currently being taught and what needs to be taught in order for all students to have real, viable options to participate in the economic and social life of the nation in the 21st century.

High performance standards and accountability are key to the Charter Schools Act. There has been insufficient time for any evaluation to be done to discover if those schools that now have Charter status have meet those two expectations.

When a school district receives an application for Charter status from schools under its jurisdiction, under the Act, it has an obligation to review and evaluate applications. Once Charter status is granted, the Board that granted status has a further obligation to review, monitor, and evaluate progress of each Charter school to see if self described goals have been met. At this juncture, no monitoring, reviewing or evaluating has been possible. When doing education research the least amount of time needed to give a study integrity is three (3) years, five (5) years is more appropriate to longitudinal educational studies.

We are further concerned that the promised gains in academic achievement and the closing of the achievement gap for poor and minority students has not been subjected to rigorous evaluation. As was outlined earlier, the end of disparate student achievement by race, ethnicity, gender, socio-economic/linguistic grouping, and physical and mental challenge is the most important outcome of the restructure/reform movement for students. At this juncture, we have no way of evaluating which promising practices developed by schools, as a result of charter status, will yield hard, sustainable, quantifiable, replicable outcomes.

There is also the potential of a negative impact that this legislation will have on poor and minority students, the very students that the act seemed intended to benefit most. With an unlimited number of schools being able to become charter schools, many large, urban districts will, in effect, be broken-up without the need to have discussions about the equitable allocation of district assets - real property, material goods and services, as well as human resources.

Furthermore, charter school students will not have the rights provided them under the education code, as charter schools will be exempt.

The resolve of school districts must be tested and found firm on the matter of revoking charters when formative and summative evaluations indicated that goals were not met. There has been no time for districts to develop such processes, practices or protocols.

LEGAL AID FOUNDATION OF LOS ANGELES

Opposition SB 1264
Pg. 3

We want to see a more careful review and evaluation of schools who now have charter status before the passage of new legislation that allows for more schools to receive charter status.

With hope,

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April 11, 1994

Honorable Gary K. Hart
Chairman
Senate Committee on Education
State Capitol, Room 4074
Sacramento, California 95814

RE: SB 1264 (HART) -OPPOSE-

Dear Chairperson Gary K. Hart:

To preserve the viability of the Charter Act and to insure that the clear intent of the act is appropriately implemented, that being school site accountability for student performance, we are recommending that certain changes be made to the Charter Act. As the act is presently written, school districts are not required to remove a charter even where the school fails to meet or pursue the pupil outcomes identified in the charter petition. Without these changes, we will once again abandon public school students to low performance levels and condemn them to less than full opportunities to develop their potential. Although this letter memorandum addresses oversight issues as well as review panel procedures, we do join in opposing the CAP on the number of Charter Schools operating in the state for all the reasons presented in the attached letter. This opposition is also submitted on behalf of Elizabeth Guillen of MALDEF, the Southern Christian Leadership Conference, NAACP-LDF, and Kourt Williams, Chair, Pro Tem of the Black Leadership Coalition on Education.

Having created revolutionary yet untested reform through the charter act, the original intent of the legislature was to review its progress and success before placing large numbers of public school students into charter school programs. As is discussed below, oversight is still lacking so that charter schools who fail to provide significant educational programs will be able to continue to operate. The state should monitor this new act before lifting the CAP on the number of charter schools.

FAILURE OF LEGISLATION TO PROVIDE SUFFICIENT CHARTER SCHOOL OVERSIGHT

High performance standards as well as accountability are the key to the Charter School Act. Although there are many provisions of the Education Code that serve to promote high educational standards for the students of California's public schools, the Charter Act allows schools to be exempt from many of these provisions. But to be exempt from the education code provisions,

a school must show that it is educating students. For far too many years, local and state agencies have permitted the delivery of education without accountability for performance outcomes. The Charter Act sought to change that direction. In so doing, the legislation has correctly charged the local school district with the responsibility for the oversight of the performance outcomes of a charter school.

However, Education Code (hereinafter E.C.) section 47607, the oversight provision, will permit school boards to ignore material failures of a charter school to meet the standards of the charter act for up to five years. EC 47607 only provides that a school district "may" revoke a charter for material violations of the charter petition, "may" revoke for failing to meet or pursue pupil outcomes of the charter petition, "may" revoke for failing to meet generally accepted accounting standards or if it violates any provision of law. Note, the operative word is "may" under the act. Given the abysmal record of accountability that school districts have shown to date and knowing how subject they are to any form of community pressure to preserve even failing charter schools, and, even more importantly, to protect the viability of the standards of the charter act, we are recommending the following amendment to E.C. 47607.

The amendment requires a school district to review charters on a yearly basis to determine if the charter has violated any of significant provisions of the charter act, and where it has, and has done so for two years, the district will be required to hold a hearing to determine if the charter should be revoked.

RECOMMENDED AMENDMENT TO EC 47607

ADDED MATERIALS ARE UNDERLINED AND IN BOLD

Section 47607. Charter term; renewal; material revision of charter; revocation

- (a) A charter may be granted pursuant to Sections 47605 and 47606 for a period not to exceed five years. A charter granted by a school district governing board or county board of education may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period not to exceed five years. A material revision of the provision of a charter petition may be made only with the approval of the authority that granted the charter.
- (b) A charter may be revoked by the authority that granted under this chapter if the authority finds that the charter school did any of the following:
 - (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter

petition.

- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.
 - (3) Failed to meet generally accepted accounting standards of fiscal management.
 - (4) Violated any provision of law.
- (c) A school district shall conduct yearly reviews of a charter to determine whether its performance comes within the provisions of subdivision (b) of this section.
- (d) If a charter in any two year period and not necessarily consecutive years, breaches any of the provisions of subdivision (b), the school district shall hold a hearing and require the charter to show cause why its status should not be revoked.

FAILURE OF LEGISLATION TO PROVIDE THAT REVIEW PANELS PREPARE FINDINGS OF FACT

Preparation of findings of fact are common practice in reviews by administrative agencies. They preserve the integrity of the process, inform a local school board and the community of the reasons for the reversal of their decisions, and insures that the review panel has applied the appropriate standard for reversal. However, even though the Charter act establishes appeal procedures for review of decisions of a local school district, the legislation does not provide that a review panel prepare findings of fact in support of a decision to reverse a local district board decision. We are recommending that necessary changes be made to EC sections 47605 j(2) and (3) as well as EC 47608 (b) (2) and (3) so that findings of fact become part of the administrative reviews.

RECOMMENDED AMENDMENT TO EC 47608

SECTION E.C. 47608

- (a) A charter school whose charter is revoked or not renewed may appeal that decision pursuant to this section.
- (b) (1) If the governing board of the school district or the county board of education, as the case may be, revokes or decides not to renew a charter, the county superintendent of schools, at the request of the petitioner or petitioners, shall select and convene a review panel to review that action. The review panel shall consist of three governing board members from the school districts in the county and three teachers from the other school districts in the county and

three teachers from other school districts in the county unless only one school district is located in the county, in which case the panel members shall be selected from school districts in adjoining counties.

(2) If the review panel determines that the board failed to appropriately consider renewing the charter, or acted in an arbitrary manner in revoking the charter, the review panel shall request the board to reconsider its decision. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie. In requesting the board to reconsider its decision, the review panel shall prepare findings of fact addressing the board's "failure to appropriately consider" renewing the charter, or that the board "acted in an arbitrary manner" in revoking the charter.

(3) If, upon reconsideration, the board again revokes or decides not to renew a charter, the county board of education, in the case of a charter granted by a school district governing board, at the request of the petitioner or petitioners, shall hold a public hearing in the manner described in subdivision (b) of Section 47605 and, accordingly, may reverse the decision to revoke a charter or may renew a charter, as the case may be. In the case of a charter granted by a county board of education, this hearing and decision shall be conducted by the State Board of Education. In so doing, the county board of education or the State Board of Education shall prepare findings of fact in support of its decision that the board "failed to appropriately consider" revoking or renewing a charter or that the board "acted in an arbitrary manner" in revoking or not renewing the charter.

RECOMMENDED AMENDMENT TO EC 47605(j)(2) and (3)

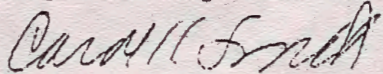
47605(j)(2)

(2) If the review panel determines that the governing board failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request, the review panel shall request the governing board to reconsider the charter request. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie. In requesting the board to reconsider its decision, the review panel shall prepare findings of fact addressing the board's "failure to appropriately consider" renewing the charter, or that the board "acted in an arbitrary manner" in denying the charter.

(3) If, upon reconsideration, the governing board denies a charter, the county board of education, at the request of the petitioner, shall hold a public hearing in the manner

described in subdivision (b) and, accordingly, may grant a charter. A charter school for which a charter is granted by a county board of education pursuant to this paragraph shall qualify fully as a charter school for all funding and other purposes of this part. In so doing, the county board of education or the State Board of Education shall prepare findings of fact in support of its decision that the board "failed to appropriately consider" revoking or renewing a charter or that the board "acted in an arbitrary manner" in denying the charter.

Respectfully submitted,



CAROL K SMITH

Addendum: The undersigned organizations support the amendments and amended language submitted herein by Carol K. Smith, Attorney Specialist, LAFLA.

The Southern Christian Leadership Conference
The Mexican American Legal Defense and Education Fund
The NAACP Legal Defense Fund
The Black Leadership Coalition on Education