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EDUCATION

To: Bill and Rich
From: Cheryl
Date: February 3, 1993
Re: S.B. 183

In reviewing the bill on Charter Schools, I would offer the following comments/suggestions/questions:

1. The legal status of a charter school is unclear. It needs to be a "body corporate" or similar entity that has the legal authority to enter into the contractual arrangements envisioned by the bill. Further, is the charter school to be a political subdivision or instrumentality of the state? If the school remains part of a school district, it is clearly covered by the Governmental Immunity Act to the extent a school district is covered. However, what will be the status of the schools approved by the State Board? This should be spelled out.

no

2. Section 22-30.5-109 et seq. dealing with the role of the State Board presents some thorny questions. In stating that the board may "review decisions" of local boards, does this mean that the state board may, upon its own motion, review even an approval action by a local district? If so, what happens if the state board disagrees with the local board? The purpose of a general review power over and above the power to hear an appeal of a denial is not clear.

yes

It appears to be the intent that the board hold a de novo review on the merits of the charter school application when a denial of an application is appealed. This is not clearly stated. Saying that the review is "without reference to the decision of the local board" is not clear and somewhat misleading. Further, how complicated is the appeal to be? Is the review to be held under the provisions of the Colorado Administrative Procedures Act or is a less complicated review that affords minimal due process sufficient? If some indication is not made as to what is intended, the very first review request will find us wrestling with the process issue. Finally, it would be helpful to include a timeline within which the appeal shall be brought.

can we say
about it
in it?

Once the state board acts to deny an application, is the decision subject to judicial review under the APA? May a school district appeal a decision to grant an application? In a revocation or nonrenewal hearing is

only if it granted the charter.

the school district a party? This would seem to be necessary if what is at issue are the terms of a contract between the district and the charter school. If the state board allows the charter school to continue, would it then become the contracting party? *only if it did so in the first place*

SE E was not to be renewed there

I would suggest the timelines for the board's decision be calculated from the conclusion of the public hearing

Section 22-30.5-111 (3) talks about revocation or nonrenewal hearings. I suggest that they not be held automatically but only upon request.

to 8/1/00

3. The use of the phrase "community the charter school seeks to serve" in various places throughout the bill is troublesome. It must be clear that "community" cannot refer to a selective group of students. For example, 12 year old non-disabled white females could conceivably be a "community" a school wishes to serve. This interpretation of the term "community" would fly in the face of other sections of the bill but, without clarification that "community" implies a geographic concept, I think there could be some creative interpretations of "community" to try and get around the equity and non-discrimination statements. Additionally, section 22-30.5-106(1)(e) requires "plans, if any," for programs serving disabled children and the ADA and 504 prohibit their exclusion. The term "if any" should be deleted. *Bill did not ask it to be. Unclue burden on CS? They can't possibly anticipate the range of needs.*

4. In section 22-30.5-104 (3) the term "any other organization" doesn't mesh with (1)(c) and should exclude nonpublic sectarian schools and religious institutions. *In also of new contracting request?*

5. In section 22-30.5-107(2) it talks about a hearing after receipt of a notice but by whom? Also, the time for the decision should be measured from the conclusion of the public hearing.

Lynne and I discussed this bill briefly this morning and I share her concerns on the timing issues.