

MONTEREY COUNTY BOARD OF EDUCATION
SPECIAL MEETING
FEBRUARY 27, 2019
APPROVED MINUTES

1. Opening Business

1.1 Call to Order: President Janet Wohlgemuth called the Special Meeting of the Monterey County Board of Education to order at 9:03 AM in the Dr. Ray Charlson Board Chambers of the Monterey County Office of Education.

1.2 Roll Call

BOARD MEMBERS PRESENT:

Janet Wohlgemuth, President	Trustee Area #4
Ronald Panziera, Vice President	Trustee Area #5
Harvey Kuffner	Trustee Area #1
John McPherson	Trustee Area #2
Judy Pennycook	Trustee Area #3
Mary Claypool	Trustee Area #6
Lupe Sánchez	Trustee Area #7
Dr. Deneen Guss, Secretary to the Board	

STAFF TO SUPERINTENDENT:

Michelle Archuleta
Garry Bousum
Ginny Brown
Leigh Butler
Colleen Stanley
Carla Stewart
Dr. Ernesto Vela

GUESTS:

Malissa Burns
Amy McAfee

1.3 Pledge of Allegiance: Colleen Stanley led the Pledge of Allegiance.

1.4 Adoption of Agenda

MSC 18-19-XX (7-0) Harvey Kuffner, Judy Pennycook

“That the Monterey County Board of Education adopts the agenda as presented.”

2. Communications

2.1 Correspondence: None

3. Staff Presentation of Notice of Violation of Millennium Charter High School

Dr. Deneen Guss introduced Michelle Archuleta, Director of Compliance. Ms. Archuleta reviewed the history of the Millennium Charter High School’s (MCHS) approval and extension of Memorandum of Understanding.

Ms. Archuleta reviewed the legal authority of the charter authorizer:

Pursuant to section 47607, subdivision (d), the authorizing entity of a school’s charter is required to notify the charter school in writing of any violation and to give the charter

school a reasonable opportunity to remedy the violation prior to revocation. Pursuant to section 47607, subdivision (c), the authorizing entity may revoke the charter of a charter school if it finds, through a showing of substantial evidence, that the charter school:

- (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter;*
- (2) Failed to meet or pursue any of the pupil outcomes identified in the charter;*
- (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement; and/or*
- (4) Violated any provision of law.*

The chartering authority is to consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter. (Ed. Code, § 47607, subd. (c)(2).)

Ms. Archuleta reviewed the potential grounds for revocation of the charter school.

Fiscal Mismanagement by Continuing to Operate at a Deficit

Sufficient cuts were not made due to the decline of average daily attendance (ADA) in the 2017-2018 school year.

In June of 2018, MCOE issued a "Letter of Concern" to MCHS, notifying the school of MCOE's concerns regarding fiscal solvency. At that time, the school's ADA had declined significantly for the 2017-2018 school year, and it was estimated that MCHS would be operating with a negative reserve balance for the remainder of the 2017-2018 school year, and into the 2018-2019 school year. MCOE staff noted that for 2018-2019, the budget projections were worrisome for the future of MCHS.

The failure to make sufficient cuts has resulted in a negative cash position.

Due to the failure to adequately address the lost ADA, MCHS remains in a negative cash position. On January 31, 2019, in transitioning from MCOE to a back office provider for business services to MCHS, it was calculated that <-\$198,377.40> was the cash position owed by the charter school to the County Treasury.

Fiscal mismanagement and violation of the charter due to failure to properly account for attendance.

MCHS has failed to accurately report its student attendance and may have forfeited revenue that is crucial to school operations. In July 2018, the Fiscal Crisis and Management Assistance Team (FCMAT) noted that MCHS had exhibited a concerning "lack of interaction" with the California Longitudinal Pupil Achievement Data System (CALPADS) and had recently missed the certification deadline. MCOE staff assisted MCHS in meeting the CALPADS requirements. Subsequently, in October 2018, MCOE staff learned that MCHS had neglected to verify its attendance reports from August through Mid-October. As a result, MCHS asked its teachers to validate the accuracy of these attendance records several months after the reports were created. MCOE expressed concern that the teachers' personal recollections would be insufficient to corroborate these records several months after-the-fact. MCHS has failed to establish and maintain an adequate attendance reporting system, which may have resulted in

underreporting (or inaccurately reporting) its attendance and thereby forfeiting significant state funding, as such funding is disbursed per unit of ADA.

Material violation of the standards set forth in the charter by failing to maintain an appropriate budget reserve.

MCHS's failure to maintain an appropriate budget reserve constitutes a material violation of charter.

Teacher / Principal Credentials in Violation of the Law and the Charter

Teachers without appropriate credentials.

MCHS has teachers without appropriate credentials including two core subject teachers (Physics and Math) who do not have appropriate credentials to teach those core classes.

Principal without an administrative credential.

MCHS Principal, Malissa Burns, is not credentialed in accordance with the Charter agreement.

Violation of the Law by Failing to Comply with the Special Education Requirements set out in the Individuals with Disabilities Education Improvement Act (IDEIA) and the California Education Code and Accompanying Regulations

MCHS failed to comply with the legal timelines for IEP team meetings and assessments.

The Education Code requires an IEP team to review a student's IEP "not less frequently than annually" and requires each student to be reassessed "at least once every three years." However, as of the Monterey County SELPA's review, MCHS had failed to comply with these requirements, as it had neglected to hold an annual meeting for one student, or a triennial meeting for another, within the required timelines.

MCHS failed to issue proper notices for IEP team meetings.

MCHS is required by law to notify parents of an upcoming IEP team meeting "early enough to ensure an opportunity to attend." This notice must list the members of the IEP team who will be in attendance. The SELPA noted, however, that many of MCHS's notices revealed "inconsistent proof of parent signature[s]," including some notices that were signed on the day of the meeting—ostensibly providing no advance notice at all. Additionally, SELPA uncovered many occasions where team members who were not designated in the notice attended meetings, or members who were not enumerated in the notice were excused from meetings.

MCHS failed to properly designate goals for all areas of need in student IEPs.

According to the Code of Federal Regulations, all IEPs must include statement of measurable annual goals designed to meet the child's needs that result from the child's disability. Thus, IEPs must designate goals for each and every area of need. However, the SELPA's review uncovered six instances where MCHS had failed to sufficiently enumerate goals addressing all areas of disability.

MCHS failed to assemble legally-compliant IEP teams.

Federal law requires not less than one special education teacher, not less than one regular education teacher, and a representative of the public agency to be present at each IEP team meeting. The SELPA described one confirmed instance where a special education teacher was not invited to an IEP team meeting, and indicated several other potential violations where the presence of a general education teacher or school representative was unclear.

MCHS failed to provide students with the service minutes designated in their IEP.

MCHS is obligated to provide all special education students with a FAPE. Essential to the provision of FAPE is the implementation of special education services, tailored to a student's unique individual needs, which "enable a child to be involved in and make progress in the general education curriculum." The SELPA concluded that MCHS has failed to provide these services such that MCHS students may be entitled to compensatory minutes.

Ms. Archuleta stated that when these concerns were brought to the attention of MCHS in MCOE's Letter of Concern on June 11, 2018, MCHS responded with a plan to confirm the school's compliance with all Special Education services.

She stated un January of 2019, she requested documentation from MCHS to verify adherence to the school's commitments in its response letter. The documentation that was submitted by MCHS was presented in a format that did not allow for a compliance review. She brought this to the attention of the Principal of MCHS, who subsequently submitted the documentation in a different format, however, due to redacted student information, MCOE staff was unable to conduct a comprehensive compliance review.

On February 6, 2019, Ms. Archuleta and a Special Education Administrator from MCOE met with the Charter School's Special Education Coordinator and a Program Specialist from the Sonoma Charter SELPA (where MCHS was now a member) to discuss the special education documentation. During the meeting, she requested a copy of each student's current IEP, with the related service provider logs, including the service minutes. This information was initially requested with a due date of February 27, 2019, however, due to a special County Board meeting, the due date was changed to February 19th. As of February 21st, the requested documents have not been received.

In summary, Millennium Charter High School has demonstrated a pervasive disregard for federal and state law governing the administration of special education and related services. As such, the Charter School ostensibly lacks the expertise necessary to sufficiently serve its special education students. With the issuance of the notice of violations, MCHS must remedy all of the noted violations to the satisfaction of MCOE no later than March 20, 2019. Remedies should include, but are not limited to:

- Finalize and execute a loan repayment plan with the County Board for funds owed to the county treasury.
- Provide a revised anticipated financial plan explaining how Millennium proposes to eliminate its deficit while continuing to provide a quality educational program despite any potential expenditure reductions, including an operational plan for reducing expenditures and reflecting appropriate staffing, expenditures supporting Millennium's annual goals and student outcomes, and other necessary and appropriate expenditures.

- Provide a fiscal plan for how MCHS plans to immediately remedy its current deficit funding and ongoing operations.
- Provide written confirmation and documentation that every special education student is being provided each and every support and or service designated in their IEPs.
- Provide a detailed and comprehensive plan, broken down by student (including a schedule), showing how the Charter School will make up the owed minutes to each special education student; diligently follow legal timelines for IEP team meetings and assessments; issue proper notices; and form legally-complaint IEP teams.
- Adopt policies and procedures to ensure proper attendance accounting.
- Provide MCOE an audit report of the 2017-2018 fiscal year.
- Provide MCOE an MCHS Board approved First Interim Report for 2018-2019.
- Adopt policies and procedures to ensure that properly credentialed teachers will be assigned to classrooms.
- Provide written confirmation and documentation that every class at MCHS is being instructed by a properly credentialed teacher.
- Staff the Principal position with an individual with an administrative credential, in compliance with the charter.

If the Charter School fails to remedy the issues and provide the requested information on or before March 20, 2019, the MCOE Board will notify MCHS of its intent to revoke the Charter. This Notice does not limit the MCOE Board's ability to issue a subsequent Notice of Violations should additional issues be identified beyond those specified herein.

The Board moved to Item 5.

4. Monterey County Board of Education Comments:

Judy Pennycook thanked MCOE staff for their extremely comprehensive review and analysis of the MCHS operation. She stated that she was alarmed at each one of the items on the Notice of Violation for reasons such as the Charter School having an administrator without an administrative credential, and that the MCHS Board hired someone to do that job that was not legally qualified. She noted that there had been finger pointing and blaming instead of solutions. She stated that the Special Education students' success is resting in the hands of the teachers and the Charter School, and that we are working to make sure those children are being served appropriately. She recounted that the County Board had been under criticism from the Charter School, but that the County Board has the responsibility of the best outcome possible. She noted that fiscally, the violations are related to the lack of financial accounting at MCHS. Judy explained that there can only be dispute resolution where there are quantifiable goals. All other Monterey County schools have had accountability for their operations. The accounting mistakes were found by MCOE and corrected by MCOE. But, MCHS continues to blame. She stated that parents have no idea of MCHS's financial management, that the MCHS does not understand where the true problem lies, and that it is not enough to have good intentions. The Charter School needs to be equipped with people that know how to run this charter operation.

Harvey Kuffner stated that the MCHS is responsible for all of its operations and that it is fallacious to say the charter school is in such financial struggles because the County didn't do its job. He explained that all corporations are responsible for their own operations and that it is tiring to have every person come forward and blame MCOE for every problem of the charter. He expressed that it is important that MCHS look at their own internal operations to see where the problems are.

Mary Claypool voiced her disappointment that more MCHS Board Members and parents were not in attendance at the meeting and that it would have been informative for them to hear the discussion regarding the violations. She noted that the County Board had bent over backwards and gone far beyond what they should have. She expressed that the Charter School Board needs to take all of these violations seriously and that they have a duty to take leadership. She realized that this may not be popular, and MCHS Board may not want to do it, but they cannot continue to ignore the problem, and they need to accept reality and take appropriate action.

John McPherson stated his personal non-encouraging experience with the Charter School. He noted that these issues had been discussed for nine months, that the County Board has a legal responsibility as the charter authorizer, and reported that he supports moving forward with the Notice of Violation.

Janet Wohlgemuth noted that going forward with the dispute resolution process is at the discretion of the County Board. She expressed her support for the County Board and MCOE staff. MCOE staff members provide months and years of work and training that goes into making sure students are receiving the best education possible. She said that it is extremely clear what is expected with an IEP for a Special Education student, and expressed that she is bothered by the fact that MCHS failed to provide services that these students need.

The Board moved to Item 6.

5. Public Comment: Amy McAfee, MCHS Board Secretary, read a prepared statement, which was also emailed to the MCOE Board:

MCHS has been trying to work with MCOE since last year when issues arose. Based on ADA, the school made cuts. Once MCOE accounting errors were discovered, we've made efforts and continue to make efforts to work out issues with MCOE. To this end, we requested that MCOE enter into a Dispute Resolution process with us to come to a resolution, and they have declined to do so. The fact is we had our budget cut over \$235,000 based on the incorrect accounting by MCOE of two grants. MCOE states our current debt as a little less than \$200,000. So if not for these errors we first learned about in late October, we would be in a positive cash flow. This is not a case of the MCHS spending wildly or irresponsibly. We simply need time to decide our best course. We recognize the county will not take any responsibility for these errors, so it makes it difficult since we relied on the county to provide us back office services. We are continuing to strategize about going forward and hope to meet with MCOE in the next few weeks. We ask this Board continue this item until next month's meeting to see where both sides are. We hope to come to an agreement with MCOE by that time. If not, this Board can make a decision next month on this Notice.

The Board returned to Item 4.

6. Provide Direction to Monterey County Office of Education Staff Regarding Issuance of Notice of Violation (Education Code Section 47607)

MSC 18-19-53 (7-0) Ron Panziera, Mary Claypool

“That the Monterey County Board of Education directs staff to proceed with the issuance of the Millennium Charter High School Notice of Violation(s).”

7. The meeting was adjourned at 10:02 AM.

Approved: April 10, 2019

Janet Wohlgemuth, President

Deneen Guss, Ed. D.,
Secretary to the Board