

**Arizona State Board for Charter Schools
Policy, Rule and Contracts Subcommittee
August 24, 2010
1700 W. Washington Street
Phoenix, Arizona 85007
Room B-56**

MINUTES

Present-

Norm Butler – President
Dana Krals – Committee Chair
Peter Bezanson– Charter School Operator
Janna Day – Public Member

Members Absent

Jake Logan – Business Member

Meeting began at 2:24 p.m.

Agenda Item A: Roll Call

Executive Director DeAnna Rowe confirmed a quorum.

Agenda Item B: Call to Public

Subcommittee chairperson Ms. Krals welcomed everyone and stated that the call to the public will occur at the time of the agenda item so that comments are relevant.

Agenda Item C: Discussion, review and possible consideration of a revised language for charter contracts.

Ms. Rowe introduced the item and stated that the Board does not enter into contracts that include any customized language and that periodically the Board revises language in the contract that becomes standard language for all contracts moving forward. Ms. Rowe stated that in February the subcommittee met to review and discuss changes in the contract language used for new charter contracts. At the March Board meeting, the full Board adopted the changes in the contract to be effective with any future contracts. Since then, the Board has entered into eleven contracts using the approved language. Toward the end of May, staff received an inquiry regarding the changes in the contract language in section 3(A) which is being interpreted as making individuals serving on charter boards personally liable if the school does something wrong. Ms. Rowe stated that the intent of this section is for accountability for officers, directors, members and boards of corporations that have a contract with this Board. Ms. Rowe stated that, while she is open to suggested language for this section, she did feel the charter holder should be accountable for action taken by the school it operates. Besides concerns with 3(A), a letter to staff expressed a concern with 13(C).

Ms. Rowe said the purpose in including 3(A) was to emphasize that the Board believes board members need to be aware of what is going on and provided examples of board members taking action without the appropriate background or documentation to support their action. Ms. Rowe offered some proposed replacement language for the contract: The Charter Holder and its officers, members, partners or board, have a duty of care for complying with and carrying out the provisions of this Charter, including compliance with all applicable laws, regulations, and reporting requirements. Ms. Rowe defined duty of care as meaning a requirement that a person act toward others and the public with watchfulness, attention, caution and prudence that a reasonable person in the circumstances would. Ms. Rowe discussed paragraph 13(C) stating that the paragraph now includes developing and meeting outcome measures rather than only developing the measures as the previous language stated. Ms. Rowe said that staff believes it is appropriate to include an expectation that the school meet outcome measures.

Ms. Krals asked for those that had completed Call to the Public forms and wished to address the subcommittee on Item C to do so at this time. Terry Warren, attorney, stated that he had multiple questions and concerns with the contract. Heidi Mitchell, charter school operator, addressed the subcommittee and said she likes the “duty of care” language. Cuyler Reid, charter board member, told the subcommittee that it is a good feeling that concerns are being listened to. She said that, as a board member, she does not want to be held responsible if she makes a mistake. Howard Bell, charter school operator, thanked the Board and said that, while there has been a lot of discussion about intent, intent is not a legally binding term. Mr. Bell said that the agenda item does not restrict discussion to a section of the contract versus the entire contract. Ronda Owens, charter school operator, stated that the suggested wording is much better. She suggested that maybe every board member is signing the contract so they really understand their duties. Roger Hall, attorney, said the new language reduces from strict liability to a reasonable person standard. He commented that 13(C) seems unreasonable to have a school meet some standards. Mr. Hall recommended using the language in 13(D) instead, which is meet or demonstrate sufficient progress. Patti Shaw, charter school operator, thanked the subcommittee for considering revisions to the contract and asked

if there could be some change in the language that would allow some leeway for alternative schools. Cuyler Reid suggested language such as "to implement and show progress toward."

Janna Day asked how section 13(C) works with 13(D). She said it would be helpful to clarify all parts of section C. If we require a plan, we should just say it. Ms. Day asked how the charter operator would know what the outcome measures are? Ms. Day said that C may not give the Board authority. Ms. Rowe said that maybe make D be C or revise C to be D and additional outcome measures if needed. Ms. Krals said that she thinks there is a need for clarification on 13(C) and (D). President Butler said that he wouldn't change the language in (D). The subcommittee's previous work was intended to set the level of adequate performance. Ms. Day asked what beyond demonstrating sufficient progress do we want?

Heidi Mitchell said that one problem with setting the bar is considering the implications of demographics. Ms. Day responded that the Board is not altering the levels of scrutiny; from the charter perspective, the Board needs to clarify for understanding.

Ms. Rowe stated that she would be happy to work with Kim Anderson, the Board's attorney, to come up with something that gives the Board what they want and need. She said "the Board" in the contract needs to read ASBCS. President Butler said that staff should take into consideration the comments at this meeting regarding 3(A), 13(C) and (D), and make a reasonable effort to revise and present to this committee for review. Ms. Day asked if there aren't insurance products available to corporate boards to purchase insurance to alleviate their concerns.

Ms. Krals asked if there are other areas of concern with the contract. Ms. Rowe said that some question about whether it is appropriate to have members of the board have a fingerprint clearance card. Roger Hall expressed his objection to this requirement. Ms. Rowe suggested that the Arizona Charter Schools Association collect comments regarding the contract. Ms. Rowe suggested sending the comments to Andrew Collins and that this would probably be on the Board's October agenda.

Agenda Item D: Discussion, review and possible consideration of revisions to the Board's Policies.

Vicki Morris, Academic Program Specialist, reviewed proposed revisions to the Compliance Check Policy including adding the Board's level of adequate academic performance to the review for compliance for certain amendment or notification requests. Norm Butler moved to adopt the Compliance Check policy as amended and forward to the full Board for consideration. Peter Bezanson seconded the motion. The motion passed. Norm Butler suggested providing staff with the flexibility of making spelling corrections and minor changes as needed. Ms. Morris reviewed the Accountability Matrix with the members and said there are two changes including that statute reference was irrelevant in this policy for #1 and was removed. Norm Butler moved to adopt the revisions as presented and move to the full Board for consideration. Peter Bezanson seconded. The motion passed. Ms. Rowe reviewed the Notification of Continuous Non-Compliance and highlighted two changes including a change in the title and reference to charter operator. Norm Butler moved to change the language in the policy to say charter holder and adopt the Non-Compliance Check policy; Peter Bezanson seconded the motion. The motion passed. Ms. Morris reviewed the Site Visits and Reviews Policy with the subcommittee and said there is now an emphasis on performance. There were formatting changes to the entire policy and a change in first year site visits to include performance management plans which are a requirement in the new charter application. For second year site visits, a determination was added based upon academic performance, of whether or not a school would receive a site visit. Norm Butler moved to adopt the revisions as presented and move to the full Board for consideration. Peter Bezanson seconded. The motion passed. Ms. Rowe presented the revisions to the Equalization Payments policy and stated some schools sign, open and don't submit documentation before opening. The revisions will hold payments until documentation is complete. Ms. Rowe said this policy needs additional alignment and it was determined to hold the policy until complete. Ms. Morris reviewed revisions to the Technical Review Panel Policy, including incorporating the definition of TRP into the policy. Norm Butler moved to approve the TRP Policy as presented and move to the full Board for consideration. Peter Bezanson seconded. The motion passed. Ms. Rowe presented the Good Cause Extension Policy revisions, including incorporating language to limit the extension to one time only. Norm Butler moved to approve the policy as presented and move to the full Board for consideration. Janna Day seconded the motion. The motion passed. Ms. Rowe reviewed the revisions for the Temporary Suspension of a Charter Policy to change to exclusively for entire school year and added "at least 60 days" prior to requested suspension. Norm Butler moved to adopt the policy with revisions as presented and move to the full Board for consideration. Peter Bezanson seconded the motion. The motion passed.

Agenda Item E: Discussion, review and possible consideration of revisions to the eligibility criteria for Replication Application.

Martha Morgan presented information on revisions to eligibility requirements for replication. The proposed change to the current application was the addition of a note to application instructions stating that the Board reserves the right to review additional student performance data before making a final determination regarding eligibility. Dr. Bezanson posed several scenarios to apply to this revision and these were discussed. Dr. Bezanson also requested, when making these revisions, that the Replication Application Attachment C be revised to increase the grades served chart to include an additional year. Norm Butler moved to approve changes to eligibility requirements and to add Year 4 on the Replication Application Attachment C. Peter Bezanson seconded the motion. The motion passed.

Agenda Item F: Approval of Minutes

The subcommittee voted to approve the minutes for July 30, 2009, and February 23, 2010.

Dr. Mark Francis from the Arizona Department of Education spoke as a public member in support of the Board's effort to provide options to improve student achievement.

Agenda Item G: Adjournment

Meeting ended at approximately 4:48 p.m.

Deanna Rowe 12/15/10
Signature Date