

State of California

Department of Education

INFORMATION MEMORANDUM

DATE: July 27, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Dr. William Ellerbee, Deputy Superintendent
School and District Operations

SUBJECT: Proposed SBE Waiver Policy for Independent Study through
Nonclassroom-based On-line Distance Learning in Charter Schools

At its March 2004 meeting, the State Board of Education (SBE) considered four waiver requests from two California Virtual Academy (CAVA) charter school sites. The proposed waivers requested the following for each of the two schools: (1) a waiver of Title 5, California *Code of Regulations* (CCR) Section 11963.4(b)(3) to allow the schools to receive full funding under SB 740 funding determinations with less than 50 percent of the expenditures required for certificated staff costs; and, (2) a waiver of *Education Code* Section 51745.6 and Title 5, CCR sections 11704 and 11963.3(b)(2) related to independent study ADA-to-teacher ratios for the schools to allow a ratio that is 50 percent higher than the ratio required in these sections. California Department of Education (CDE) staff recommended denial of the first waiver request for both schools and approval with conditions of the second waiver for both schools.

The SBE took no action on the four waivers, but instead voted unanimously to direct staff to request that the Advisory Commission on Charter Schools (ACCS): (1) review and make recommendations to the SBE on the four waivers; and, (2) make recommendations regarding a proposed waiver policy for on-line or distance learning charter schools. This memo discusses the proposed waiver policy, which is attached.

There are many charter schools that offer nonclassroom-based instruction to students. Usually, these schools provide written instructional materials to students, and student work is supervised on a regular basis by an appropriately credentialed teacher. Increasingly, schools are offering nonclassroom-based instruction on-line, which raises questions related to the appropriate teacher-to-student ratios and the appropriate expenditure levels for certificated staff in a learning environment where curriculum and instruction is delivered through a computer. All on-line programs are currently subject to the same statutes and regulations as all other nonclassroom-based charter school programs.

Since the waiver requests from CAVA are the first waiver requests related to on-line distance learning and the number of schools proposing to use distance learning is expected to increase in the future, it is appropriate for the SBE to first consider a waiver policy that can be applied consistently to on-line schools' requests to deviate from statutory and regulatory requirements.

Title 5 of the California *Code of Regulations* Section 11963.4(b) establishes various minimum percentages of charter school expenditures for certificated employees and for instructional costs as the basis for the ACCS to recommend to the SBE determinations of funding for nonclassroom-based charter schools at the 70 percent, 85 percent, 100 percent, or zero percent levels in 2003-04 and thereafter. The regulation specifically allows for adjustment of the recommendation if there is a “reasonable basis” to do so.

A combination of statutory and regulatory provisions requires that the ratio of pupils to teachers in independent study in a charter school be no greater than the ratio of pupils to teachers in the educational programs operated by the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates. This proposed waiver policy (attached to this memo) acknowledges that under certain conditions, on-line distance learning in charter schools may present a reasonable foundation for a waiver of the certificated expenditure and/or the pupil-to-teacher ratio requirement.

Attachment 1: Draft Waiver Policy (5 pages)