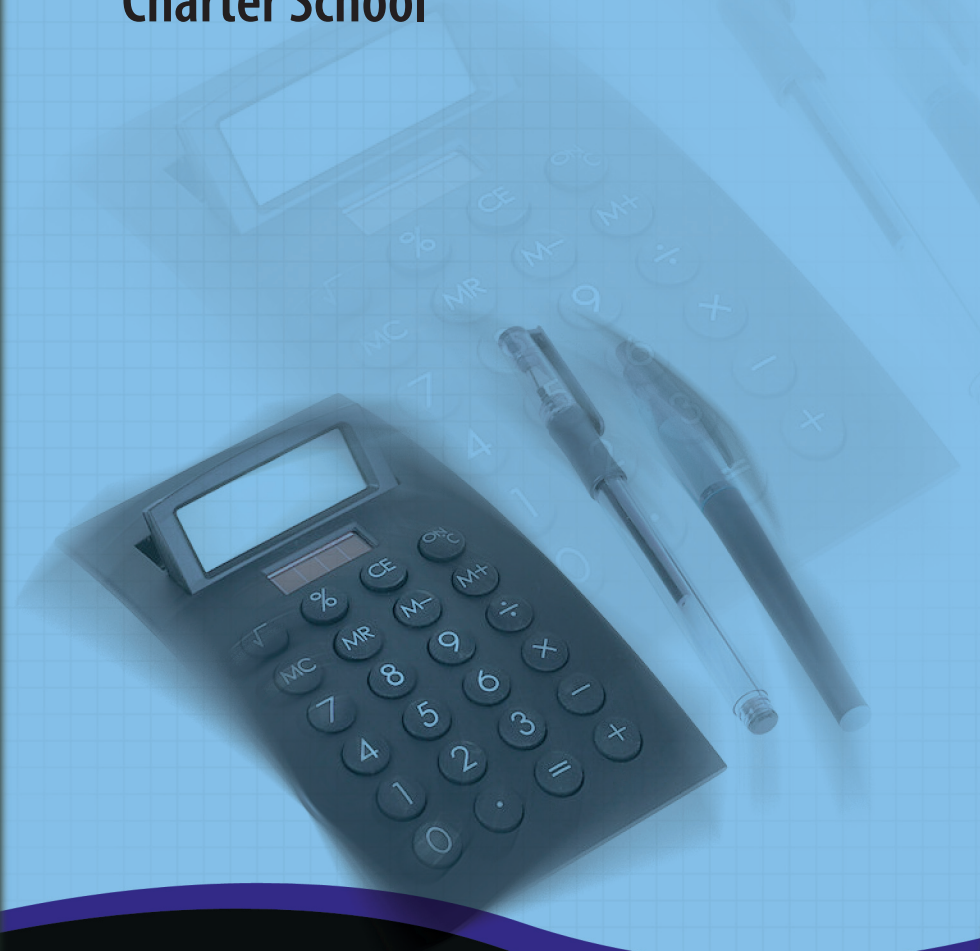


# Extraordinary Audit

*of the*  
**Center for Excellence in Education  
Charter School**



**Commissioned by the San Bernardino  
Superintendent of Schools Office**

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Office of Kern County  
Superintendent of Schools

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*January 9, 2007*

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## Introduction

California Education Code Section 47601, also known as the Charter Schools Act of 1992, was enacted by the California Legislature “to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure.” Charter schools are a part of the public school system but differ from traditional public schools in that charter schools are exempt from many state laws relating to specific educational programs. A charter school is usually created or organized by a group of teachers, parents, and community leaders or a community-based organization, and is usually authorized by an existing local public school board or county board of education.

The Charter Petition of the Center for Excellence in Education charter school (CEE) in Big Bear was authorized by the Bear Valley Unified School District Board of Trustees in May 2002. During the 2003-04 school year, the district became concerned about the financial condition and educational programs of the CEE charter school. The district notified CEE of the deficiencies and suspected failure to comply with charter provisions. CEE was allowed a certain period of time to cure the deficiencies but was unable to satisfy a number of the concerns of the district. As the authorizing agency, the Bear Valley USD Board of Trustees revoked the CEE charter on September 1, 2004, at which time CEE discontinued operations.

At the time the charter was revoked, working relationships and communication between the charter and the district were strained. As a result of concerns by the Bear Valley USD as to any potential liability relating to the operations of the CEE charter, the San Bernardino County Superintendent of Schools asked the Fiscal Crisis and Management Assistance Team (FCMAT) to conduct an AB 139 Extraordinary Audit of the CEE charter school to determine if any inappropriate activities or wrongdoing had occurred.

The study agreement between the San Bernardino County Superintendent of Schools and the Fiscal Crisis and Management Assistance Team included the following scope and objectives:

1. Determine if the Center for Excellence in Education has made any inappropriate or improper expenditures for the personal benefit of any officer, director, or fiduciary of the charter school.
2. Determine the current financial position of the Center for Excellence in Education by reviewing financial records, including all revenues, expenditures, bank statements, assets, liabilities, and other records since inception of the charter in 2002.
3. Determine if there has been any financial mismanagement which has overobligated the charter’s resources and made it fiscally insolvent.
4. Determine if the charter has properly withheld, reported and transmitted pay-

ment for employee taxes and provided for staff members' coverage of STRS, PERS, and FICA.

5. Determine if the charter has employed properly credentialed teachers.
6. Determine if all average daily attendance claimed has been for classroom-based instruction at sites within the confines of Education Code Section 47605(a)(1).
7. Determine if ADA claimed for independent study met the conditions established by law for apportionable attendance.
8. Determine if the authorizing district (Bear Valley USD) has improperly withheld charter funds as it discharged its fiscal oversight duties under Education Code 47604.32 (d) (Distribution process of assets of revoked charter).

The study agreement is attached to this report as Appendix A.

### **Study Team**

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## Background

On May 1, 2002, John Dunn and a group of teachers and parents submitted a charter petition to create the Center for Excellence in Education charter school (CEE) in Big Bear that was approved by the Bear Valley Unified School District Board of Trustees. The school was organized to offer an independent study educational option for students in kindergarten through 12th grades. On June 13, 2002, John Dunn incorporated the Charter School of Big Bear Valley under California Corporation No. C2428437 as a nonprofit benefit corporation known as the Center for Excellence in Education. CEE was granted California Charter No. 482.

The California Department of Education (CDE) is ultimately responsible for interpreting and implementing the legislation regulating the operations of charter schools. A designated CDE unit is devoted to implementing legislation and providing assistance to charter schools and the authorizing school districts and county offices. Education Code 47604.32 states that an authorizing agency has specific mandatory oversight responsibilities over the operations of a charter school. The responsibilities of both the charter and the authorizing agency are generally defined in a memorandum of understanding between the two parties.

According to the CDE, Education Code 47604 provides language stating that a charter authorizing entity could not be held liable for the debts or obligations of the charter school, or for any claims arising from the performance of acts, errors, or omissions by the charter school, if the charter school was to be operated by, or as, a nonprofit public corporation. The CDE states that “AB 1137 places a caveat on the blanket exemption, specifically, a charter authorizing entity is free from liability in the case of a charter school that is operated by, or as, a nonprofit public benefit corporation if the charter authorizer has complied with specific oversight responsibilities required by law (reference Education Code Sections 47604.32 and 47605).”

As part of the district’s oversight responsibility, certain documentation had been requested from CEE to comply with the charter provisions. The district experienced difficulty obtaining information about several large loan agreements that CEE had entered into that would negatively affect the financial position of the charter. Vendors were calling the district seeking payment for unpaid invoices sent to CEE. The CEE charter began operations in the fall of 2003 at just one location in Big Bear. In 2003-04, it expanded into three other locations in Pasadena, Highland, and Palmdale-Lancaster, with ADA growth exceeding ten times the ADA reported in 2002-03. Bear Valley USD was concerned about the rapid growth along with what appeared to be declining cash to cover ongoing expenses.

On July 21, 2004, the district’s Board of Trustees approved resolution 4-5-001 giving notice to CEE charter school of deficiencies and suspected failure to comply with charter provisions. CEE was given the opportunity to cure the deficiencies on or before August 31, 2004. CEE failed to cure most of the deficiencies by the deadline, which led to the

district's revocation of the charter effective September 1, 2004. The CEE charter school ceased operations in September 2004 upon the revocation of its charter by the Bear Valley USD.

No memorandum of understanding (MOU) was in place when the CEE charter began operations. An MOU was signed during the revocation process after notice of deficiencies was provided to CEE by the Bear Valley USD in July 2004. One of the deficiencies was that no MOU was in place during the period of time the CEE operated educational programs.

## Executive Summary

The CEE charter school, authorized in May 2002 by the Bear Valley Unified School District in San Bernardino County, operated an independent study educational program. Instruction began midyear 2002-03 in Big Bear, California and ADA was first recorded in December 2002. CEE reported 12.13 ADA in 2002-03. In 2003-04, CEE expanded its operations by opening satellite independent study sites in Pasadena, Palmdale-Lancaster, and Highland. CEE reported 122.42 ADA in 2003-04, more than ten times the ADA of the prior year.

Bear Valley USD revoked the CEE charter on September 1, 2004, after the charter school failed to cure numerous deficiencies brought forth by the district. FCMAT, which was contracted by the San Bernardino County Superintendent of Schools to conduct an AB 139 Extraordinary Audit after the CEE charter was revoked, found the CEE financial records to be incomplete and unauditable due to insufficient and/or inaccurate supporting documentation.

A closeout audit was required upon closure of the CEE charter school. Because CEE had not selected an independent auditor to perform the 2003-04 annual audit, the district retained Michael W. Ammermon, CPA to perform the closeout procedures, which included determining the accurate financial statement account balances for all assets, liabilities, revenues, expenditures, and available reserves. Mr. Ammermon issued a closeout audit report dated April 21, 2006 that is included in this report.

FCMAT and Mr. Ammermon worked independently of each other. While FCMAT focused on state compliance issues related to independent study operations, Mr. Ammermon concentrated on the financial closeout audit. FCMAT subsequently met with Mr. Ammermon and exchanged information to complete the AB 139 Extraordinary Audit report and finalize the account balances for the closeout audit report.

The CEE experienced cash flow problems early on. This condition was brought about mainly because the charter administration mismanaged cash and did not adhere to a budget. CEE Director John Dunn had complete control over all spending decisions, borrowing, and use of CEE funds.

Correspondence between the CEE charter and Bear Valley USD indicates that both parties agreed to a reimbursement funding model whereby the charter would expend funds first, then submit invoices to the district seeking reimbursement from the charter funds held in the district's Fund 9 accounting records. All CEE payment requests were treated as district disbursements by the San Bernardino County Superintendent of Schools (SBCSS) Claims Division. If the payment requests were not authorized by the SBCSS or lacked the necessary supporting documentation during random audit selection, payments could have been delayed for several days.

CEE claims that cash flow was restricted due to the district delaying reimbursements to the charter. However, the Ammermon closeout audit (audit pages 20 and 21) identifies 16 findings with numerous examples where CEE failed to submit reimbursement invoices in a timely manner, thus exacerbating CEE's cash flow problems. The Ammermon audit also states in several places that CEE's accounting practices were irregular in nature, demonstrate poor internal control, and were not in compliance with Generally Accepted Accounting Principles.

Some of the issues identified in the audit are the result of a lack of traditional internal controls over the custody and use of funds. Internal accounting controls were not in place to ensure the accuracy and reliability of the financial records. Transactions were not recorded properly, budget monitoring practices were inadequate, and spending decisions were not carefully evaluated before commitments became long-term obligations of the charter.

The staff members who were hired and assigned as teachers or to perform the business functions of the charter were often close personal friends, fellow members of the church where John Dunn was pastor, or close family members of Mr. Dunn. The employees were not properly supervised and lacked appropriate experience and/or training to maintain the integrity of the charter's financial records. Whether purposeful or not, the hiring practices and apparent duplicity in accounting practices indicate that the charter was grossly mismanaged.

There was concern on the part of the district during the revocation process that public funding may have been used to benefit the church where Mr. Dunn was pastor. The district's legal counsel expressed concern that CEE maintained an inappropriately close relationship with several religious organizations. FCMAT noted two examples of student homework with religious content, and one person affiliated with the Pasadena program reported to FCMAT that the parents of students enrolled in that program were originally seeking to open a religious private school when they became involved with the CEE Charter School.

FCMAT conducted a 100% audit of student attendance. Approximately 59% of the ADA claimed by CEE has been disallowed by FCMAT for noncompliance. FCMAT found considerable noncompliance with state Education Code requirements for claiming general purpose entitlement funding for independent study ADA. The CEE administration did not properly construct the school calendar, did not maintain sufficient student records, and did not provide adequate supporting documentation to verify the accuracy of the ADA reported to the district or State of California. The types of noncompliance matters noted during the audit included such findings as:

- Invalid or expired teacher credentials
- Missing student files
- Missing attendance documentation

- Missing master agreements
- Master agreements lacking required signatures of student, parent and/or teacher
- Master agreement dates missing, incorrect, or not matching dates ADA was claimed
- Master agreements predated
- Master agreements lacking specific courses of study
- Instances in which a student changed teachers but the new teacher did not sign the existing master agreement
- Files lacking samples of student work

In addition to Education Code noncompliance, the CEE charter school did not follow good business practices or adhere to Generally Accepted Accounting Principles. Among the findings identified in the Ammermon closeout audit and by FCMAT are the following exceptions:

- Internal controls were inadequate.
- Accounting transactions were misclassified, recorded incorrectly, or not recorded at all.
- Financial statements included irregularities.
- IRS taxes were not paid.
- Employees were not paid.
- Invoicing to the district for reimbursement was incorrect and/or untimely.
- Excessive borrowing was used for ongoing operations.
- Cash was mismanaged.
- Accounts receivables were factored at very high rates as a means to get cash when invoices to the district were not submitted in a timely manner.
- Christmas bonuses and certain salary advances were paid to employees at the same time funds were borrowed for cash flow purposes.

The FCMAT study team reviewed numerous documents provided by CEE, the district, the San Bernardino County Superintendent of Schools, and the district's legal counsel. The administrators of CEE lacked experience in operating a charter school, even though the financial records indicate that CEE sought assistance from charter school consultants.

FCMAT determined that the Bear Valley USD properly discharged its fiscal oversight duties under Education Code 47604.32 appropriately and diligently with regard to the CEE charter school.

In October 2006, FCMAT and the San Bernardino County Superintendent of Schools conducted two meetings to present the CEE preliminary draft report to the school district and charter school prior to publication. The district's review team read the report in the presence of FCMAT and two county office administrators, and provided a written response to the draft within three days. The district's response is included as Appendix E of this report. Minor editorial changes were made to the report to correct technical errors and clarify certain findings.

The charter school representatives also met with FCMAT and the same two county office administrators, but did not read the draft report at that time. Without reading the draft report, the charter school director stated that he had interest in only two issues: the payment of outstanding IRS taxes and any reduction in ADA related to a teacher who did not possess a valid teaching credential. The director stated that the noncredentialed teacher was only a substitute after 12-31-03; however, he did not provide the name(s) of a credentialed teacher(s) of record at the meeting or subsequently.

## Formation and Funding of Charter Schools

California Education Code Section 47601, also known as the Charter Schools Act of 1992, was enacted "... to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure." According to this Act, the legislative intent of this law was to:

- Improve pupil learning.
- Increase learning opportunities for all pupils, especially those identified as academically low achieving.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers.
- Provide parents and pupils with expanded choices in the types of educational opportunities that are available.
- Hold the schools accountable for meeting measurable pupil outcomes, and change from rule-based to performance-based accountability systems.
- Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

Charter schools are a part of the public school system, and may provide instruction in grades kindergarten through 12. Charter schools differ from traditional public schools in that charter schools are exempt from many state laws relating to specific education programs. Because of these exemptions, charter schools have greater fiscal and programmatic flexibility than traditional public schools. A charter school is usually created or organized by a group of teachers, parents, and community leaders or a community-based organization, and is usually authorized by an existing local public school board or county board of education. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the authorizing board and charter organizers, and usually a memorandum of understanding is created to define operational expectations.

Under California law, it is the local school district's governing board that serves as the primary chartering authority in most cases. County school boards and the State Board of Education (SBE) may also authorize charters under certain circumstances. Under California state law, both charter and traditional public schools use the same funding formulas. School districts and charter schools calculate each school's average daily attendance (ADA), which is based on student enrollment and actual attendance, and report it to the California Department of Education (CDE) three times a year. Once the ADA is reported, the State Superintendent of Public Instruction apportions state school funds to charter schools. Programs involving independent study or nonclassroom instruction undergo an additional assessment to determine whether the charter school is funding instructional and



certificated staff at minimally accepted levels. Charter schools that do not meet the acceptable levels of staffing receive reduced funding.

## **Independent Study Programs**

A charter school must comply with the California Education Code and California Code of Regulations Title 5 requirements in order to operate an independent study program and qualify for state apportionment. To claim funding for students in independent study, a charter must meet the requirements specific to independent study as outlined in Education Codes 51745-51748. These regulations are included in their entirety in Appendix B of this report.

In brief, the requirements for a charter school independent study program include:

- Adopted board policies and regulations
- Credentialed teacher
- Written, signed, completed master agreement
- Voluntary participation with an alternative classroom option
- Appropriate provisions for services and resources
- Compliance with state testing and graduation requirements
- Proper maintenance of records and documentation

Education Code 51747 requires the CEE policies to contain at least this information:

- a) The maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work.
- b) The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interest of the pupil to remain in independent study, or whether he or she should return to the regular school classroom program. A written record of the findings of any evaluation made pursuant to this subdivision shall be treated as a mandatory interim pupil record. The record shall be maintained for a period of three years from the date of the evaluation and, if the pupil transfers to another California public school, the record shall be forwarded to that school.
- c) A requirement that a current written agreement for each independent study pupil shall be maintained on file including the information noted below.

Education Code 51747 requires the written agreement or contract to contain these specific elements:

1. The manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress.
2. The objectives and methods of study for the pupil's work, and the methods utilized to evaluate that work.
3. The specific resources, including materials and personnel, that will be made available to the pupil.
4. A statement of the policies regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of missed assignments allowed prior to an evaluation of whether or not the pupil should be allowed to continue in independent study.
5. The duration of the independent study agreement, including the beginning and ending dates for the pupil's participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one semester, or one-half year for a school on a year-round calendar.
6. A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.
7. The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917 (expulsion), the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.
8. Each written agreement shall be signed, prior to the commencement of independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil.

Appendix B provides a more complete overview of the California laws applicable to charter schools and independent study programs.

### State Funding for CEE Charter School

Like all California public schools, the CEE charter school received funding apportioned from the CDE based on the program's average daily attendance (ADA). Schools claim ADA based on the cumulative attendance of students during specific reporting periods. For example, one student who attends school each day for one school calendar year or the entire reporting period is eligible for 1.0 ADA. In the case of the CEE charter, one ADA could be claimed for one student receiving attendance credit for 175 days. The amount of ADA claimed generates revenue commonly referred to as general purpose entitlement or state apportionment. The higher the ADA, the more funds the school program receives from the state. In addition, charters receive a small amount of categorical block grant funding that is also generally based on the reported ADA.

Three times a year, school districts and charter schools calculate ADA and report it to the CDE on forms commonly known as the P-1, P-2 and Annual reports. Charter schools report ADA to the state through their authorizing agencies. After the CEE charter reported its ADA to the Bear Valley USD and the CDE, the State Superintendent of Public Instruction apportioned state school funds to the San Bernardino County Superintendent of Schools, which then credited the funds into the Bear Valley USD Fund 9 accounting records designated for the CEE charter school.

The general purpose entitlement funding rates for charter schools vary by school year and grade level. Students in higher grade levels receive more funding than students in lower grades. The charter funding rates in 2002-03 and 2003-04 were as follows:

	General Purpose Entitlement Rates				Categorical Block Grant Rates			
	K-3	4-6	7-8	9-12	K-3	4-6	7-8	9-12
2002-03	\$4,512	\$4,578	\$4,705	\$5,463	\$198	\$204	\$149	\$189
2003-04	\$4,540	\$4,606	\$4,733	\$5,506	\$172	\$177	\$129	\$164

In 2002-03, the CEE operated a small independent study program at one location in Big Bear. In 2003-04, the charter significantly expanded its program to include the Big Bear, Pasadena, Palmdale-Lancaster, and Highland sites. Charter schools may operate independent study programs but must comply with all California compliance regulations to qualify for state apportionment funding.

To verify the accuracy and compliance of the CEE attendance reports, FCMAT audited the ADA that was reported to the district and subsequently submitted to the CDE. The results of the compliance audit are discussed later in this report.

## **Pasadena Location**

The Pasadena program began in September 2003 after John Dunn made contact with the director of the George Mueller Academy (GMA), Renee Williams. The academy is affiliated with the William Carey International University in Pasadena, which has an evangelical focus as one of its core values.

Ms. Williams and others wanted to open a private Christian school and had a list of prospective families interested in such a program. Mr. Dunn and Ms. Williams agreed to open a CEE satellite program instead of a private Christian school, with all parties, including the students and parents, fully aware that the concept of a charter school meant that no religious training could be included in the curriculum.

Mr. Dunn hired Dawn Manwell as the teacher. Mr. Dunn agreed to pay the academy for facility use, curriculum, and other expenses. Ms. Manwell was to be paid directly by CEE as a teacher. The students were provided by Ms. Williams and others affiliated with the academy.

CEE paid Dawn Manwell's salary but never paid the expenses billed by the academy. The GMA provided CEE with itemized monthly invoices that were never recorded as liabilities in CEE's accounting records. Mr. Dunn submitted CEE Invoice No. 1145 dated June 26, 2004, several months after the Pasadena program had been discontinued, seeking reimbursement from the district for expenses supposedly paid to the academy. This obligation is identified in the Ammermon closeout audit as an outstanding liability of the CEE charter school.

After just five months, Ms. Williams and the parents of the Pasadena students discontinued their relationship with CEE. Ms. Williams claims that she maintained accurate student records, including attendance records, that were submitted on a regular basis to the CEE office in Big Bear. On several occasions, Mr. Dunn or his staff called the academy saying they never received the records. Ms. Williams claims that she submitted the proper documents on three different occasions.

Another teacher, Ms. Dorothy McCandliss, began a second independent study program at the Pasadena site that lasted only one month. This program appears to have been basically a conversion from a home schooling environment for Ms. McCandliss' own children.

## **Palmdale-Lancaster Location**

Edward Kennepohl had contacted one or more oversight agencies in an attempt to set up his own charter school in the Palmdale-Lancaster area. After he was unsuccessful in that attempt, a vendor that conducted business with John Dunn, Pathway Publishers, Inc., recommended Mr. Dunn as someone who could help Mr. Kennepohl in his efforts. Mr. Ken-

nepohl subsequently contacted Mr. Dunn about starting a Palmdale-Lancaster area charter school, known as the Valley View Learning Center, which operated from September 2, 2003 through January 30, 2004. Mr. Dunn signed a contract with Mr. Kennepohl, who procured facilities and began accepting students for the program. However, within five months Mr. Kennepohl closed down the school due to a lack of funding from Mr. Dunn and/or the CEE organization. All documents pertaining to the site, including attendance records, were personally delivered to the CEE Big Bear office by Mr. Kennepohl when he discontinued the program.

### **Highland Charter Location**

According to the student attendance records, the Highland location, known as the Education Center in Highland, was operated by David Fogal as a teacher for one month, then subsequently most students were transferred to Julie Harris or Ed Messler. Teacher/student meetings were held at the Highland Church of the Nazarene. In addition to rent, CEE agreed to pay the church facility fees to upgrade electrical service and make other facility improvements. Mr. Ammermon's financial closeout audit addressed all financial transactions of CEE. FCMAT was unable to specifically verify the exact amount of money that was paid to the Highland Church of the Nazarene.

## Possible Religious Affiliations

There was concern on the part of the Bear Valley USD during the revocation process that public funding may have been used to benefit the church where Mr. Dunn was pastor. Stating Article 16, Section 5 of the California Constitution, the district's legal counsel, Steven R. Chidester, expressed concern that CEE maintained an inappropriately close relationship with Mr. Dunn's church as well as several other religious organizations. Mr. Chidester reported to FCMAT that such matters were shared with the district by former employees of CEE and others with knowledge of CEE operations.

FCMAT determined that teacher/student independent study meetings were held at several church locations, including Big Bear, Highland, and Pasadena. It is not uncommon for charter schools to hold instructional classes in church facilities. Certain documents reflected that facility rent paid by CEE was significantly increased during the time the school was in operation; however, FCMAT could not verify the amount of building space used by the charter because operations had ceased at all locations before the AB 139 Extraordinary Audit began. The expenses related to the Pasadena location were never paid by CEE, but lease fees were paid to Mr. Dunn's church as the lessee of the Village Center where the CEE operated in Big Bear.

The FCMAT study did not include any analysis of the CEE curriculum or state compliance of that curriculum. However, FCMAT noted two examples of student homework with religious content, and one person affiliated with the Pasadena program reported to FCMAT that the parents and students enrolled in that program were originally seeking to open a religious private school when they became involved with Mr. Dunn and the CEE Charter School. In addition, the curriculum provider indicated that their materials included sectarian components if parents were interested in that option in addition to the instructional programs offered to students by CEE teachers during the normal course of study.





## Charter Revocation and Closeout Procedures

On July 21, 2004, the Bear Valley USD Board of Trustees notified CEE of several deficiencies that were to be cured on or before August 31, 2004. CEE failed to provide sufficient evidence that the deficiencies were resolved, which led to the district's revocation of the charter effective September 1, 2004. The revocation prevented CEE from operating educational programs or receiving state funding, thus CEE could no longer continue as a going concern. Education Code 47604.32 indicates that the district's specific charter oversight responsibility includes the ability to request that the charter obtain a financial closeout audit that would become a financial obligation of the charter school.

CEE had not contracted for an independent audit for 2003-04 fiscal year. Since the school had ceased operations after the district revoked the charter, a closeout audit was important and necessary. FCMAT needed information from the closeout audit to complete the AB 139 Extraordinary Audit procedures because the financial records that were made available to the FCMAT study team by the CEE administration were incomplete and not auditable due to insufficient and/or inaccurate supporting documentation.

Because CEE had not selected an auditor to perform the closeout audit, the district retained Michael W. Ammermon, CPA to perform the closeout procedures. This included determining the accurate account balances for all assets, liabilities, revenues and expenditures, and available reserves. Mr. Ammermon worked directly with the CEE administration to obtain the necessary documentation to perform the audit and conducted independent research into the CEE's accounting records to develop and authenticate the correct account balances as of September 2004. Mr. Ammermon issued the closeout audit report dated April 21, 2006 that is included immediately following this section of the report.

Mr. Ammermon had no affiliation with FCMAT before or during the closeout audit field work.

Subsequently, a FCMAT representative met with Mr. Ammermon and spoke with him by phone on several occasions about CEE's financial status. Information was exchanged as needed by FCMAT to complete the AB 139 Extraordinary Audit procedures and by Mr. Ammermon to complete the closeout audit report.

Mr. Ammermon issued an adverse audit opinion for the period of July 1, 2003 through September 1, 2004. FCMAT fully concurs with the findings and recommendations of the Ammermon audit report.

Mr. Ammermon found that the CEE did not adhere to Generally Accepted Accounting Principles (GAAP). CEE's financial statements contained numerous misrepresentations and irregularities as a result of transactions that were either not recorded or recorded incor-

rectly by the CEE staff. These include loan proceeds recorded as revenue rather than as liabilities, several unrecorded outstanding unpaid invoices, poor internal controls, transactions not recorded in a timely manner, and widespread mismanagement, negligence and carelessness. Entities that are closing are required to account for assets and liabilities on a liquidating basis, which CEE failed to do. Most if not all supporting documents had been shredded, including bank statements and cancelled checks. Only QuickBooks files were turned over to FCMAT and Mr. Ammermon. However, 22 boxes of student records were ultimately recovered and turned over to Mr. Ammermon and ultimately to the custody of the Bear Valley USD.

Examples of inappropriate business practices by the CEE include:

- Employees were not paid
- Employees received unauthorized bonuses and stipends
- State and federal taxes were not paid
- The State Teachers Retirement System was not paid
- Vendors were not paid
- Bookkeeping and accounting procedures were inconsistently applied
- Transactions were misclassified, not recorded or accounted for improperly
- Excessive loans were solicited and receivables were factored to provide operating cash
- Invoices submitted to the district for reimbursement were incorrect, lacked proper supporting documentation, or were submitted untimely
- Reimbursement for health insurance costs were submitted to the district but no health plan was in place
- Equipment purchased with charter funds is not accounted for
- Budgets were not followed
- Reimbursed funds from the district were diverted for other purposes

At the time the CEE ceased operations, a cash balance was being held in trust in Fund 9 of the district's financial accounts at the San Bernardino County Treasury. The balance held by the district was approximately \$244,169 at the time FCMAT began this study.

Due to the length of time between the dates that CEE ceased operations and the performance of Mr. Ammermon's close-out audit, the payment of certain obligations such as the IRS employee taxes and audit fees, and the issuance of this FCMAT report, the cash balance in the Bear Valley USD accounting records for the Charter School Fund 9 held at

the San Bernardino County Treasury has changed. As of 10-27-06, the cash balance was \$166,079.43. The following page revises the calculation on page 23 of the Ammermon audit indicating the revised amount of cash available to settle outstanding liabilities.

FCMAT met separately with district and CEE administrators November 1-3, 2004 to gather information about the charter operations as related to the AB 139 Extraordinary Audit.

CEE Director John Dunn told FCMAT in November 2004 that the cash held in trust by the district would be more than sufficient to cover any outstanding liabilities. FCMAT received a myriad of documents and computerized accounting records from CEE at that time but discovered that the financial information and supporting documentation was either incomplete or unavailable. Documentation to support the average daily attendance (ADA) reported by CEE and funded by the State of California as general purpose entitlement funds was not provided.

The Ammermon audit indicates that the actual outstanding liabilities of the CEE amount to \$512,827, including an accounts payable of \$363,134 to the State of California for general purpose entitlement funds relating to disallowed ADA. FCMAT determined this liability as a result of the ADA compliance testing that is discussed later in this report. The closeout audit indicates that the CEE had negative assets of (\$325,636) as of September 1, 2004 and lacks the funds to fully pay all outstanding liabilities that are identified in the notes to the audit report.

As the CEE Director, John Dunn had complete control over the custody, accounting, and use of CEE funds. Certain practices by Mr. Dunn such as determining the amounts and timing of salary and benefit payments, non-payment of employee taxes to the IRS and State Teachers Retirement, and the issuance of employee Christmas bonuses at a time when the charter was experiencing cash shortages and borrowing funds to pay other obligations showed lack of proper internal control, poor judgment and negligent business practices. Other decisions such as equipment purchases, lease payments to Mr. Dunn's church for CEE's use of the Big Bear Village Center facility, contracts for goods and services, loan agreements, non-payment of employee taxes to the IRS, and other cash disbursements more than likely caused the CEE charter school to become fiscally insolvent.

The following page represents the CEE detail of cash held by the San Bernardino County Treasurer in Fund 9 of the Bear Valley USD as of October 27, 2006.

CEE Charter School  
 Cash in County Treasury  
 San Bernardino County Treasury  
 As of October 27, 2006

06 Bear Valley Unified SD    **Cash in County Treasury**    GLD300    10/27/06    Page 1  
 CEE    07/01/2006 TO 10/27/2006

FUND: 09 Charter Schools

Date	Reference Description	Debit	Credit	Total
*Balance Forward 07/01/2006				
				165,752.66
07/31/2006	TF-070150 6/06 INT CSH 1.600% ACR 2.752%	1,663.45	0.00	167,416.11
08/17/2006	TF-070326 COR REF070169 S/C07142 A000762	2.00	0.00	167,418.11
09/11/2006	AR-060134	0.00	0.00	167,418.11
10/27/2006	TF-071007 M.AMMERMON	0.00	2,925.00	164,493.11
10/27/2006	TF-071229 7/06 INT CSH 0.972% ACR 3.575%	1,586.32	0.00	166,079.43
Total Activity		3,251.77	2,925.00	
***Ending Balance 10/27/2006				166,079.43

**Center For Excellence in Education Charter School**  
**(A California Non-Profit Public Benefit Corporation)**  
**Schedule of Available Resources by Liquidity and Known Obligations**  
**September 1, 2004**

Revised November 13, 2006

**Cash Currently Available:**

Cash on hand, Union Bank of California	\$ 3,874
Cash on hand, San Bernardino County Treasury	166,079
Total cash currently available	<b>\$ 169,953</b>

**Other Potential Sources of Cash:**

Return of employee advances	1,300
Return of equipment for liquidation, estimated fair market value	2,000
Receivable from Gorman Learning Center for Pawnee Computers	8,373
Total other sources of cash	<u>11,673</u>

Total cash currently available and other potential sources of cash	<u><u>\$ 181,626</u></u>
--	--------------------------

**Known Obligations (based on documentation available  
and auditors judgment):**

		<b>% of Total Obligations</b>	<b>Allocation of Cash</b>
FCMAT Study Team Disallowed Attendance	\$ 363,134	70.8102%	\$ 120,346
Glynlyon, Inc.- Loan	50,000	9.7499%	16,570
George Mueller Academy	41,980	8.1860%	13,912
Pathways Publishers, Inc.	16,693	3.2551%	5,532
Spector, Middleton, Young & Minney	16,316	3.1816%	5,407
Interface Financial Group	9,233	1.8004%	3,060
The Education Center, David Fogal	6,500	1.2675%	2,154
Valley View Learning Center, Edward Kennephohl	4,494	0.8763%	1,489
Education Synergy Consulting	2,825	0.5509%	936
Bear Valley Computer	650	0.1267%	215
Daily Press	390	0.0760%	129
UPS Store	253	0.0493%	84
Big Bear Grizzly	212	0.0413%	70
Advance Security Systems	87	0.0170%	29
Edward Messler	60	0.0117%	20
Total known obligations	<u>\$ 512,827</u>	<u>100.00%</u>	<u><b>\$ 169,953</b></u>

Cash currently available	<u><b>169,953</b></u>
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Deficit of cash available to meet obligations	<u><u>\$ (342,874)</u></u>
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**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
(A California Non-Profit Public Benefit Corporation)**

**FINANCIAL CLOSE-OUT AUDIT REPORT**

**SEPTEMBER 1, 2004**

**Michael W. Ammermon, CPA, CFE  
April 21, 2006**



**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
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Financial Close-Out Audit, September 1, 2004**

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**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
EXECUTIVE SUMMARY  
Financial Close-Out Audit, September 1, 2004**

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Charter School Background:

Much of the information discussed as charter school background information in this report section is derived from excerpts of previous FCMAT issued reports. The California Charter Schools Act of 1992 is contained in Part 26.8 of the California Education Code, sections 47600 through 47664. California Education Code Section 47601" was enacted "... to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure." According to this Act, the legislative intent of this law was as follows:

- Improve pupil learning.
- Increase learning opportunities for all pupils, especially those identified as academically low achieving.
- Encourage the use of different and innovative teaching methods.
- Create new professional opportunities for teachers.
- Provide parents and pupils with expanded choices in the types of educational opportunities that are available.
- Hold the schools accountable for meeting measurable pupil outcomes, and change from rule-based to performance-based accountability systems.
- Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

Charter schools are a part of the public school system, and may provide instruction in grades kindergarten through twelve (K-12). Charter schools are different from traditional K-12 public schools in that charter schools are exempt from many state laws relating to specific education programs. Due to these exemptions, charter schools have greater fiscal and programmatic flexibility than traditional K-12 public schools. Charter schools are usually created or organized by a group of teachers, parents, community leaders or a community-based organization and is authorized by an existing local public school board or county board of education. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the authorizing board and charter organizers.

The chartering authority in most cases is the local school district governing board. County school boards and the State Board of Education may also authorize charters under certain circumstances. Under California state law, both charter and traditional public schools use the same funding formulas. School districts and charter schools calculate each school's average daily attendance (ADA), which is based on student enrollment and actual attendance, and report such to the California Department of Education (CDE) three times a year known as P-1, P-2 and Annual reports. Once the ADA is reported, the State Superintendent of Public Instruction apportions state school funds to each school. Charter schools that have programs involving independent study or non-classroom instruction undergo an additional assessment to determine whether the charter school is funding instructional and certificated staff at minimally accepted levels. Charter schools that do not meet the acceptable levels of staffing receive reduced funding. Charter schools that count attendance for ADA apportionment purposes by employee instructors without proper credentialing, proper documentation of attendance, proper sign off of student work performed, etc. jeopardize the schools funding and may be required to refund any monies received based on the disallowed attendance.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
EXECUTIVE SUMMARY  
Financial Close-Out Audit, September 1, 2004**

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*California Code:*

California Education Code Section 47601, also known as the "Charter Schools Act of 1992," was enacted "to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from existing school district structure." Charter schools are a part of the public school system but differ from traditional public schools in that charter schools are exempt from many state laws relating to specific education programs. A charter school is ordinarily created or organized by a group of teachers, parents, and community leaders or a community-based organization, and under most circumstances is authorized by an existing local public school board or county board of education.

*Charter Approval:*

On May 1, 2002, the Board of Education of the Bear Valley Unified School District (BVUSD) approved the petition by Center for Excellence in Education Charter School (CEE) to establish a charter school and operate as a California Non-Profit Public Benefit Corporation under Education Code section 47604. On June 13, 2002, John Dunn incorporated the Charter School of Big Bear Valley under California Corporation Number C2428437 as a Non-Profit Public Benefit Corporation known as Center for Excellence in Education and was granted charter number 482.

*Charter Revocation Guidelines:*

California Education Code section 47607 (c) allows for the revocation of a charter due to any of the following: (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, (4) Violated any provision of Law.

*CEE Charter Revocation:*

On July 21, 2004, the BVUSD Board of Education passed resolution 4-5-001 providing CEE with notice of deficiencies and an opportunity to cure deficiencies on or before August 31, 2004. As of August 31, 2004 CEE failed to cure many of the violations and as such the charter was revoked effective **September 1, 2004**.

*Oversight Authority – Release of Liability:*

Under California Education Code Section 47604.32, BVUSD has specific mandatory oversight responsibilities over the Charter School including the Charter School's financial close-out. The California Department of Education (CDE) has issued suggestions regarding charter school closures. The CDE suggestions are advisory only and do not constitute a requirement of charter schools, their authorizing entities or the auditor performing the Close-Out audit.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
EXECUTIVE SUMMARY  
Financial Close-Out Audit, September 1, 2004**

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*Oversight Authority – Release of Liability - continued:*

According to the CDE, Charter School Legislation provided that “a charter authorizing entity could not be held liable for the debts or obligations of the charter school, or for any claims arising from the performance of acts, errors, or omissions by the charter school, if the charter school was to be operated by, or as, a nonprofit public benefit corporation (reference Education Code Section 47604).” The CDE further states that “AB1137 places a caveat on the blanket exemption. Specifically, a charter authorizing entity is free from liability in the case of a charter school that is operated by, or as, a nonprofit public benefit corporation if the charter authorizer has complied with specific oversight responsibilities required by law (reference Education Code Section 47604.32 and 47605).”

What should be mentioned regarding the preceding California Education Code exemption of liability for school districts that have complied with their oversight responsibilities is that federal agencies may not honor a liability exemption. Although BVUSD has complied with oversight responsibility and was unaware CEE was delinquent in remitting in-trust payroll taxes to the Internal Revenue Service (IRS) by approximately \$73,334 plus accrued penalties and interest of approximately \$6,751 or \$80,085; the IRS has issued two “Notice of Levy” directly toward the BVUSD using CEE’s tax payer identification number and demanded payment by two separate notice of levy letters with penalties and interest assessments from June 2003 through September 2004. The district is essentially forced to comply with the assessment and make restitution even though the payroll liabilities were withheld from their review. Since the district has remaining funds within CEE’s San Bernardino County Treasury account, the payroll tax liability assessments have been paid from that fund in order to stop the accruing of penalties and interest. In so doing, this reduces the funds available for the district to assist in settling any outstanding vendor obligations. Had there not been any funds remaining the district may have been required by the IRS to pay CEE’s obligation out of its general operating budget.

CDE Suggested Financial Close-Out Audit Guidelines:

The CDE suggested purpose and scope of a financial close-out audit and associated report is to determine the net assets and/or net liabilities of the charter school, including cash, accounts receivable, accounts payable, an inventory of property, equipment and supplies, assess possible reductions in apportionment, present findings, and summarize the information presented.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
EXECUTIVE SUMMARY  
Financial Close-Out Audit, September 1, 2004**

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Available Documentation and Information:

The financial documentation of CEE available records was confined primarily to information provided by CEE on compact disc (CD) data medium and information that CEE had provided to BVUSD. CEE was provided numerous opportunities during the course of the audit to respond to transactions questioned for which management referenced the records already provided citing that there are no additional records available. According to CEE management, most accounting, vendor, bank, communication and other available supporting documentation was shredded and disposed of during the normal course of business leaving only scanned "PDF" type information or Microsoft excel and word files. There were however approximately twenty two (22) boxes of alleged student files that were not transferred to electronic media that were latter provided.

During the course of the examination in order to pursue the best available determinations as to the disposition of the organizations financial position on or about the revocation date available books and records were examined, electronic information searched, vendors and customers were contacted and interviews of individuals associated with or in the organization were performed. As information was obtained from available sources, the source of that information was analyzed, explanations from contractors, creditors, vendors and other individuals with information to offer was evaluated and objective determinations were made as to the validity of the obligation/liability or asset under examination.

Findings Summary:

As information became available that effected the financial statement, adjustments were recorded and findings documented. The detailed notes and findings presented within this report represent events, transactions and circumstances which describe that the organization on one or more instances did not properly apply Generally Accepted Accounting Principles, did not follow State attendance compliance guidelines for independent study, created circumstances that lead to instances of conflicts of interest, misstated the financial statements, mischaracterized accounting transactions and by omission or commission mismanaged funds.

Findings presented represent accounting for transactions of one vendor within another vendors file, accounting for balance sheet items such as loans within the income statement, off balance sheet transactions related to vendors and contractual obligations, invoicing BVUSD for costs that were not incurred, payroll advances recorded as expenses, advances and bonuses during times of borrowing, not submitting timely requests for reimbursement according to BVUSD standards, failure to pay in-trust federal and state payroll taxes and withholding STRS benefits without a contract with the county, the BVUSD and the STRS organization.

In addition, accounting principles generally accepted in the United States of America require that assets and liabilities be carried on a liquidating basis when an organization is in the process of liquidation or liquidation is imminent. CEE did not provide nor prepare its financial statements on a liquidating basis and as a result an adverse financial statement audit opinion has been issued.

**Michael W. Ammermon***Certified Public Accountant**Certified Fraud Examiner**Diplomate of the American Board of Forensic Accounting*

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Oversight Governing Board  
Bear Valley Unified School District  
Big Bear Lake, California

**INDEPENDENT AUDITOR'S REPORT**

I have audited the accompanying statement of financial position of Charter School of Big Bear Valley (A California Non-Profit Public Benefit Corporation), doing business as Center for Excellence in Education, (CEE) as of September 1, 2004, and the related statements of activities and changes in net assets and cash flows for the period July 1, 2003 through September 1, 2004. These financial statements are the responsibility of CEE's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. I believe that my audit provides a reasonable basis for my opinion.

As discussed in Note 4 to the financial statements, CEE's charter has been revoked as a result of its inability to cure operating deficiencies as set forth by the BVUSD Board of Education. The accompanying financial statements have been prepared in accordance with accounting principles applicable to a going concern and thus include the amounts applicable to a company able to continue operations indefinitely into the future. Accounting principles generally accepted in the United States of America require that assets and liabilities be carried on a liquidating basis when an organization is in the process of liquidation or liquidation is imminent. The principle effects of that departure from U.S. generally accepted accounting principles on the financial statements are not reasonably determinable.

In my opinion, because of the effects of the matter discussed in the preceding paragraph, the financial statements referred to in the first paragraph do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of Center for Excellence in Education as of September 1, 2004, and the changes in net assets and its cash flows for the period July 1, 2003 through September 1, 2004

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**Michael W. Ammermon***Certified Public Accountant**Certified Fraud Examiner**Diplomate of the American Board of Forensic Accounting*

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**INDEPENDENT AUDITOR'S REPORT - Continued**

My audit was performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying financial and reconciling information listed in the table of contents is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in my opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

*Michael W. Ammermon, CPA, CFE*

Orange County, California

April 21, 2006

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**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL**  
**(A California Non-Profit Public Benefit Corporation)**  
**Statement of Financial Position**  
**September 1, 2004**

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	<u><b>2004</b></u>
<b>ASSETS</b>	
CURRENT ASSETS:	
Cash in Banks, (Note 2)	\$ 3,874
Accounts Receivable, (Note 3)	170,773
Employee Advances	<u>1,300</u>
Total Current Assets	175,947
EQUIPMENT AND SITE IMPROVEMENTS	<u>11,244</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 187,191</u></u>
<b>LIABILITIES AND NET ASSETS</b>	
CURRENT LIABILITIES:	
Accounts Payable	<u>\$ 462,827</u>
Total Current Liabilities	462,827
LONG-TERM LIABILITIES:	
Loan Payable	<u>50,000</u>
Total Long-Term Liabilities	<u>50,000</u>
<b>TOTAL LIABILITIES</b>	512,827
NET ASSETS:	
Unrestricted net assets:	
Operating	<u>(325,636)</u>
<b>TOTAL NET ASSETS</b>	<u>(325,636)</u>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<u><u>\$ 187,191</u></u>

The Notes and Findings are an Integral Part of this Statement.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL**  
**(A California Non-Profit Public Benefit Corporation)**  
**Statement of Activities and Changes In Net Assets**  
**For the Reporting Period July 1, 2003 through September 1, 2004**

---

	<u>2004</u>
<b>REVENUES</b>	
Revenue Limit Sources	
Revenue Limit Transfers	\$ 230,810
Total Revenue	<u>230,810</u>
<b>EXPENSES</b>	
Certificated Salaries	177,087
Classified Salaries	55,831
Employee Benefits	55,967
Books and Supplies	120,394
Services and Other Operating Expenditures	<u>134,744</u>
Total Expenses	<u>544,023</u>
<b>INCREASE IN UNRESTRICTED NET ASSETS</b>	(313,213)
<b>UNRESTRICTED NET ASSETS, BEGINNING</b>	<u>(12,423)</u>
<b>UNRESTRICTED NET ASSETS, ENDING</b>	<u><u>\$ (325,636)</u></u>

The Notes and Findings are an Integral Part of this Statement.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL**  
**(A California Non-Profit Public Benefit Corporation)**  
**Statement of Cash Flows**  
**For the Reporting Period July 1, 2003 through September 1, 2004**

---

	<u>2004</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>	
Change in net assets	\$ (313,213)
Adjustments to reconcile change in net assets to net cash provided by (used for) operating activities:	
Changes in Assets and Liabilities:	
Accounts receivables	(170,773)
Employee advances	(1,300)
Accounts payable & accrued liabilities	<u>444,671</u>
Net cash provided by (used for) operating activities	(40,615)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>	
Acquisition of equipment	<u>(11,244)</u>
Net cash used for operating activities	(11,244)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>	
Proceeds from issuance of long-term debt	<u>50,000</u>
Net cash provided by financing activities	50,000
<b>NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	(1,859)
<b>CASH AND CASH EQUIVALENTS, BEGINNING</b>	<u>5,733</u>
<b>CASH AND CASH EQUIVALENTS, ENDING</b>	<u><u>\$ 3,874</u></u>

The Notes and Findings are an Integral Part of this Statement.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
NOTES TO FINANCIAL STATEMENTS  
Financial Close-Out Audit, September 1, 2004**

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**1. NATURE OF ACTIVITIES AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**A. Basis of Accounting**

According to CEE management, the financial statements of the organization have been prepared internally on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America. Accordingly, all significant receivables, payables and other liabilities are recognized. CEE derives most of its income from pupil attendance and operates under a cost reimbursement program with the BVUSD. Under a cost reimbursement program, CEE invoices the BVUSD for expenditures or costs the charter school enters into. Upon proper presentation of supporting documentation, the BVUSD reimburses CEE via the district's warrant system.

**B. Budgets and Budget Adoption**

Annual budgets are to be adopted on a basis consistent with accounting principals generally accepted in the United States of America and By State law, the Charter School's Governing Board must adopt a final budget no latter than July 1. In addition, a public hearing must be conducted to receive comments prior to adoption as well as the budget must be presented and approved by the BVUSD.

**C. Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that may affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**2. CASH**

**Cash in Banks and in County**

Cash balances on hand and in banks are insured up to \$100,000 by the Federal Depository Insurance Corporation. As of September 1, 2004 the amount on hand within Union Bank of California was \$3,874.

**3. RECEIVABLES**

The Charter School invoices the BVUSD for reimbursement of costs. As of September 1, 2004, the adjusted receivable balance CEE is owed for reimbursed expenses from BVUSD is \$170,773.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
NOTES TO FINANCIAL STATEMENTS  
Financial Close-Out Audit, September 1, 2004**

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**4. CHARTER REVOCATION**

On July 21, 2004, the BVUSD Board of Education passed resolution 4-5-001 providing CEE with notice of deficiencies and an opportunity to cure deficiencies on or before August 31, 2004. As of August 31, 2004 CEE failed to cure many of the violations and as such CEE's charter was revoked effective September 1, 2004. Revocation of the charter discontinues the ability of the charter school to receive state apportionment revenue for student attendance. Without any state revenue the charter school no longer has any material means to fund its operations. The BVUSD under California Education Code Section 47604.32 has specific mandatory oversight responsibilities over the Charter School including the Charter School's financial close-out. As a result of the charter revocation, CEE has suspended all operations and will not be able to continue as a going concern.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

---

**5. Misapplication of Generally Accepted Accounting Principals/Financial Statement Irregularities:**

- a) On December 17, 2003 on a promissory note, CEE and John Dunn jointly and severally borrowed from Glynlyon, Inc. \$50,000 at 12% per annum, due March 31, 2004. The note was secured with a lease option to purchase the Village Center Shopping Center located at 40827 Stone Road, Big Bear Lake, California, 92315. The loan from Glynlyon, Inc. was recorded on CEE's books on December 16, 2003 via a journal entry to a revenue account titled "Bridge Loan." By recording the loan as revenue or income, CEE's financial statement was under reporting its liabilities and overstating revenues thereby allowing the overall financial health of the organization to appear stronger than it actually was. On April 7, 2004, over three months latter, CEE recorded a liability to Pathways Publishers, Inc., (who is related to Glynlyon, Inc.), as an accounts payable transaction in the amount of \$72,949.97 and charged the entire amount to account 4110 Textbooks. Based on the lack of documentation provided by CEE and the supporting documentation provided directly by Glynlyon, Inc., CEE appears to have only purchased approximately \$16,693.28 in books and supplies type materials rather than \$72,949.97. As of April 7, 2004 located within the Pathways Publishers, Inc. accounts payable account is a liability of \$50,000; however the liability should be to Glynlyon, Inc. as shown on the loan documents signed by the organization. Overall, these transactions misstated the financial statements, demonstrated poor internal control, mischaracterized accounting transactions and are not proper application of generally accepted accounting principles.
- b) On March 4, 2004, John Dunn signed a receivables factoring agreement with The Interface Financial Group. Factoring in its simplest form is CEE borrowing funds from Interface at higher interest rates and fees and using CEE's receivables from the Bear Valley Unified School District as collateral. CEE did not relinquish control or isolate the factored receivables. All factoring transaction advances from Interface and payments by CEE were accounted for within CEE's Bridge Loan revenue account. Factoring under these circumstances is similar to borrowing funds and represents a liability to the organization whereby the receiving of factoring funds and repayment of such funds should have been accounted for within a balance sheet liability account. By accounting for these transactions within a revenue or income statement account, depending when the transactions occurred within a given month, each month's overall financial statement performance is misstated. For example, on March 30, 2004 CEE received \$51,064.97 from Interface which inflated revenue for March 2004 that was not paid back until April 2, 2004; however, by April 29, 2004 CEE again borrowed \$60,000 which was not paid back until sometime around May 25, 2004, as a result, revenues now remained overstated in April 2004 by \$60,000. Proper accounting would have utilized a liability Balance Sheet account rather than a revenue account. Use of a revenue account under these circumstances misstates the overall financial health of the organization, demonstrates poor internal control, mischaracterized accounting transactions and is not proper application of generally accepted accounting principles. From March 30, 2004 through July 28, 2004, CEE factored approximately \$223,937 and incurred over \$10,000 in fees and interest.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

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**5. Misapplication of Generally Accepted Accounting Principals/Financial Statement Irregularities – continued:**

b-cont.) In a letter dated August 11, 2004 from The Interface Financial Group addressed to Mr. John Dunn and Ms. Karyn Messler, Interface called for payment of the remaining funds owed stating the following: "Due to the issues surrounding your potential charter revocation by the Bear Valley Unified School District and the lack of disclosure of those issues at the time of funding was an act of default per section 5.f of our Terms and Conditions for Purchasing Accounts Receivable Agreement (A96.07B) dated March 4, 2004."

c) CEE submitted to the BVUSD for reimbursement invoice number 1145 dated June 26, 2004 in the amount of \$42,584.83 for expenses that the George Mueller Academy paid on behalf of CEE. From the date of June 25, 2003 through the closure of CEE sometime in early September 2004 no corresponding liability or expenses were recorded documenting that \$42,584.83 was owed to George Mueller Academy and George Mueller Academy was not listed as a vendor on CEE's books. According to documentation received from George Mueller Academy, they indicated that they "faithfully submitted requests for reimbursement, along with receipts and all necessary documentation, since June of 2003 though March of 2004." CEE should have identified George Mueller Academy as a vendor within the accounting records as early as June 2003 and recorded each months invoice and expense from June 2003 through March 2004 spanning ten (10) months of invoicing. By not recording the liability and corresponding expenses incurred by George Mueller Academy and leaving such transactions off of CEE's books, the expenses and liabilities of CEE are understated by \$42,584.83 misstating CEE's financial statements, are irregular in nature, demonstrates poor internal control and are not proper application of generally accepted accounting principles.

d) Accounting for contractual costs with Valley View Learning Center in Palmdale California through Edward Kennepohl was not performed. The Valley View Learning Center was operational between September 2, 2003 and January 30, 2004 for which the instructor, Edward Kennepohl of the learning center contracted for services effective September 2, 2003 but not signed by CEE and the instructor until January 19, 2004. During the five (5) months of operation, the instructor incurred operating and classroom rental expenses on behalf of the students in the learning center, actively invoiced CEE, possessed a signed contract by John Dunn and were not reimbursed. No vendor or account was created within CEE's accounting system to recognize Valley View Learning Center as an organization with which expenditures were incurred, a contractual relationship existed and no liability for expenses outstanding were recognized in the amount of \$4,493.71. By not recording the liability and corresponding expenses incurred by Valley View Learning Center and leaving them off of CEE's books, the expenses and liabilities of CEE are understated by \$4,493.71 again misstating CEE's financial statements, are irregular in nature, demonstrates poor internal control and are not proper application of generally accepted accounting principles.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

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**5. Misapplication of Generally Accepted Accounting Principals/Financial Statement Irregularities – continued:**

- e) Accounting for contractual costs with David Fogal of The Education Center in Highland California was not performed. Mr. Fogal was set up within CEE's books as an employee; however, for the months of October 2003 and November 2003 was not paid. In addition, Mr. Fogal incurred expenses on behalf of CEE beginning in August 2003 for which he was not reimbursed. During the time period of approximately November 2003 through June 2004 (over seven (7) months) Mr. Fogal attempted to receive compensation from CEE but was left unsatisfied. On July 12, 2004 CEE signed a settlement agreement with Mr. Fogal acknowledging and agreeing to consideration of \$6,500. During the time period of August 2003 through CEE's closure in September 2004, approximately twelve (12) months, no liability or expenses were recorded on CEE's books and records acknowledging such. By not recording the liability and corresponding expenses incurred by The Education Center and leaving them off of CEE's books, the expenses and liabilities of CEE are understated by \$6,500 again misstating CEE's financial statements, are irregular in nature, demonstrates poor internal control and are not proper application of generally accepted accounting principles.
- f) Accounting for "Stipend – Health Care" in the amount of \$52,800 was included as a cost that the organization was requesting reimbursement from the BVUSD for which CEE did not incur. CEE did not pay for or incur any health plan expense, did not have a health plan in place and therefore cannot request reimbursement for expenses they do not have. The organization's accounting program was not able to reproduce any such costs that were paid out and no supporting documentation other than the health plan information being included in a spreadsheet prepared by management was available. As a result, the reimbursement request of the BVUSD was reduced accordingly. Invoicing the BVUSD for health care expenses that were not incurred represents a financial statement misstatement irregularity that overstates receivable assets and revenue of the organization, demonstrates poor internal control and is not proper application of generally accepted accounting principles.
- g) On October 1, 2002 CEE entered into a loan agreement with Lillian S. Rang in the amount of \$12,000 at 14% per annum plus 2% in points or \$240. The loan was described within CEE's June 30, 2003 audited financial statement report. Based on the information provided, even after the audit report disclosure, the loan was not characterized as a loan within the books of CEE and when repayment of the loan was made on April 30, 2004, using check number 1386 in the amount of \$12,000, the amount was misclassified to income account 8015 titled CS-State Aid Current Year. Misclassification of the loan represents a financial statement misstatement that understated revenues and omitted from the balance sheet a liability of the organization that was subsequently paid off in principal, demonstrates poor internal control and is not proper application of generally accepted accounting principles.



**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL**  
**FINANCIAL CLOSE-OUT AUDIT FINDINGS**  
**Financial Close-Out Audit, September 1, 2004**

**5. Misapplication of Generally Accepted Accounting Principals/Financial Statement Irregularities – continued:**

- h) Accounting for equipment was expensed in many instances rather than capitalized and depreciated. Located within the George Mueller Academy reimbursement request as described in the BVUSD CEE invoice number 1145 is one (1) G4 Mac Computer and three (3) i-mac Blueberry devices having a total dollar value of \$2,171.35 that should have been capitalized, depreciated and inventory tagged rather than expensed. Expensing capital assets constitutes improper application of generally accepted accounting principles and the equipment should be returned in order to be liquidated.
- i) Accounting for payroll advances were performed within account 6560 – Payroll Expense rather than as an asset receivable of the organization until reimbursed by the employee subsequently reducing the advance paying it off. After reviewing the advances, the following individuals received advance checks dated as shown below most of which were issued on August 31, 2004, the day before the charter revocation become effective, after which no other checks were written from the CEE checking account:

Check Date	No.	Payee	Amount
08/23/2004	1505	Edward J Messler	\$ 1,000.00
08/31/2004	1514	Danielle D Hogan	300.00
08/31/2004	1515	Edward J Messler	300.00
08/31/2004	1516	Fred E Watt, Jr.	300.00
08/31/2004	1517	John H Dunn	300.00
08/31/2004	1518	Julie A Harris	300.00
08/31/2004	1519	Karyn E Messler	300.00
08/31/2004	1520	Leah Cherry	300.00
			<u>\$ 3,100.00</u>

Of the eight advance checks written above, one check to Edward Messler in the amount of \$1,000 and one check to Fred Watt in the amount of \$300 were negotiated and cleared the Union Bank of California bank account prior to the account being placed on hold according to the records available. During the course of my examination no documentation was available that would support the need to provide advances as of or near the last day of the month of August 2004 in close proximity to the organizations charter revocation. As such, the advance of \$1,000 to Edward Messler and \$300 to Fred Watt should be returned to the organization and the remaining six un-cashed or outstanding advance checks should be placed on stop payment and remain within the CEE Union Bank account. In addition, considering that CEE borrowed on December 17, 2003, \$50,000 from Glynlyon, Inc. and began factoring receivables on March 4, 2004 with The Interface Financial Group in order to supplement cash requirements, issuing of employee advances while borrowing funds is both mismanagement of funds and also represents a conflict of interest between the needs of the organization and employees. Recording of advances as expenses misclassify the transactions, misstates CEE's financial statements, demonstrates poor internal control and are not proper application of generally accepted accounting principles.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

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**5. Misapplication of Generally Accepted Accounting Principals/Financial Statement Irregularities – continued:**

- j) During an interview on March 18, 2005 pertaining to vendor/creditor Pawnee Leasing, (Pawnee) John Dunn and Fred Watt explained that Pawnee is whom CEE leased approximately 23 computers with. Mr. Dunn and Mr. Watt further explained that since the revocation of the charter, they have worked out an arrangement with Gorman Learning Center whereby Gorman Learning Center would take on the computers and the associated Pawnee lease by providing Pawnee with \$6,000 leaving CEE to owe Pawnee approximately \$7,000. The computers were unavailable for inspection sighting that some computers are checked out to students and others were in storage or at Gorman Learning Center. During my examination I was informed by John Dunn that Pawnee leasing and CEE would provide all of the information surrounding the transfer of the computers. From the date of our meeting on March 18, 2005 where I was assured the information would be provided timely, no information was offered and I did not receive a phone number for Pawnee until July 5, 2005. When I spoke with a Pawnee Leasing representative via telephone on Wednesday, July 11, 2005 at approximately 9:45AM, I was informed 'that CEE no longer has a lease with Pawnee, that Pawnee issued a bill of sale and that if I want more information it would need to come from CEE who has all of the specifics'. In an e-mail from John Dunn on July 13, 2005, he indicates to contact Pawnee Leasing for any information needed. From approximately October 2003 through August 2004 CEE paid in direct payments to Pawnee Leasing approximately \$6,834 and \$1,539 to reimburse John Dunn for the down payment to Pawnee Leasing for a total of \$8,373. Since all alleged computers are now allegedly in possession of the Gorman Learning Center and CEE management has not provided the documentation to support their management decisions, Gorman Learning Center should reimburse CEE the full amount of \$8,373.

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**6. Employee Payroll and Benefit Trust Funds, Employer Matching & Bonuses**

- a) In a letter dated January 4, 2005, the Internal Revenue Service notified BVUSD that Center For Excellence In Education Charter School of Big Bear Valley under taxpayer identification number 82-0552094 was in default of CEE's June 30, 2003 and December 31, 2003 Form 941 payroll taxes totaling approximately \$22,439 including penalties and interest of approximately \$2,489. In an additional letter dated July 7, 2005, the IRS notified BVUSD that CEE was in further default of their March 31, 2004, June 30, 2004, September 30, 2004 and additional December 31, 2003 Form 941 payroll taxes totaling approximately \$57,305 including penalties and interest of approximately \$4,235. The July 7, 2005 IRS letter also presented an assessment for December 31, 2003 Form 940 payroll taxes of \$340. In the IRS notices, they intended to Levy or seek payment from BVUSD even though the taxpayer identification number was CEE's.

Review of CEE's payroll tax 941 filing documents indicates that for tax year 2003, 941 forms were signed and most likely filed with the government which enabled the IRS to determine that funds were owed but not paid. Form 941 reports employee income taxes withheld and both employee and employer social security and Medicare withholdings and obligations among other information. Of the IRS documents reviewed within CEE's records and also confirmed as provided to the IRS by CEE, quarterly reports for quarters ending March 31, 2004, June 30, 2004 and September 30, 2004 were not signed or dated and came with a note attached that contained the following: "These forms were created 10/20/04 at John's request from a telephone call from the IRS." These same forms did not check line 8's box identifying the wages as not subject to social security and Medicare tax which would have been appropriate had CEE actually replaced social security and Medicare benefits with STRS. According to the IRS the requested forms were not received by the IRS until November 15, 2004. Based on the two IRS notice of levy documents CEE has not paid payroll tax withholdings from approximately June 2003 through September 2004 or at least fifteen (15) months. Both levies combined total approximately \$80,085 in taxes and penalties.

IRS Form 941 and 940 represents the employer reporting to the IRS the amounts the employer has collected on behalf and in trust for employee's federal tax, social security and Medicare withholdings as well as the employer's portion of social security and Medicare matching funds. These funds are not CEE's and failure to file timely payroll reports and/or not remit in-trust tax obligations with the federal and state government created deficiencies that increased CEE's liabilities, incurred penalties and interest, demonstrates poor internal control, is negligent and misstated the financial statements.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

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**6. Employee Payroll and Benefit Trust Funds, Employer Matching & Bonuses – continued:**

- b) CEE's accounting records indicate employee withholding and employer portions of State Teachers Retirement System (STRS) in the amounts of \$15,685 and \$16,176 respectively have been withheld from employee's payroll. Both liabilities totaling \$31,861 have been accumulating from October 2, 2002 through August 3, 2004 or approximately thirty three (33) months. In order for CEE to remit STRS payments to the San Bernardino County Office of Education, CEE is required to contract with the county. Based on the documentation provided and inquiries made, a contract between CEE and the San Bernardino County Office of Education is not available and has not been established. Providing for a pension benefit that the organization does not have a county contact and therefore lacks the ability to provide pension funding on behalf of its employees and over a thirty three (33) month period does not implement such a contract constitutes mismanagement of employee benefits and negligence.

As described in 6a above, the IRS was provided by CEE several quarters of untimely submitted and unsigned and dated payroll tax forms that did not properly exclude wages from being subject to social security and Medicare tax. As a result, as part of the close-out audit, wages were assessed for social security and Medicare benefits in substitute of STRS thereby disallowing the \$31,861 STRS liability. Improperly withholding benefits from employee paychecks where employees thought they were paying into STRS and failing to enter into such a benefit contract for which deductions are predicated misstates CEE's financial statement liabilities, demonstrates poor internal control is not proper application of generally accepted accounting principles.

- c) In December 2003 approximately \$2,835.71 in payroll Christmas bonuses were distributed to five (5) certificated and classified employees of the organization. Based on the documentation provided and employment contracts reviewed, there are no "incentive" programs or contractual provisions to provide employee bonuses. Without specific provisions within the organizations contracts with employees, considering that the funds the organization received to operate are based on public funds, such bonuses may be considered a gift of public funds and are therefore disallowed. In addition, on December 17, 2003, CEE borrowed \$50,000 from Glynlyon, Inc. in order to supplement cash requirements and shortly thereafter issued Christmas bonuses. Issuing bonuses while in times of borrowing is both mismanagement of funds and represents a conflict of interest between management, the needs of the organization and employees.
- d) In November 2005 the Employment Development Department (EDD) of the State of California issued to CEE an additional "Notice of Form Delinquency." While conducting the audit, the EDD was contacted who then provided notice that CEE was delinquent in filing and remitting State payroll taxes for form DE6 quarter number four in 2002, all four (4) quarters in 2003 and quarters two and three in 2004 as well as was delinquent in filing form DE7 for 2004. State personal income taxes withheld from employee paychecks are also trust funds as described in 6(a) paragraph three above. After review of the state tax liability it was determined that CEE owed to the EDD \$4,159.31 including penalties.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

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**6. Employee Payroll and Benefit Trust Funds, Employer Matching & Bonuses – continued:**

d-cont.) Again, these funds are not CEE's and failure to file timely State of California payroll reports and/or not remit in-trust tax obligations created deficiencies that increased CEE's liabilities, incurred penalties, demonstrates poor internal control, is negligent and misstated the financial statements.

**7. Independent Study Non-Compliance Attendance Accounting and Documentation:**

The Fiscal Crisis and Management Assistance Team (FCMAT) performed substantial testing of CEE's attendance records. The attendance records of CEE were examined according to State of California compliance guidelines based on the State Controllers guide and California Education Code sections 51745 through 51749 regarding Independent Study attendance. The attendance examination resulted in the disallowance of approximately \$363,134 in attendance apportionment funding. The primary reasons for disallowance are as follows:

- One or more student files were missing
- One or more student files did not contain work samples
- One or more attendance roll sheets were missing
- One or more attendance roll sheets were not signed by the teacher
- Independent study agreement dates were incorrect
- One or more independent study agreements were missing compliance elements
- One teacher did not possess a valid California Teaching Credential

Attendance accounting and file care and maintenance are critical to any school operation and funding. Attendance dollars represent the material portion of CEE's revenue. The State of California guidelines are clearly defined and well published as to what is expected of charter schools with regards to attendance, yet CEE is materially non-compliant. CEE was granted numerous opportunities and received many requests to provide proper documentation of its compliance with attendance requirements in order to preserve funds they had claimed were earned. Failure to materially comply with the State of California attendance standards resulted in the previously described material funding correction and constitutes mismanagement and negligence.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
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Financial Close-Out Audit, September 1, 2004**

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**8. Aged BVUSD Reimbursement Requests (Selected Examples Described):**

The following transactions are examples of expenditures that the organization incurred but did not invoice BVUSD for reimbursement until in many instances, months later. By not invoicing for expense reimbursement in a timely manner, even with other cash sources potentially available, CEE would place itself in a cash poor position to meet its obligations. Since CEE is on a reimbursement program with the BVUSD, in order to meet their obligations timely reimbursement requests with proper documentation should have been submitted every two weeks or at least monthly. Untimely submittal of reimbursement requests understates revenues on a monthly basis, demonstrates poor internal controls, is not proper application of generally accepted accounting principles and mismanages the operating cash needs of the organization.

- a) Invoice number 1145 dated June 26, 2004 to the BVUSD in the amount of \$42,584.83 represents over 129 purchase transaction receipts that occurred between June 25, 2003 and March 17, 2004 that George Mueller Academy paid on behalf of CEE. Of the 129 transactions, 124 occurred between June 25, 2003 and December 31, 2003 as follows: One (1) transaction in June 2003, 27 transactions in July 2003, 49 transactions in August 2003, 28 transactions in September 2003, 14 transactions in October 2003 and Five (5) transactions occurring in November and December of 2003 with the remaining four (4) transactions taking place between January 8, 2004 and March 17, 2004. CEE should have been invoicing the district incrementally each month as invoices were provided by George Mueller Academy. From June 25, 2003 until June 26, 2004, twelve (12) months passed before CEE invoiced the BVUSD for \$42,584.83 in expenditures. See finding number "5c" for additional information.
- b) Invoice number 139 dated May 29, 2004 for CEE check number 1380 dated April 30, 2004 in the amount of \$334.02 represents approximately 17 purchase transaction receipts that occurred between September 19, 2002 and May 27, 2003 representing a span of eight (8) months. Reimbursement to the individual was not processed until April 30, 2004 approximately eleven (11) months later. The reimbursement request invoice number 1100 to the BVUSD is not dated until May 29, 2004 approximately twelve (12) months later. In addition, in the event that the employee held such receipts management should have requested that the receipts be submitted monthly for reimbursement in order to properly monitor expenses.
- c) BVUSD Invoice number 1121 dated June 11, 2004 in the amount of \$3,238.50 represents transaction(s) receipts that occurred in approximately October 2003, at least eight (8) months before a reimbursement request was issued.
- d) BVUSD Invoice number 1122 dated June 21, 2004 in the amount of \$6,323.38 represents transaction(s) receipts that occurred on approximately October 9, 2003, at least eight (8) months before a reimbursement request was issued.
- e) BVUSD Invoice number 1126 dated June 24, 2004 in the amount of \$4,819.88 represents transaction(s) receipts that occurred on approximately October 21, 2003, at least seven (7) months before a reimbursement request was issued.
- f) BVUSD Invoice number 1146 dated June 27, 2004 in the amount of \$2,092.50 represents transaction(s) receipts that occurred on approximately November 5, 2003, at least seven (7) months before a reimbursement request was issued.

**CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL  
FINANCIAL CLOSE-OUT AUDIT FINDINGS  
Financial Close-Out Audit, September 1, 2004**

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**8. Aged BVUSD Reimbursement Requests (Selected Examples Described) - continued:**

- g) BVUSD Invoice number 1149 dated June 27, 2004 in the amount of \$2,056.50 represents transaction(s) receipts that occurred on approximately October 27, 2003, at least seven (7) months before a reimbursement request was issued.
- h) BVUSD Invoice number 1151 dated June 27, 2004 in the amount of \$1,244.89 represents transaction(s) receipts that occurred on approximately January 24, 2004, at least five (5) months before a reimbursement request was issued.
- i) BVUSD Invoice number 1155 dated July 24, 2004 in the amount of \$22,539.96 represents payroll transaction(s) receipts that occurred in approximately May, 2004, at least two (2) months before a reimbursement request was issued.
- j) BVUSD Invoice number 1104 dated May 29, 2004 in the amount of \$1,093.76 represents transaction(s) receipts that occurred between approximately November 14, 2003 and February 27, 2004, at least three (3) to six (6) months before a reimbursement request was issued.
- k) BVUSD Invoice number 1109 dated June 5, 2004 in the amount of \$188.59 represents transaction(s) receipts for unsupported check #1109 to a payee named Ed Messler, dated December 2, 2003, at least six (6) months before a reimbursement request was issued. The only supporting documentation that could be located was a cancelled check in the amount of \$100 equating to a difference of \$88.59 that was over requested for reimbursement.
- l) BVUSD Invoice number 1073 dated April 6, 2004 in the amount of \$987.20 represents transaction(s) receipts for unsupported check #1073 to a payee named Edward Messler, dated November 10, 2003, at least four (4) months before a reimbursement request was issued. The only supporting documentation that could be located was a cancelled check in the amount of \$1,528.33 equating to a difference of \$541.13 that was not requested for reimbursement.
- m) BVUSD Invoice number 1089 dated May 1, 2004 in the amount of \$142.96 represents transaction(s) receipts that occurred on approximately October 14, 2003, at least six (6) months before a reimbursement request was issued.
- n) BVUSD Invoice number 1090 dated May 1, 2004 in the amount of \$91.21 represents transaction(s) receipts that occurred on approximately September 4, 2003, at least eight (8) months before a reimbursement request was issued.
- o) BVUSD Invoice number 1100 dated May 29, 2004 in the amount of \$334.02 represents transaction(s) receipts that occurred between approximately September 19, 2002 and May 27, 2003, at least twelve (12) to twenty (20) months before a reimbursement request was issued.
- p) BVUSD Invoice number 1114 dated June 5, 2004 in the amount of \$411.99 represents transaction(s) receipts that occurred on approximately October 5, 2003, at least eight (8) months before a reimbursement request was issued.



## SUPPLEMENTARY INFORMATION SECTION

**Center For Excellence in Education Charter School**  
**(A California Non-Profit Public Benefit Corporation)**  
**Reconciliation of Available Financial Records**  
**with Financial Close-Out Audited Financial Statements**  
**For the Reporting Period July 1, 2003 through September 1, 2004**

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	<b>2004</b>
<b>Un-audited - ending net assets, before financial close-out audit adjustments &amp; reclassifications</b>	<b>\$ 94,677</b>
Adjustments and reclassifications:	
<b>assets:</b>	
Increasing & (Decreasing):	
Adjust payroll advances from payroll expense	3,100
Disallow unsupported stipend health care reimbursement	(52,800)
Adjust aged checks and petty cash	897
Reclassify un-cashed advance checks to cash in bank	1,800
Reclassify un-cashed advance checks to cash in bank	(1,800)
Reclassify payroll liabilities paid by BVUSD from CEE account to IRS	(80,085)
Record receivable for CEE's assigning of Pawnee computers to Gorman Learning	8,373
Reclassify capitalizable equipment expenses	2,171
Total asset adjustments and reclassifications	(118,344)
<b>liabilities &amp; net assets:</b>	
(Increasing) & Decreasing	
Disallowed Average Daily Attendance (ADA)	(363,134)
Adjust Bridge Loan and record Interface Financial Group liability	(9,233)
Reclassify payroll liabilities paid by BVUSD from CEE account to IRS	80,085
Adjust to agree to IRS payroll tax levy assessment	(41,615)
Adjust for correction of STRS benefits	31,861
Restored and corrected vendor liabilities	35,390
Recorded off books Valley View Learning Center liability	(4,494)
Recorded off books George Mueller Academy liability	(42,585)
Recorded off books Highland Education Center	(6,500)
Adjust Glenlyon transaction to liability	(50,000)
Adjust Pathways transaction to liability	56,256
Reclassify payroll expense	53,908
Reclassify payroll expense	(53,908)
Year 2003 -prior period adjustments for Lillian Rang Loan	12,000
Total liabilities & net assets adjustments and reclassifications	(301,969)
Net Adjustments and reclassifications	(420,313)
<b>Audited - ending net assets, after financial close-out audit adjustments &amp; reclassifications</b>	<b>\$ (325,636)</b>

This schedule provides the information necessary to reconcile net assets as reported on the organizations un-audited financial statements to the financial close-out audited financial statements.



**Center For Excellence in Education Charter School**  
**(A California Non-Profit Public Benefit Corporation)**  
**Schedule of Available Resources by Liquidity and Known Obligations**  
**September 1, 2004**

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**Cash Currently Available:**

Cash on hand, Union Bank of California	\$ 3,874
Cash on hand, San Bernardino County Treasury	139,244
Total cash currently available	<b>\$ 143,118</b>

**Other Potential Sources of Cash:**

Return of employee advances	1,300
Return of equipment for liquidation, estimated fair market value	2,000
Receivable from Gorman Learning Center for Pawnee Computers	8,373
Total other sources of cash	<u>11,673</u>

Total cash currently available and other potential sources of cash \$ 154,791

**Known Obligations (based on documentation available  
and auditors judgment):**

		<b>% of Total Obligations</b>	<b>Allocation of Cash</b>
FCMAT Study Team Disallowed Attendance	\$ 363,134	70.8102%	\$ 101,342
Glynlyon, Inc.- Loan	50,000	9.7499%	13,954
George Mueller Academy	41,980	8.1860%	11,716
Pathways Publishers, Inc.	16,693	3.2551%	4,659
Spector, Middleton, Young & Minney	16,316	3.1816%	4,553
Interface Financial Group	9,233	1.8004%	2,577
The Education Center, David Fogal	6,500	1.2675%	1,814
Valley View Learning Center, Edward Kennepohl	4,494	0.8763%	1,254
Education Synergy Consulting	2,825	0.5509%	788
Bear Valley Computer	650	0.1267%	181
Daily Press	390	0.0760%	109
UPS Store	253	0.0493%	71
Big Bear Grizzly	212	0.0413%	59
Advance Security Systems	87	0.0170%	24
Edward Messler	60	0.0117%	17
Total known obligations	<u>\$ 512,827</u>	<u>100.00%</u>	<u><b>\$ 143,118</b></u>

Cash currently available **143,118**

Deficit of cash available to meet obligations **\$ (369,709)**

This schedule provides information to examine the approximate available cash resources of CEE in comparison with CEE's existing obligations and describes how available cash might be allocated among those obligations. San Bernardino County Treasury and Union Bank of California cash balances may be affected by interest and other charges as of the date of this report and should be adjusted accordingly.

## RECOMMENDATIONS

### **CENTER FOR EXCELLENCE IN EDUCATION CHARTER SCHOOL FINANCIAL CLOSE-OUT AUDIT RECOMMENDATIONS Financial Close-Out Audit, September 1, 2004**

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01. Although a financial close-out audit is limited to financial matters, during the course of the examination some recommendations were considered as follows:
- a) Employee advances totaling \$1,300 were for unsupported advances. Those funds should be requested to be returned to the district.
  - b) Of the known computers and blueberry type devices, that equipment should be requested to be returned to the district for liquidation.
  - c) The level of oversight that the authorizing entity is to perform is not specifically defined and that level may vary depending on the authorizing entities size and qualified oversight personnel. In addition, if a charter school becomes delinquent in paying its own payroll taxes, as in CEE's circumstances, it appears that the IRS may levy the authorizing entity for payment. Authorizing entities should be given much more ability to enforce, inspect, participate in charter school board meetings and have greater authority to assist the charter and protect their own interests.
  - d) Regarding payroll and payroll taxes, this is an area that requires a great amount of oversight. Charter schools just starting out and for at least the first two years should be instructed and required by MOU to use an outside payroll service or the authorizing entities payroll department with automatic payroll and payroll tax deductions provided by the service.

## CEE Independent Study Attendance Compliance Testing for 2002-03

To receive state ADA apportionment, an independent study program must comply with attendance reporting, student file maintenance requirements, and student-teacher ratios as outlined in the California Education Code and California Code of Regulations and noted above. For example, Section 51747 of the Education Code requires a local education agency (LEA) to adopt policies for creating independent study contracts that describe the work students will perform and how a certificated employee will assign attendance value to that work. The charter school must maintain sufficient records of completed student work to justify the attendance claims made for apportionments.

CEE began offering independent study programs in December 2002 and ceased operations effective June 30, 2004. ADA was reported to the Bear Valley USD and the state in both 2002-03 and 2003-04. CEE first recorded attendance for independent study operations at one location in Big Bear beginning December 16, 2002. The charter operated only in Big Bear for the remainder of the 2002-03 school year and reported 12.13 ADA with cumulative enrollment of 31 students. Using the CEE attendance source documents, FCMAT determined that 33 students were actually enrolled at some point during 2002-03 and recalculated the correct ADA at 12.047, about .083 less than reported by CEE. A large number of students enrolled in 2002-03 were also enrolled in CEE programs during 2003-04.

The CEE charter provided the district with computerized attendance printouts that included adequate supporting documentation for the ADA reported in 2002-03. The district provided the charter ADA information to FCMAT for that year. FCMAT traced the ADA claimed to the charter's source documents without difficulty for that fiscal year; however, some of the student files were missing at the time FCMAT conducted its fieldwork in fall 2005. The 2002-03 general purpose entitlement and categorical funding that CEE received from the state was calculated by FCMAT as follows:

	<u>K-3</u>	<u>4-6</u>	<u>7-8</u>	<u>9-12</u>
ADA	1.65	3.13	1.2	6.15
General Purpose	<u>\$4,512</u>	<u>\$4,578</u>	<u>\$4,705</u>	<u>\$5,463</u>
Subtotal	\$7,444.80	\$14,329.14	\$5,646.00	\$33,597.45 = \$61,017.39
Categorical	<u>\$198</u>	<u>\$204</u>	<u>\$149</u>	<u>\$189</u>
Subtotal	\$326.70	\$638.52	\$178.80	\$1,162.35 = <u>\$2,306.37</u>
Total State Funding				\$63,323.76

FCMAT did not conduct compliance testing of the 2002-03 ADA because the CEE charter school procured an independent audit of the 2002-03 fiscal year that was performed by

a local certified public accounting firm with extensive experience in auditing local educational agencies. That audit would have included compliance testing of the CEE ADA reported in 2002-03. A summary of the 2002-03 ADA as reported by CEE and FCMAT's recalculation of that ADA is included in Appendix C of this report.

### **Compliance Testing for 2003-04**

In 2003-04, the CEE expanded operations to include independent study programs in Pasadena, Highland, and Palmdale-Lancaster as well as the original Big Bear site. Each location offered only independent study programs. FCMAT determined that approximately 250 students were enrolled in the CEE charter independent study programs at some point in time during 2003-04.

As required, CEE forwarded ADA information to the district at the proper reporting period intervals. The district then forwarded CEE's ADA along with the district's ADA to the California Department of Education. The 2003-04 CEE P-2 ADA was reported as 49.39 for resident students and 73.03 for nonresident students, for a total of 122.42. In 2002-03, CEE claimed 12.13 resident ADA and no nonresident ADA. The total ADA of 122.42 in 2003-04 was approximately 10 times the amount of 12.13 reported in the prior year.

FCMAT determined that extensive compliance testing was required of the ADA reported in 2003-04, the second year of CEE's operations, when enrollment and ADA grew significantly due to the charter's expansion into satellite sites in Pasadena, Palmdale-Lancaster, and Highland. The state revenue received by CEE in 2003-04 was significantly higher than in the prior year.

In November 2004, at the beginning of the FCMAT audit and during the first fieldwork visit to the CEE charter school, FCMAT requested access to the student files and 2003-04 ADA supporting documentation from CEE but was told that the files were in the district's possession since the charter petition was revoked. The district did not possess the CEE files at that time. On March 24, 2005, CEE produced 22 boxes of student files that were given to Michael W. Ammermon, CPA. Mr. Ammermon documented the number of boxes and contents specified by CEE then transferred the boxes of student files to district custody.

FCMAT eventually gained access to student files at the district office beginning in September 2005. The boxes and crates located there and examined by FCMAT were not numerically marked and thus could not be matched to the document custody list provided to FCMAT by Michael Ammermon dated March 26, 2005. FCMAT tested attendance compliance based on the Education Code independent study regulations described earlier in this report. A sample of 50 independent study students was selected for initial review to test CEE's compliance with the laws and regulations governing independent study. Students were arbitrarily selected from names listed on CEE attendance sheets. Because FCMAT found that nearly half of that original sample of the CEE students' files lacked one or

more of the required supporting documentation elements or the files could not be located, the study team expanded the scope of the audit to include all students enrolled during the 2003-04 school year.

FCMAT audited 100% of the ADA reported by CEE for the 2003-04 fiscal year and thus reviewed all available student files pertaining to students with independent study status that year to determine whether they appeared to meet the minimum requirements for receiving attendance credit. The student files were located at the district office in Big Bear.

Upon completion of the compliance testing fieldwork, FCMAT determined that CEE had significantly overclaimed ADA in 2003-04 because much of the ADA reported could not be verified. The disallowed ADA was deemed ineligible independent study student attendance due mainly to significant noncompliance with the independent study guidelines set forth by the California Education Code and State Controller's Audit Guide. The team found that the CEE charter school attendance records that were available for audit had widespread noncompliance due to missing master agreements, master agreements that lacked one or more of the required elements, student files that were missing or did not include sufficient work samples, and teacher attendance sheets that were unsigned, incorrect or insufficient to substantiate the ADA as reported.

The CEE charter received \$615,917 of general purpose entitlement funding in 2003-04, \$315,802 from the state and \$300,115 from San Bernardino County as in-lieu property taxes, based on 122.42 ADA reported by CEE. The AB 139 Extraordinary Audit requested FCMAT to substantiate the validity of the ADA that generated the state general purpose entitlement funding.

FCMAT originally visited the CEE facility in November 2004. The CEE Director, Mr. John Dunn, met with FCMAT and provided a large box of documents for the team to review. Neither the student files nor the ADA documents were contained in that box.

The charter provided ADA information to the district at the P-1, P-2, and annual reporting periods in 2002-03 and 2003-04. The district prepared J18-19 attendance reports and submitted CEE's ADA and the district's ADA to the state as required. Because information relating to the attendance reported and claimed by CEE was not included in the box of documents CEE gave to FCMAT, the study team requested copies of the information from the district.

The CEE ADA information on file with the district for 2002-03 was adequately supported by appropriate documents for FCMAT to successfully connect the apportionment days by student to the total ADA claimed, as indicated earlier in this report. However, the 2003-04 CEE ADA information did not include similar supporting documentation. FCMAT attempted to contact CEE to request the documentation. After numerous telephone calls, CEE agreed to meet with FCMAT on September 1, 2005 at the Big Bear location.

Several computer disks and a file folder were made available at that time. The disks and paperwork provided to FCMAT on that date contained unsigned monthly attendance sheets for each teacher with a list of students enrolled during that month along with “X’s” indicating if the student was granted daily apportionment credit. None of the monthly attendance sheets were signed by the teachers and no summary attendance information for the 2003-04 fiscal year was provided to FCMAT. FCMAT showed the CEE staff the prior year documentation and asked for that same data for 2003-04. The CEE staff did not provide the requested information for 2003-04.

CEE never provided student files for FCMAT’s review. FCMAT conducted a 100% review of the boxes of CEE student files that were available at the district to calculate and validate the attendance reported by the district on behalf of CEE for the 2003-04 school year.

Many instances of noncompliance were noted in the course of the review, including findings such as:

- Invalid or expired teacher credentials
- Missing student files
- Missing attendance documentation
- Missing master agreements
- Master agreements lacking required signatures of student, parent and/or teacher
- Master agreement dates missing, incorrect, or not matching dates that ADA was claimed
- Master agreements in which all signature lines were predated
- Master agreements with no specific courses of study documented
- Lack of documentation as to class credits to be awarded
- Award of unusually high number of academic credits
- Instances in which a student changed teachers but the new teacher did not sign the existing master agreement
- No student work samples
- One teacher with invalid credential

FCMAT was given the Bear Valley USD Attendance Reports (J18-19) for 2003-04. Those reports included the apportionment reported by the CEE charter school at P-2, the attendance period used by the State of California to fund attendance apportionment to schools.

FCMAT created 2003-04 ADA spreadsheets for all CEE teachers because the CEE provided no summary apportionment documentation directly to FCMAT. The study team had to recreate the CEE P-2 summary attendance information using the unsigned monthly attendance sheets by teacher along with the individual student attendance sheets found in the individual student files. The following section of this report will identify the various programs that were operated by CEE during the 2003-04 fiscal year, by location and teacher, and quantify the apportionment claimed and the apportionment disallowed due to noncompliance. The spreadsheets are attached to this report in Appendix D.

The required P-1, P-2 and Annual ADA reporting periods are based on the attendance that is earned and reported as specific dates in a school calendar. State funding is allocated for ADA claimed at the P-2 reporting period. The P-2 ADA should be calculated using the last attendance month ending on or before April 15 in any given year. The school months are required to be 20 days in length, with an allowance to exclude the days of winter break. All other days, whether school is in session or not, are to be included in the 20-day calendar months.

CEE did not provide a school calendar to FCMAT as requested. To verify the ADA reported by CEE, FCMAT created a 2003-04 calendar based on the dates that the teachers recorded attendance. The school calendar that the teachers followed did not comply with the requirements described above although the teachers adhered to the CEE monthly cutoff dates fairly consistently. The calendar and monthly cutoff dates were determined by FCMAT to be as follows:

Month	Dates	No. of Days	
1	9-2/9-29	20	
2	9-30/10-27	20	
3	10-28/11-25	20	
4	12-1/1-9	20	P-1 should end as of last month prior to December 31
5	1-12/2-6	20	
6	2-10/3-10	20	Last full month for P-2 prior to April 15 (120 days) based on this calendar
7	3-11/4-21	20	Last full month for P-2 should include 20 days here (140 days)
8	4-22/5-19	20	
9	5-20/6-10	<u>15</u>	
Total Days		175	

It became evident that the CEE staff did not understand the requirements or criteria of a school calendar because it was difficult to determine the P-1 and P-2 cutoff dates and correct number of days per month used by CEE to calculate apportionment. The calendar should have been developed as shown below, excluding only the nonschool days for winter break.



Month	Dates	No. of Days	
1	9-1/9-26	19	
2	9-29/10-24	20	
3	10-27/11-21	20	
4	11-24/12-19	17	End of P-1 (76 days)
5	1-12/2-6	19	
6	2-9/3-6	20	
7	3-8/4-2	20	End of P-2 (135 days)
8	4-5/4-30	10	
9	5-3/5-28	20	
10	5-31/6-11	<u>10</u>	
Total Days		175	

Because CEE did not provide FCMAT with a calendar or any supporting documentation as to how the ADA was figured, the study team relied on the P-2 ADA information reported to the district and state. Based on the teacher attendance reporting dates, it appeared that CEE considered the last school month prior to April 15 to have been month 6 and the divisor to calculate ADA should have been 120 days. However, the J18-19 Report showed that CEE used of a divisor of 132 days. This divisor was not supported by any of the calendar information obtained from the individual teacher monthly attendance sheets.

FCMAT developed a calendar using the required 20-day school months. In this model, the attendance in month 7 would be included and the number of days used as the divisor at the end of the P-2 period would have been 135 days. Please refer to the calendars included on the following two pages. The first is the 2003-04 Calendar Per CEE, and the second is FCMAT's 2003-04 School Calendar Per Ed Code. Following the calendars are CEE charter school's Summary of 2003-04 ADA at P-2 per J18/19 and FCMAT's Summary of Allowable 2003-04 ADA Using FCMAT Revised School Calendar.

CEE's lack of understanding as to the proper structure of a school calendar was noted as one area of noncompliance. The complexity of this issue became evident as FCMAT attempted to reconcile the ADA numbers reported to the district and the state.



**2003 04 School Calendar Per CEE****September 2003**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

**October 2003**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

**November 2003**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

**December 2003**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**January 2004**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

	Dates	# of Days Per CEE
Month 1	9-2/9-29	20
Month 2	9-30/10-27	20
Month 3	10-28/11-25	20
Month 4	12-1/1-9	20
Month 5	1-12/2-6	20
Month 6	2-10/3-10	20
Month 7	3-11/4-21	20
Month 8	4-22/5-19	20
Month 9	5-20/6-10	15
Total Days		175

P-2 = 120 days

The CEE calendar indicates that the last month prior to April 15th is month 6 which would indicate a divisor of 120 days. If they had counted month 7 correctly then the divisor would have been 140 days.

It appears that CEE used a divisor of 132 days when calculating P-2 ADA for 2003-04 per the J18-19. Their calendar does not tie to that number.

**February 2004**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29						

**March 2004**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**April 2004**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

**May 2004**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

**June 2004**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

CEE counted the days incorrectly in several of the school months. The only exception allowed per Ed Code is winter break. CEE miscounted several non-school days and spring break.

### 2003 04 School Calendar Per Ed Code

#### September 2003

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

#### October 2003

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

#### November 2003

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

#### December 2003

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

#### January 2004

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

#### February 2004

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29						

#### March 2004

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

#### April 2004

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

#### May 2004

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

#### June 2004

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

	Dates	# of Days	Dates	# of Days **
	Per CEE	Per CEE	Per ED C	Per Ed Code
Month 1	9-2/9-29	20	9-1/9-26	19
Month 2	9-30/10-27	20	9-29/10-24	20
Month 3	10-28/11-25	20	10-27/11-21	20
Month 4	12-1/1-9	20	11-24/12-19	17
Month 5	1-12/2-6	20	1-12/2-6	19
Month 6	2-10/3-10	20	2-9/3-5	20
Month 7	3-11/4-21	20	3-8/4-2	20
Month 8	4-22/5-19	20	4-5/4-30	10
Month 9	5-20/6-10	15	5-3/5-28	20
Month 10			5-31/6-11	10
Total Days		175		175

\*\* NOTE: Days per month match days that CEE was in session including holidays and non-school days.

**CEE Charter**  
**Summary of 2003-04 ADA at P-2 per J18-19**

2003-04 Resident Students			
Regular Elementary and High School	Elementary	High School	Total
Total Kindergarten	0.00		
Total Grades 1-3	10.30		
Total Grades 4-6	11.38		
Total Grades 7-8	12.21		
Total Grades 9-12		14.50	
Total Regular ADA	33.89	14.50	
Extended Year 7-8	0.00		
Extended Year 9-12		1.00	
Total ADA	33.89	15.50	49.39
Cumulative Enrollment	50	25	

2003-04 Non-Resident Students			
Regular Elementary and High School	Elementary	High School	Total
Total Kindergarten	4.05		
Total Grades 1-3	4.44		
Total Grades 4-6	8.77		
Total Grades 7-8	10.54		
Total Grades 9-12		41.23	
Total Regular ADA	27.80	41.23	
Extended Year 7-8	3.00		
Extended Year 9-12		1.00	
Total ADA	30.80	42.23	73.03
Cumulative Enrollment	56	103	

**Summary Total 2003-04 Charter ADA**

Resident and Non-Resident			
Regular Elementary and High School	Elementary	High School	Total
Total Kindergarten	4.05		
Total Grades 1-3	14.74		
Total Grades 4-6	20.15		
Total Grades 7-8	22.75		
Total Grades 9-12		55.73	
Total Regular ADA	61.69	55.73	
Extended Year 7-8	3.00		
Extended Year 9-12		2.00	
Total ADA	64.69	57.73	122.42
Cumulative Enrollment	106	128	

NOTE: CEE used 132 days as divisor for 2003-04 at P-2 per the J18-19

CEE Charter  
Summary of Allowable 2003-04 ADA  
Using FCMAT Revised School Calendar at P-2 (Divisor of 135 Days)

Teacher	Kinder	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	Total
Julie Harris							166	193	412	55	290	171		1,287
Dave Fogal							20	20	73			20		133
Fred Kennepohl										278	127	501	139	1,045
Leah Cherry		148			55	74								277
D McCandliss												20		20
Dawn Manwell	320	58	210	113	255	195	113	163	120					1,547
K Messler		140	20	152			195	91	156	80	20	135		989
E Messler				43				101	31	235	829	169	70	1,478
Total Days by Grade	320	346	230	308	310	269	494	568	792	648	1266	1016	209	6,776

ADA RECAP	K-3	4-6	7-8	9-12
	320	310	568	648
	346	269	792	1,266
	230	494	1,016	
	308			209
Total Days	1,204	1,073	1,360	3,139
ADA (divide days/135)	8.92	7.95	10.07	23.25
				50.19
Gen Purpose Entitlement	4,540	4,606	4,733	5,506
Apportionment	\$40,490	\$36,609	\$47,659	\$128,025
				\$252,783
CAT	172	177	129	164
	1,534	1,407	1,300	3,813
				8,054

NOTE: Apportionment calculations may vary slightly due to rounding.

With no source or supporting documents, FCMAT created all the attendance information using the individual teacher monthly attendance sheets as a base. The monthly information by teacher was used to develop a valid calendar, combined to get a full list of enrolled students, and used to create (or recreate) documentation to support the P-2 ADA reported to the district and state. FCMAT used a divisor of 135 days to calculate the appropriate ADA for the CEE charter school.

The general purpose entitlement funding that CEE received for 2003-04 was based on the ADA information submitted to the district and the state in the P-2 Attendance Report. CEE claimed 49.39 resident and 73.03 nonresident ADA for a total of 122.42 ADA in 2003-04. The school did not provide FCMAT with adequate supporting documentation to determine how much ADA was reported per teacher or per student.

To determine the ADA reported by student and by teacher, FCMAT created ADA summary sheets for each teacher using monthly attendance sheets provided by CEE and student attendance records found in individual student files. The sheets provided by CEE were not signed, but the attendance sheets found in student files were signed by the teachers. Signed attendance documents are required to claim independent study state funding.

The compliance testing was performed on a teacher-by-teacher basis. The ADA summary spreadsheets prepared by FCMAT summarize the apportionment days by student for each teacher through the P-2 reporting period and allowable ADA verified by FCMAT as a result of the independent study compliance audit.

FCMAT calculated the maximum possible number of apportionment days and related ADA that should have been reported by CEE in 2003-04 as follows:

Harris	2,651
Fogal	536
Kennepohl	1,802
Cherry	1,908
McCandliss	103
Dawn Manwell	2,160
Karyn Messler	2,434
Ed Messler	<u>3,243</u>
<b>Total</b>	<b>14,837</b>

The maximum ADA should have been 109.90, not 122.42 ADA as reported by CEE, when using the divisor of 135 based upon FCMAT's revised calendar at the P-2 reporting period ( $14,837/135 = 109.90$ ).

FCMAT could only verify 50.19 ADA for 2003-04. Fifty-nine percent, or 72.23 ADA of the 122.42 ADA reported by CEE, was disallowed for noncompliance with Education Code independent study regulations, calculation errors related to calendar irregularities, and the fact that CEE never provided the appropriate supporting documentation to substantiate the 122.42 ADA reported on the 2003-04 P-2 Attendance Report.

The general purpose entitlement funding for the 50.19 ADA should have been \$252,783. According to the Ammermon closeout audit, the CEE received \$615,917 of state funding. Mr. Ammermon recognized a liability to the State of California for \$363,134 as a result of the disallowed ADA.

FCMAT examined CEE student files that were located at the district office at intermittent intervals between September and December 2005. The contents of the boxes appeared consistent during that period of time. There were numerous boxes of CEE records, mostly labeled alphabetically. A few boxes were labeled with family names and one large plastic container contained files of students enrolled in the Palmdale-Lancaster program. District staff stated they assigned an employee to alphabetize the files in the boxes because it was difficult to find files when parents requested transfers. The district employee labeled the boxes before FCMAT conducted compliance testing. FCMAT examined the student files intermittently between September and December 2005.

The following narrative describes FCMAT's findings for each teacher and details the reasons that ADA was disallowed. The FCMAT spreadsheets are included in Appendix D of this report.

**Teacher: Julie Harris**  
**Highland Location**

Julie Harris was one teacher of record for the K-12 independent study program at the Highland location for the 2003-04 school year. Ms. Harris began teaching for CEE in the second school month of 2003-04, with ADA reported beginning September 30, 2003. There were a total of 43 students identified as being enrolled in Ms. Harris' program at some point during 2003-04, with ADA posted from September 30, 2003, through June 10, 2004. Most of the students in Ms. Harris' program had been enrolled in another teacher's program during month 1 of 2003-04.

Ms. Harris' teaching credential was valid during her period of employment with CEE and was issued under the name Julie Ann Harris.

Professional Clear Multiple Subject Teaching Credential  
 Authorized Field: General Subjects (Examination)  
 Cultural, Language and Academic Development Emphasis  
 Valid: August 5, 2003 to September 1, 2008

The student files for Ms. Harris' program were examined at the Bear Valley USD district office. Many of the student files for this teacher were missing from the boxes. Of the files that were located, very few contained the appropriate signed master agreements and most documents were photocopies. Student work samples were reviewed and in many cases adequate work was found.

Nothing was provided to FCMAT indicating the cumulative days of apportionment that CEE reported to the state for Ms. Harris' students in 2003-04. The FCMAT-prepared ADA spreadsheet indicates that the total apportionment days for the 43 students enrolled through the P-2 reporting period was 2,651 days. The P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar as discussed earlier in this report.

Of the possible 2,651 attendance days between September 2, 2003 and April 2, 2004, only 1,287 days were deemed allowable. One thousand three hundred sixty-four (1,364) days were disallowed due to FCMAT's inability to verify compliance with the Education Code requirements for independent study programs. Twelve files were complete with no disallowed apportionment days. The noncompliant student files found by FCMAT are as follows (some student files had more than one error):

- No student file located = 12
- Agreement dates incorrect or missing compliance element including contracts signed by a teacher other than Ms. Harris = 15
- One or more monthly roll sheets missing = 4

Ms. Harris was paid as a teacher for the time she was employed during the 2003-04 school year.

### **Teacher: David Fogal**

#### **Highland Location**

David Fogal was one teacher of record for only the first school month (9-2-03 to 9-29-03) at the Highland location. Most of the students enrolled in Mr. Fogal's program ranged from grades 6 to 12. CEE staff reported to FCMAT that the students enrolled in Mr. Fogal's program were transferred to Julie Harris in the second school month.

Mr. Fogal held a valid credential during the period that ADA was claimed by CEE, September 2, 2003 through September 29, 2003. His credential was issued under the name David A. Fogal.

Junior High School Life Diploma  
 Issued May 20, 1971  
 Document Number 472-34-0338-01

The student files for Mr. Fogal's program were examined at the Bear Valley USD district office. Most documents in the student files were photocopies, and most student files were missing the required documentation to claim apportionment. The types of errors noted are indicated below. In many cases, the supporting documents were located but not properly signed by Mr. Fogal. For example, many of the student agreements and ADA sheets that were available were signed by Julie Harris or Ed Messler even though the student names appeared on Mr. Fogal's attendance list. Student work samples were reviewed and in many cases adequate work was found.

Nothing was provided to FCMAT indicating the cumulative days of apportionment that CEE reported to the state for Mr. Fogal's students in 2003-04. The FCMAT-prepared ADA spreadsheet indicates that the total apportionment was 536 days for the 28 students enrolled at some point through the P-2 reporting period. The P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar as discussed earlier in this report.

Of the possible 536 attendance days between September 2 and September 29, 2003, only 133 days were deemed allowable. Four hundred three (403) days were disallowed due to FCMAT's inability to verify compliance with the Education Code requirements for independent study programs. Six files were complete with no disallowed apportionment days. The noncompliant student files found by FCMAT are as follows (some student files had more than one error):

- No student file located = 3
- Month one attendance sheet missing = 1
- Date of signatures on master agreements disagrees with days recorded on roll sheets or not within the proper month = 4
- No student agreement = 9
- Master agreements and attendance sheets signed by another teacher = 4
- Attendance sheet signed by another teacher = 1
- Master agreement signed by another teacher = 2

Documentation was found indicating that CEE and Mr. Fogal came to an agreement regarding expenses for the time that Mr. Fogal was employed by the charter school. This was not recorded in CEE's financial records and was not paid to Mr. Fogal. He was a teacher; however, \$6,500 is shown as an outstanding liability in the Ammermon report.



**Teacher: Edward Kennepohl**  
**Palmdale-Lancaster Location**

Mr. Edward Kennepohl was the teacher of record for the high school (grades 9-12) independent study program at the Palmdale-Lancaster satellite school for five months during the first semester of 2003-04. Fifty-six students were identified as being enrolled in Mr. Kennepohl's program at some point during the first semester of 2003-04, with ADA posted from September 2, 2003 through month five, ending February 6, 2004. The Palmdale-Lancaster site discontinued operations on January 23, 2004. Edward Kennepohl's teaching credential was valid during the period he was employed with the CEE charter school. His credential was issued under the name Edward August Kennepohl.

Standard Teaching Credential with a Specialization in Secondary Teaching

Issued: May 03, 1971

Issued For Life

Document Number: 546-56-1080-01

The student files for Mr. Kennepohl's program were examined at the Bear Valley USD district office. All documents in the student files were photocopies. Most student files were missing the required documentation to claim apportionment. ADA credit was allowed if all other state compliance requirements were met other than the presence of original paperwork. The benefit of the doubt was given to CEE in this case because the teacher of record moved out of California and the charter staff reported that they could not obtain the original documents since the files had been transferred to new schools with the students.

Nothing was provided to FCMAT indicating the cumulative days of apportionment that CEE reported to the state for Mr. Kennepohl's students in 2003-04. The Palmdale-Lancaster site ADA was combined with the Pasadena site ADA, with no breakdown by site, teacher or student. Mr. Kennepohl's program operated for 89 days, with a total of 56 students enrolled at some point during that period. FCMAT determined that the total possible apportionment days for the 56 students was 1,802 based on the individual student attendance sheets signed by Mr. Kennepohl. P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar as discussed in this report.

Of the 1,802 possible apportionment days for Mr. Kennepohl's program, FCMAT identified 757 days that did not comply with state independent study requirements due to missing documents, files, and monthly roll sheets; errors on master agreements, and other noncompliance errors.

Numerous students were enrolled for very short periods of time with nothing in their files to substantiate apportionment days. A former CEE employee reported to FCMAT that this was because they were at-risk students who had been referred by the probation department or other law enforcement agency. No evidence of this was found in the student files.

Nineteen of the 56 student files were complete, with no disallowed apportionment days. The noncompliant student files found by FCMAT as the basis for disallowed apportionment days are as follows (some student files had more than one error):

- No student file located = 8
- One or more monthly roll sheets missing = 5
- Master agreement not properly signed by all parties = 12
- Master agreement missing one or more required components = 2
- Date of signatures on master agreement disagrees with days recorded on roll sheets = 4
- No master agreement found = 1
- No student work samples in file = 8

Student work samples were reviewed. If work samples were found in a student's file, credit was given. FCMAT noted that some work may not have been corrected or graded by the teacher. Most of the work appeared to be computer curriculum printouts. In many cases, it was difficult or impossible to determine who did the work or how much work was required to generate one full day of apportionment. FCMAT also noticed that the curriculum for students of all ages was very similar in nature. It was not part of the scope of this review to determine the appropriateness of the work assigned to students, but this concern was noted by the FCMAT analyst.

After master agreements were signed by Edward Kennepohl on the line marked "Education Specialist's Signature (Required)," then crossed out, FCMAT noted the additional signature of Joan L. Tiedemann. There was no record that Joan L. Tiedemann was on the CEE payroll, and her position or status in this CEE program is undetermined. Even though Mr. Kennepohl's signature was crossed out, if it was legible on the master agreement, FCMAT allowed credit for the days of apportionment.

It is FCMAT's understanding, based on the closeout financial statements prepared by Michael Ammermon, CPA and the CEE financial and payroll records, that Mr. Kennepohl was never paid by CEE for the time that he was employed by the CEE charter school and listed as the teacher of record for the Palmdale-Lancaster satellite program. He was not reimbursed for expenses incurred, which are listed in the Ammermon report as the Valley View Learning Center liability, with a balance of \$4,494 due. This amount was agreed upon between Mr. Ammermon and Mr. Kennepohl, but does not reflect the entire balance of expenses and salary that were incurred by Mr. Kennepohl on behalf of the CEE charter school.

**Teacher: Leah Cherry****Big Bear Location**

Leah Cherry was one teacher of record for the K-12 independent study program at the Big Bear location for the entire 2003-04 school year. Thirty-nine students were identified as being enrolled at some point in Ms. Cherry's program during 2003-04 with ADA posted from September 2, 2003 through June 10, 2004.

Leah Cherry had a long-term teaching permit rather than a clear credential. The permit was valid only until January 1, 2004. According to the Education Code requirements for independent study, all teachers are required to have a valid credential for apportionment to be claimed and funded by the state. Ms. Cherry's long-term permit was issued under the name Leah Johnson Cherry.

Emergency Long Term Multiple Subject Teaching Permit

Authorized Field: General Subjects

Valid: December 1, 2002 to January 1, 2004

As of October 6, 2005, the California Commission on Teacher Credentialing had no record of a valid credential for Leah Cherry after the date of January 1, 2004, per the certificated credential specialist at Bear Valley USD, the San Bernardino County Superintendent of Schools credential office, and the California Commission on Teacher Credentialing.

The student files for Ms. Cherry's program were examined at the Bear Valley USD district office. Most files did not contain the documentation required to claim apportionment. Student work samples were reviewed and in many cases ample work was found. However, no apportionment credit was given for student work without a valid master agreement or other required compliance documentation.

Nothing was provided to FCMAT indicating the cumulative days of apportionment that CEE reported to the state for Ms. Cherry's students in 2003-04. Since her credential was valid only until January 1, 2004, the potential apportionment days up to that date were evaluated by FCMAT, but all days after January 1, 2004 were disallowed. The FCMAT ADA summary indicates that the 39 students enrolled in Ms. Cherry's program yielded 1,908 apportionment days based on the 75 possible calendar days that her credential was valid. P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar.

Of the possible 1,908 days from September 2, 2003 to December 31, 2003, only 277 days were allowable. One-thousand six hundred thirty-one (1,631) days were disallowed due to not being able to substantiate compliance with the Education Code requirements for independent study. Only two files were complete with no disallowed apportionment days. The noncompliant student files found by FCMAT are as follows (some student files had more than one error):

- No student file located = 18
- No signed master agreement = 17
- One or more monthly roll sheets missing = 2
- Master agreements or ADA sheets signed by someone other than Ms. Cherry = 3
- Students enrolled only second semester after the expiration of Ms. Cherry's credential = 6

Ms. Cherry was paid during the entire period of her employment, September 2, 2003 through June 10, 2004, although her teaching credential expired January 1, 2004.

### **Teacher: Dorothy McCandliss**

#### **Pasadena Location**

Dorothy McCandliss was one of the teachers of record for the CEE K-8 independent study program at the Pasadena location. Student attendance was claimed for only one month during the first semester of 2003-04. Based on the attendance documentation compiled by FCMAT, six students were identified as being enrolled at some point in Ms. McCandliss' program during the month of September 2-29, 2003. Four of those students had the surname of McCandliss and are assumed to be the teacher's own children, indicating that this may have been a home-schooling situation that turned into a CEE charter program for the purpose of claiming state funding.

Dorothy McCandliss held a valid California credential during the time she was employed as a teacher for the CEE charter school. Her credential was issued under the name Dorothy Ann McCandliss.

Professional Clear Single Subject Teaching Credential

Authorized Field: Social Science (Examination); Life Science (Examination)

Supplementary Authorization: Introductory English

Valid: October 1, 2001 to October 1, 2006

The student files for Ms. McCandliss' program were examined at the Bear Valley USD district office. FCMAT could only locate files for two of the six enrolled students, those with names other than McCandliss. FCMAT verified that the attendance for only one of those two students complied with the Education Code. The other student's ADA should not have been claimed by CEE because the enrollment date and signature on the master agreement did not tie to the days reported on the teacher's attendance sheet.

Nothing was provided to FCMAT showing the cumulative days of apportionment that CEE reported to the Bear Valley USD and the state for Ms. McCandliss' students in 2003-04. The Pasadena site ADA was combined with the Palmdale site ADA with no breakdown by site, teacher or student.

Of the 103 possible apportionment days for the six students enrolled in Ms. McCandliss' program, FCMAT disallowed 83 days due to missing files and incorrect master agreement dates. P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar. Only one student file contained the necessary compliance documents. The noncompliant student files noted by FCMAT are as follows:

- Agreement dates do not tie to apportionment days claimed = 1
- No student file available/no work samples = 4

Ms. McCandliss was paid for her work while employed by CEE.

**Teacher: Dawn Manwell**

**Pasadena Location**

Dawn Manwell was one of the teachers of record for the K-8 independent study program at the Pasadena satellite school for five months during the first semester of 2003-04. Twenty-seven students were identified as enrolled in Ms. Manwell's program at some point during the first semester of 2003-04, with ADA recorded from September 2, 2003 through January 16, 2004.

Dawn Manwell's teaching credential was valid during the time she was employed by the CEE charter school. Her credential was issued under the name Dawn Li Wesche-Manwell.

Professional Clear Personnel Services Credential

Specialization: School Counseling

Valid: February 21, 2001 to March 1, 2006

The student files for Ms. Cherry's program were examined at the Bear Valley USD district office. Discrepancies were noted between the calendar based on the summary attendance sheets provided by CEE and the calendar based on the individual teacher-signed attendance sheets found in the student files. The net difference between the two calendars was only one day, but months 2 through 5 had differences. All sites should have been using the same school calendar.

Nothing was provided to FCMAT indicating the cumulative days of apportionment that CEE reported to the state for Ms. Manwell's students in 2003-04. The Pasadena site ADA was combined with the Palmdale-Lancaster site ADA, with no breakdown by site, teacher or student.

The FCMAT ADA summary for Ms. Manwell's program indicates a possible total of 2,160 apportionment days for the 27 enrolled students. Of the 2,160 possible apportionment days for Ms. Manwell's program, FCMAT identified 613 days that should not be claimed due

to missing documents, missing attendance sheets, errors on master agreements, or other errors that did not meet state independent study compliance requirements. P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar.

FCMAT found all but one of the student files for the 27 students enrolled in Ms. Manwell's program. Only two student files were complete, with no disallowed apportionment days. The noncompliant student files found by FCMAT are as follows (some student files had more than one error):

- No student file located = 1
- One or more monthly roll sheets missing = 24
- Date of signatures on master agreements disagrees with days recorded on roll sheets = 4
- Individual student monthly roll sheet(s) not signed by teacher = 3
- Dates altered on master agreement = 1

All of the individual student attendance sheets that were found in student files for Ms. Manwell's program indicated perfect attendance for all students in all months. Much of the paperwork in the student files appeared to be photocopied rather than original documents. The amount of student work samples was sufficient, but much of the student work did not appear to have been graded, yet full apportionment was claimed by the teacher for all students every day.

The curriculum for students of all ages was very similar in nature. However, it was not part of the scope of this review to determine the appropriateness of the level of work assigned to students.

At least one example of student work in the files of this teacher was based on religious subject matter.

Ms. Manwell was paid for her work while employed by CEE.

#### **Teacher: Karyn Messler**

##### **Big Bear Location**

Karyn Messler was one teacher of record for the K-12 independent study program at the Big Bear location for the entire 2003-04 school year. Thirty students were identified as enrolled in Ms. Messler's program at some point during 2003-04, with ADA posted from September 2, 2003 through June 10, 2004.

Ms. Messler held a valid teaching credential during the entire 2003-04 school year. According to the Education Code requirements for independent study, all teachers are required to have a valid credential for apportionment to be claimed and funded by the state. Ms. Messler's credential was issued under the name Karyn Rust Messler.

Professional Clear Multiple Subject Teaching Credential  
 Authorized Field: General Subjects  
 Valid: June 1, 2001 to June 1, 2006

The student files for Ms. Messler's program were examined at the Bear Valley USD district office. Many student files for this teacher were missing from the boxes. Of the files that were located, a few did not contain the appropriate signed master agreements and many of the documents were photocopies. Student work samples were reviewed and in many cases ample work was found. However, no apportionment credit was given for student work without a valid master agreement or other required compliance documentation. An effort was made to contact CEE to ask for the missing files. They were not provided to FCMAT for examination; thus, no apportionment credit was allowed for those students.

Nothing was provided to FCMAT showing the cumulative days of apportionment that CEE reported to the state for Ms. Messler's students in 2003-04. FCMAT's ADA summary indicates that the 30 students enrolled in Ms. Messler's program yielded 2,434 possible apportionment days. Of those 2,434 possible days from September 2, 2003 to April 10, 2004, only 989 days were allowable. P-2 ADA was calculated using a divisor of 135 based on FCMAT's revision of the CEE school calendar.

Only eight files were complete, with no disallowed apportionment days. The noncompliant student files found by FCMAT are as follows (some student files had more than one error):

- No student file located = 10
- No signed master agreements = 10
- One or more monthly roll sheets missing = 6

Ms. Messler was paid as a teacher for the entirety of her employment in the 2003-04 school year.

#### **Teacher: Edward Messler**

##### **Big Bear Location**

Mr. Edward Messler was one teacher of record for the K-12 independent study program at the Big Bear location for the entire 2003-04 school year. There were a total of 51 students identified as being enrolled in Mr. Messler's program at some point during 2003-04, with ADA posted from September 2, 2003 through June 10, 2004.



Mr. Messler had a valid teaching credential during the entire 2003-04 school year. According to the Education Code requirements for independent study, all teachers are required to have a valid credential for apportionment to be claimed and funded by the state. Mr. Messler's credential was issued under the name Edward Jennings Messler.

Preliminary Level I Education Specialist Instruction Credential  
Authorized Field: Mild/Moderate Disabilities  
Valid: September 10, 2000 to October 1, 2005

The student files for Mr. Messler's program were examined at the Bear Valley USD district office. Most student files for this teacher were missing from the boxes. Of the files that were located, very few contained the appropriate signed master agreements and most of the documents were photocopies. Student work samples were reviewed and in many cases ample work was found. However, no apportionment credit was given for student work without a valid master agreement or other required compliance documentation.

Nothing was provided to FCMAT indicating the cumulative days of apportionment that CEE reported to the state for Mr. Messler's students in 2003-04. FCMAT's ADA summary indicated that of the 51 students enrolled in Mr. Messler's program, for the possible 3,243 days from September 2, 2003 through the P-2 reporting period of April 10, 2004, only 1,478 days were allowable.

Only two files were complete with no disallowed apportionment days. Ten students had attendance reported only after the P-2 reporting period. The noncompliant student files found by FCMAT are as follows (some student files had more than one error):

- No student file located = 20
- Master agreements not signed or found = 8
- One or more monthly roll sheets missing = 4
- Master agreements or ADA sheets signed by someone other than Mr. Messler = 8
- Attendance sheets do not tie to dates reported in summary = 6
- No student work found = 2

Mr. Messler was paid as a teacher for the entirety of his employment in the 2003-04 school year.

**Director: John Dunn**

FCMAT was asked to verify if John Dunn worked as a teacher while employed as the CEE Director. FCMAT found no evidence in any of the student files that Mr. Dunn was the teacher of record for any student, nor was ADA recorded or claimed under Mr. Dunn's name. However, some student master agreements contained Mr. Dunn's signature on the line for the instructor's signature.



## Recommendations for Charter Oversight

In earlier FCMAT studies related to charter school operations, many of the same general findings as noted in this audit were documented and the reports included recommendations for the SPI and county superintendents to consider. Although the charter schools in California operate independently from one another, commonalities were noted in this study regarding the overall lack of adequate internal accounting controls, poor business practices, and mismanagement of funds that were previously noted in other AB 139 Extraordinary Audit reports. Many of the findings and recommendations from the other reports are being included here as they are pertinent in this case as well.

California school districts vary tremendously in terms of size, resources, and capabilities. As a result, not all school districts have the same capabilities to provide oversight for charter schools they may authorize.

The education industry faces the following policy issues related to school district authorization of a charter school:

- The capacity of school districts to provide the requisite oversight of the charter schools they authorize.
- The desirability of having the county superintendent of schools or other oversight agency comment on or approve the financial and fiscal accountability provisions of charters and charter agreements (memorandums of understanding) before the charter becomes operational.
- Clarification of the oversight responsibilities and authority given to charter school authorizing entities.
- The desirability of having one or more voting members of a charter school's governing board appointed by the chartering agency.
- Providing authorizing entities with clear authority to prevent fiscal mismanagement by charter schools short of charter revocation.
- Developing an audit guide for charter schools.
- Delineating the roles, responsibilities, and liabilities of an authorizing entity for those situations in which a charter school fails and/or closes.

Assembly Bill 1137, enacted in October 2003, provided new oversight requirements for school districts authorizing charter schools. Specifically, Section 47604.32 was added to the California Education Code, to read: "Each chartering authority, in addition to any other duties imposed by this part, shall do all of the following with respect to each charter school under its authority:

- a) Identify at least one staff member as a contact person for the charter school.
- b) Visit each charter school at least annually.
- c) Ensure that each charter school under its authority complies with all reports required of charter schools by law.
- d) Monitor the fiscal condition of each charter school under its authority.
- e) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
  - 1. A renewal of the charter is granted or denied.
  - 2. The charter is revoked.
  - 3. The charter school will cease operation for any reason.
- f) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.”

## **District Oversight**

Individual school districts are the primary authorizing entity for charter schools in California. Before the passage of AB 1137, which became effective January 1, 2004, the roles and responsibilities of the authorizing entity to oversee the charter schools were not well defined.

Even though AB 1137 legislation has clarified the oversight responsibilities of authorizing agencies, school districts and other agencies should review and consider charter petitions very carefully to ensure that the obligations and responsibilities of both parties are clearly defined in a memorandum of understanding along with the charter approval. This process exists as a protection for both the chartering entity and the charter school.

During the 2003-04 school year, the Bear Valley USD became concerned about the financial condition and educational programs of the CEE charter school. The district’s Board of Trustees and legal counsel corresponded with the CEE Director on numerous occasions requesting information and documentation to assist the district in achieving their oversight responsibilities. The district notified CEE of the deficiencies and suspected failure to comply with charter provisions. CEE was allowed a certain period of time to cure the deficiencies but was unable to satisfy a number of the concerns of the district. The charter was revoked on September 1, 2004.

No memorandum of understanding was in place when the charter school first began operations. The district established a funding model that required CEE to expend funds first, then seek reimbursement through the district. Fortunately, the district was able to review nearly all of CEE’s expenditures, albeit after the fact, to determine whether or not the expenditures could be reimbursed with the charter’s funds held in Fund 9 of the district’s financial records.

This method of funding distribution is unusual and ultimately may have partially contributed to the cash flow problems that caused CEE's financial downfall because the reimbursement of funds was often delayed due to untimely invoicing by CEE, and the audit procedures required by the district and county office. The CEE was required to submit reimbursement invoices to the district with supporting documentation for all expenditures. Upon district approval of the documentation, an electronic request for payment was made to the San Bernardino County Superintendent of Schools' School Claims Division as an accounts payable transaction, and a commercial warrant was prepared payable to CEE.

In the very beginning the reimbursement process worked adequately to provide CEE with needed operating cash. If CEE submitted invoices in a timely manner with correct documentation, the turnaround time for reimbursements was acceptable. But, as the relationship between the parties became strained and CEE began to experience financial problems, invoices were not submitted to the district correctly or in a timely manner. The district also became suspect of certain expenditures, and the reimbursement process was delayed.

The CEE experienced cash flow problems early on. This occurred mainly because the charter administration was inexperienced in managing a charter school, (although CEE's records indicate that charter consultants were utilized), did not follow good business practices, and mismanaged cash. Internal accounting controls were not in place to ensure accuracy and reliability of the financial records. Transactions were not recorded properly, budget monitoring practices were inadequate, and spending decisions were not carefully evaluated before commitments became long-term obligations of the charter.

The staff hired and assigned as teachers or to perform the business functions of the charter were often close personal friends, fellow members of the church where CEE Director John Dunn was pastor, or close family members of Mr. Dunn. The employees were not properly supervised and lacked appropriate experience and/or training to maintain the integrity of the charter's financial records. Whether purposeful or not, the hiring practices and apparent duplicity in accounting practices indicate that the charter and state funds were mismanaged.

The documents reviewed by FCMAT indicate that the Bear Valley USD discharged its fiscal oversight duties under Education Code 47604.32 appropriately and diligently with regard to the CEE charter school.

## **Charter School Governing Board Oversight**

The contracts and CEE's Governing Board bylaws provided little fiscal oversight authority for its board members. Many of the issues identified in this report could have been avoided or mitigated if the Governing Board of the CEE charter school had exercised due diligence in its oversight role. Because the majority of board members were closely associ-

ated or affiliated with the charter's administration or the church that employs Mr. Dunn as pastor, the importance of the financial oversight activities and state compliance may have been overlooked or minimized.

The education industry faces the following policy issues regarding the authorization of charter schools:

- The responsibility of charter school boards to review and approve actions by administrators.
- The importance of maintaining board member independence.
- The ability of charter schools to nominate or appoint employees as members of a charter school's governing board.
- The need for charter school governing boards to provide advance review and approval of contracts and expenditures exceeding a certain predetermined dollar amount.
- The importance of charter school board members selecting the school's auditors and receiving, reviewing, understanding, and responding to the audit reports.
- The need for charter school board members to receive training regarding their legal and fiduciary responsibilities, and to be held personally responsible for failure to fulfill their fiduciary responsibilities.

It was reported to FCMAT that the former CEE administrators may have sought a new charter school, the Gorman Learning Center, authorized through the Gorman School District in Los Angeles County, and that charter may be operating an independent study program in Big Bear. During FCMAT's visit to the Big Bear location on September 1, 2005, one year after the closure of the CEE charter school, a FCMAT team member observed at least three students appearing to be of high school age coming to the site and meeting with Edward Messler to turn in homework and receive new instructional assignments. This was one year after the CEE charter ceased operations. The same group of administrators and employees that managed the CEE charter school may operate the Gorman charter.

A list of over 50 missing student files was sent to the CEE Director John Dunn in early 2006 requesting access to the files to verify compliance with state independent study regulations. FCMAT believed that many of the names of students whose files were missing may have been retained as students if the CEE administrators opened a new charter school authorized by the Gorman School District. Mr. Dunn left two voice mail messages stating that the files had been transferred with the students to "new schools" and could not be examined by FCMAT. Since the majority of the documents FCMAT found in the student files that were in the custody of the district were photocopied, it seemed possible that CEE may either have retained original copies of the missing student records or had access to the

missing files. Although Mr. Dunn's assurance that the students transferred to other schools was appreciated, without access to the files, none of the attendance for the 50-plus students may be claimed.

## **State Laws and Regulations**

The CEE charter school did not comply with independent study requirements. When these suspicions were identified by the district, there was no mechanism requiring the charter to undergo a compliance audit of the independent study program. If significant program or fiscal concerns are identified, the authorizing agency should be empowered to require a compliance audit independent of or as a part of the charter school's annual independent financial audit.

In addition, when a charter closes, whether voluntarily or through charter revocation, the Education Code and charter legislation should contain general closure procedures for charter schools.

There should be a mechanism in place to empower the CDE to delay or cease funding for a charter school if an authorizing agency or county superintendent notifies the state that a charter is not responding to requests for information that is necessary for proper oversight, or when negligent or inappropriate activities are suspected.



## Exit Meetings

On Tuesday, October 24, 2006, FCMAT and the San Bernardino County Superintendent of Schools conducted two meetings to present the CEE preliminary draft report to the school district and charter school prior to publication. The morning meeting was with the Bear Valley Unified School District Superintendent and legal counsel. The afternoon meeting was with the CEE Charter School Director and the charter's accountant. Each group was offered the opportunity to read the draft report for up to two hours, then submit comments and/or information to correct technical errors by 5 p.m. Friday, October 27, 2006. All copies of the draft report were retained by FCMAT and the county office.

The district's review team read the report in the presence of FCMAT and two county office administrators. The district's legal counsel, Steven Chidester, provided a written response to the draft on Friday October 27, 2006, within the guidelines established at the meeting on October 24, 2006. FCMAT considered these comments and made minor editorial changes to the report to correct technical errors and clarify certain findings, especially regarding the Highland location and concerns about the separation of church and state. Mr. Chidester's written response is included in Appendix E to this report.

The charter school representatives met with FCMAT and the same two county office administrators at 1 p.m. on October 24, 2006. The charter school team members did not read the draft report at that time. The Director, John Dunn, stated that he had no interest in reading the report but had two concerns: the district's decision to pay the outstanding IRS payroll taxes and the deduction of average daily attendance (ADA) for one teacher, Leah Cherry, because her teaching credential had expired December 31, 2003.

Mr. Dunn stated that the CEE did not owe the IRS as much as the district paid to settle that liability. The decision to pay the IRS was made by the district's legal counsel, Mr. Chidester, and by Michael Ammermon, the certified public accountant retained by the district to perform the charter school's closeout audit. The IRS payment is addressed in Mr. Ammermon's audit that is included in this report.

Mr. Dunn also stated that ADA should not have been deducted for Ms. Cherry's students after December 31, 2003 because she was only a substitute after her credential expired. FCMAT stated to Mr. Dunn that if he provided the name(s) of the teacher(s) of record for the students that had been identified as being enrolled in Ms. Cherry's program between January 1, 2004 and June 2004, after her credential expired, by Friday afternoon, October 27, 2006, a further review of that loss of ADA would be conducted. Mr. Dunn did not provide the name(s) of the teacher(s) of record at the meeting or subsequently.

ADA for the students enrolled in Ms. Cherry's program was deducted by FCMAT for the period of January 1, 2004 through June 2004. There was no evidence in any of the student records audited by FCMAT that a teacher other than Ms. Cherry was the teacher of record for the students identified as being enrolled in Ms. Cherry's program.



## Appendices

Appendix A – Study Agreement

Appendix B – Overview of California Laws Applicable to Charter Schools

Appendix C – Recalculation of 2002-03 ADA

Appendix D – Individual Teacher Spreadsheets for 2003-04

Appendix E - Correspondence Regarding CEE Charter School

MANAGEMENT ASSISTANCE TEAM  
STUDY AGREEMENT  
October 21, 2004

The FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM (FCMAT), hereinafter referred to as the Team, and the San Bernardino County Office and Bear Valley Unified School District, hereinafter referred to as the COE, mutually agree as follows:

1. BASIS OF AGREEMENT

The Team provides a variety of services to school districts and county offices of education upon request. The COE has requested that the Team provide for the assignment of professionals to study specific aspects of the Bear Valley Unified School District operations. These professionals may include staff of the Team, County Offices of Education, the California State Department of Education, school districts, or private contractors. All work shall be performed in accordance with the terms and conditions of this Agreement.

2. SCOPE OF THE WORK

A. Scope and Objectives of the Study

The scope and objectives of this study are to:

- 1) Determine if the Charter for Education Excellence has made any inappropriate or improper expenditures for the personal benefit of any officer, director, or fiduciary of the charter school.
- 2) Determine the current financial position of the Center for Education Excellence by reviewing financial records, including all revenues, expenditures, bank statements, assets, liabilities, and other records since inception of the Charter in 2002.
- 3) Determine if there has been any financial mismanagement which has over obligated the Charter's resources and made it fiscally insolvent.
- 4) Determine if the Charter has properly withheld, reported and transmitted payment for employee taxes and provided for staff members coverage of STRS, PERS, and FICA.
- 5) Determine if the Charter has employed properly credentialed teachers.
- 6) Determine if all Average Daily Attendance claimed has been for classroom-based instruction at sites within the confines of Education Code Section 47605 (a) (1).
- 7) Determine if ADA claimed for Independent Study met the conditions established by law for apportionable attendance.
- 8) Determine if the authorizing district (Bear Valley USD) has improperly withheld charter funds as they discharged their fiscal oversight duties under Education Code 47604.32 (d) (Distribution process of assets of revoked charter).

B. Services and Products to be Provided

- 1) Orientation Meeting - The Team will conduct an orientation session at the COE to brief COE management and supervisory personnel on the procedures of the Team and on the purpose and schedule of the study.
- 2) On-site Review - The Team will conduct an on-site review at the District office and at school sites if necessary.
- 3) Progress Reports - The Team will hold an exit meeting at the conclusion of the on-site review to inform the COE of significant findings and recommendations to that point.
- 4) Exit Letter - The Team will issue an exit letter approximately 6 days after the exit meeting detailing significant findings and recommendations to date and memorializing the topics discussed in the exit meeting.
- 5) Draft Reports - Sufficient copies of a preliminary draft report will be delivered to the COE administration for review and comment.
- 6) Final Report - Sufficient copies of the final study report will be delivered to the COE following completion of the review.
- 7) Follow-Up Support - Subsequent to the completion of the study, the Team will meet with the COE as requested by the COE to discuss the findings and recommendations of the report

3. PROJECT PERSONNEL

The study team will be supervised by Thomas E. Henry, Chief Executive Officer, Fiscal Crisis and Management Assistance Team, Kern County Superintendent of Schools Office. The study team may also include:

- A. Michele McClowry, CPA, FCMAT Management Analyst
- B. Michele Dodge, CPA, FCMAT Consultant

Other equally qualified consultants will be substituted in the event one of the above noted individuals is unable to participate in the study.

4. PROJECT COSTS

The cost for studies requested pursuant to E.C. 42127.6(e) shall be:

- A. \$400.00 per day for each Team Member while on site, conducting fieldwork at other locations, presenting reports, or participating in meetings.
- B. All out-of-pocket expenses, including travel, meals, lodging, etc.

Payments for FCMAT services are payable to Kern County Superintendent of Schools-

Administrative Agent.

5. RESPONSIBILITIES OF THE COE

- A. The District will provide office and conference room space while on-site reviews are in progress.
- B. The District will provide the following (if requested):
  - 1) A map of the local area
  - 2) Existing policies, regulations and prior reports addressing the study request
  - 3) Current organizational charts
  - 4) Current and four (4) prior year's audit reports
  - 5) Any documents requested on a supplemental listing
- C. The COE Administration will review a preliminary draft copy of the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the Team prior to completion of the final report.

Pursuant to EC 45125.1(c), representatives of FCMAT will have limited contact with District pupils. The District shall take appropriate steps to comply with EC 45125.1(c).

6. PROJECT SCHEDULE

The following schedule outlines the planned completion dates for key study milestones:

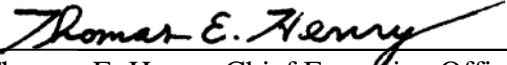
Orientation:	November 1, 2004
Staff Interviews:	November 1-3, 2004
Exit Interviews:	November 3, 2004
Preliminary Report Submitted	To be determined
Final Report Submitted	To be determined
Six-Month Follow Up	To be determined

7. CONTACT PERSON

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Dr. Herbert Fischer, Superintendent	Date
San Bernardino County Office of Education	

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	10/21/04
Thomas E. Henry, Chief Executive Officer	Date
Fiscal Crisis and Management Assistance Team	

# **AN OVERVIEW OF CALIFORNIA LAW APPLICABLE TO CHARTER SCHOOLS**

## **I**

### **PURPOSE, INTENT AND VALIDITY OF THE CHARTER SCHOOL LAW**

In 1992, the Legislature passed the Charter Schools Act of 1992. The Legislature stated that it was its intent in enacting the Charter School Law 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 improved pupil learning, increase learning opportunities for all pupils, encourage the use of different and innovative teaching methods, create new professional opportunities for teachers, provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system, hold schools accountable for meeting measurable pupil outcomes, and provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

The validity of the Charter Schools Act was challenged in court. The Court of Appeal in Wilson v. State Board of Education held that the Charter Schools Act does not offend state constitutional provisions requiring public schools to be under the exclusive control and jurisdiction of officers in the public school system. Nor does it offend state constitutional provisions prohibiting the appropriation of public money for the support of sectarian or denominational schools. The Court of Appeal held that the Charter Schools Act does not create a separate school system in violation of the provisions of the California Constitution requiring the Legislature to provide for a system of common schools, because charter schools are public schools. The court held that the Charter School Act's delegation of certain educational functions to parent and teachers who write the charters and operate the schools does not violate the California Constitution.

## **II**

### **DUTIES OF CHARTER SCHOOLS**

The Charter School Law prohibits the conversion of any private school to a charter school. The Charter School Law also prohibits a charter school from receiving public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. The State Board of Education is required to adopt regulations to implement this requirement.

The Charter School Law does not prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school. Charter schools may elect to operate as or be operated by a non-profit public benefit corporation. The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to the Charter School Law shall be entitled to a single representative on the board of directors of the non-profit public corporation. A school district or county office of education that grants a charter to a charter school to be operated by, or as, a non-profit public benefit corporation, is not liable for the debts or obligations of the charter school or for claims arising from the performance of acts, errors or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including but not limited to those required by Section 47604.32 and Section 47605(m).

A charter school is required to promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority, the county office of education that has jurisdiction over the school's chartering authority, or from the Superintendent of Public Instruction and shall consult with the chartering authority, the county office of education or the Superintendent of Public Instruction regarding any inquiries.

## **III**

### **DUTIES OF CHARTERING AUTHORITY**

Beginning January 1, 2004, each chartering authority, in addition to any other duties imposed under the Charter School Law, is required to do all of the following with respect to each charter school under its authority:

1. Identify at least one staff member as a contact person for the charter school.
2. Visit each charter school at least annually.
3. Ensure that each charter school under its authority complies with all reports required of charter schools by law.

4. Monitor the fiscal condition of each charter school under its authority.
5. Provide timely notification to the California Department of Education if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
  - a. A renewal of the charter is granted or denied.
  - b. The charter is revoked.
  - c. The charter school will cease operation for any reason.

Prior to January 1, 2004, the Education Code did not contain specific authority that granted school districts the power to require charter schools to provide information to the chartering district.

The cost of performing the above duties is to be funded by the supervisory oversight fees collected pursuant to Section 47613.

Under Section 47613, a chartering agency may charge for the actual costs of supervisory oversight of a charter school not to exceed 1% of the revenue of the charter school. A chartering agency may charge for the actual costs for supervisory oversight of a charter school not to exceed 3% of the revenue of the charter school if the charter school is able to obtain substantially rent-free facilities from the chartering agency. The charter school may separately purchase administrative or other services from the chartering agency or any other source.

## **IV**

### **ANNUAL REPORTS OF CHARTER SCHOOLS**

Effective January 1, 2004, each charter school is required to annually prepare and submit reports to its chartering authority and the county superintendent of schools or if the county board of education is a chartering authority, then only to the county superintendent of schools:

1. On or before July 1, a preliminary budget. For a charter school in its first year of operation, the information submitted pursuant to subdivision (g) of Section 47605 satisfies this requirement.
2. On or before December 15, an interim financial report. This report shall reflect changes through October 31.
3. On or before March 15, a second interim financial report. This report shall reflect changes through January 31.

4. On or before September 15, a final unaudited report for the full prior year.

The chartering authority is required to use the financial information it obtains from the charter school to assess the fiscal condition of the charter school. The cost of assessing the fiscal condition of the charter school is to be funded with the supervisory oversight fees that the chartering authority collects.

Prior to January 1, 2004, charter schools were not required to submit these financial reports to the chartering authority.



## **V**

### **AUTHORITY OF THE COUNTY SUPERINTENDENT AND STATE SUPERINTENDENT**

In addition to the authority to make reasonable inquiries to the charter school pursuant to Section 47604.3, a county superintendent of schools may, based upon written complaints by parents or other information that justifies the investigation, monitor the operations of a charter school located within the county and conduct an investigation into the operations of that charter school. If a county superintendent of schools monitors or investigates a charter school pursuant to Section 47604.4, the county office of education shall not incur any liability beyond the cost of the investigation. The charter school is required to notify the county superintendent of schools of the county in which it is located of the location of the charter school, including the location of each site, prior to commencing operations.

The State Board of Education, whether or not it is the authority that granted the charter, may, based upon the recommendation of the Superintendent of Public Instruction, take appropriate action, including, but not limited to, revocation of the schools charter, when the State Board of Education finds any of the following:

1. Gross financial mismanagement that jeopardizes the financial stability of the charter school.
2. Illegal or substantially improper use of charter school funds for the personal benefit of any officer, director or fiduciary of the charter school.
3. Substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's pupils.

## **VI**

### **GEOGRAPHIC LIMITATIONS**

Prior to July 1, 2002, there were no geographic limitations on charter schools and charter schools could be located anywhere in the State. After July 1, 2002, the charter school that is granted a charter from the governing board of a school district or county office of education and commences providing educational services to pupils on or after July 1, 2002, must locate in accordance with the geographic and site limitations of Section 47605 (i.e., sites must be located within school district boundaries except under very limited circumstances).

A charter school that receives approval of its charter from a governing board of a school district, a county office of education, or the State Board of Education prior to July 1, 2002, but does not commence operations until after January 1, 2003, is subject to the

geographic limitations of Section 47605 and must be located within school district boundaries except under very limited circumstances.

For a charter school that was granted approval of its charter prior to July 1, 2002, and provided educational services to pupils before July 1, 2002, these geographic limitations only apply to any new educational services or school sites established or required by the charter school on or after July 1, 2002. For a charter school that was granted approval of its charter prior to July 1, 2002, but did not provide educational services to pupils before July 1, 2002, the geographic limitations shall only apply upon the expiration of a charter that is in existence on January 1, 2003.

By June 30, 2005, or upon the expiration of a charter that is in existence on January 1, 2003, whichever is later, all charter schools will be required to comply with the geographic limitations for school sites (i.e., within the boundaries of the school district) at which educational services are provided to pupils regardless of whether the charter school initially received approval of its charter school petition prior to July 1, 2002. To achieve compliance with the geographic limitation requirements, a charter school will be required to receive approval of a charter petition in accordance with the petition requirements of Section 47605.

## **VII**

### **CONTROL OF CHARTER SCHOOLS**

A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Article IX, Section 8 of the California Constitution with regard to the appropriation of public monies to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of the Charter School Law. The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age must be continuously enrolled in public school and makes satisfactory progress toward award of a high school diploma.

A charter school shall be deemed to be a school district for the purposes of Education Code sections 14000, et seq. (apportionment of state school funds), 41301 (state school funding), 41302.5 (Proposition 98 funding of schools), sections 41850, et seq. (state funding of home to school transportation), and section 8 and 8.5 of Article XVI of the California Constitution (Proposition 98 – public school funding).

Notwithstanding any other provisions of law and as a condition of apportionment, a charter school is required to do all of the following:

1. Offer, at a minimum, the same number of minutes of instruction set forth in Education Code section 46201(a)(3) for the appropriate grade levels.

2. Maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection.
3. Certify that its pupils have participated in the state testing programs in the same manner as other pupils attending public schools as a condition of apportionment of state funding.

A reduction in apportionment shall be proportional to the magnitude of the exception that causes the reduction. The Superintendent of Public Instruction shall withhold from the charter school's apportionment for average daily attendance for each charter school that fails to offer pupils the minimum number of minutes of instruction required, the sum of that apportionment multiplied by the percentage of the minimum number of minutes of instruction at each grade level that the charter school failed to offer.

A charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made by the State Board of Education pursuant to Education Code Section 47634.2. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe.

Charter school funds may only be used for public school purposes as approved by the governing board of the charter school.

## **VIII**

### **INDEPENDENT STUDY**

Notwithstanding any other provision of law and except to the extent inconsistent with Section 47612.5 (instructional minutes) and 47634.2 (separate funding scheme for charter schools operating independent study programs), a charter school that provides independent study must comply with all of the provisions in the Education Code for independent study set forth at sections 51745, et seq., implementing regulations, and as a condition of receiving state apportionments must do all of the following:

1. Offer, at a minimum, the same number of minutes as other schools in the public school system for each grade level as required by law.
2. Maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection.
3. Certify that its pupils have participated in state testing programs in the same manner as other pupils attending public schools.

The State Board of Education is required to adopt regulations that apply the independent study requirements to charter schools.

The governing board of a school district, a county office of education, or a charter school may offer independent study to meet the educational needs of pupils. Educational opportunities offered through independent study may include the following:

1. Special assignments extending the content of regular courses of instruction.
2. Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum.
3. Individualized alternative education designed to teach the knowledge and skills of the core curriculum. Independent study shall not be provided as an alternative curriculum.
4. Continuing and special study during travel.
5. Volunteer community service activities that support and strengthen student achievement.

A special education student may not participate in independent study unless his or her individualized educational program specifically provides for that participation. A temporarily disabled student may not receive individual instruction through independent study. No courses included among the courses required for high school graduation shall be offered exclusively through independent study.

The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the school district.

A charter school, school district or county office of education shall not be eligible to receive apportionments for independent study by pupils regardless of age, unless it has adopted written policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction that include, but are not limited to, all of the following:

1. The maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work.
2. The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best

interest of the pupil to remain in independent study or whether he or she should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be maintained in the pupil's permanent record.

3. A requirement that a current written agreement for each independent study pupil be maintained on file including, but not limited to all of the following:
  - a. The manner, time, frequency and place for submitting a pupil's assignments and for reporting his or her progress.
  - b. The objectives and methods of study for the pupil's work, and the methods utilized to evaluate that work.
  - c. The specific resources, including materials and personnel that will be made available to the pupil.
  - d. A statement of the policies adopted regarding the maximum length of time allowed between the assignment and the completion of the pupil's assigned work, and the number of missed assignments allowed prior to an evaluation of whether or not the pupil should be allowed to continue in independent study.
  - e. The duration of the independent study agreement, including the beginning and ending dates for the pupil's participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one semester or one-half year for a school on a year-round calendar.
  - f. A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.
  - g. The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate.
  - h. Each written agreement shall be signed, prior to the commencement of independent study, by the pupil, the pupil's parent, legal guardian or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil.

A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the agency has provided any funds or other thing of value to the pupil or his or her parent or guardian that the agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or his or her parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district or to his or her parent or guardian.

## **IX**

### **CONFLICT OF INTEREST**

There are two important bodies of statutory law which address potential conflicts of interest of school district board members:

1. Government Code Sections 1090, et seq., pertaining to contractual conflicts of interest, and
2. The Political Reform Act of 1974.

The conflict of interest statutes are based on the belief that a board member cannot serve two masters simultaneously and that the duties of public office demand the absolute loyalty and undivided, uncompromised allegiance of the individual that holds that office. The purpose of the conflict of interest statutes is to eliminate temptation, avoid the appearance of impropriety and limit the possibility of improper personal influence on a board member's decisions.

Government Code Section 1090 provides in pertinent part:

“Members of the Legislature, State, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.”

The Attorney General stated that Section 1090 was enacted to prevent “self-dealing” in contracts by public officials.

In a 1983 opinion the Attorney General stated:

“Section 1090 of the Government Code codifies the common law prohibition and the general policy of this state against public officials having a personal interest in contracts they make in their official capacities. Mindful of the ancient adage, that ‘no man can serve two masters,’ a self-evident truth, as trite and impregnable as the ‘law of gravity,’ the section was enacted to ensure that public officials ‘making’ official contracts not be distracted by personal financial gain from exercising absolute loyalty and undivided allegiance to the best interest of the entity which they serve, and at least with respect to those contracts, it does so by removing or limiting the possibility of their being able to bring any direct or indirect personal influence to bear on an official decision regarding them. The mechanism of the section is one of

prohibiting public officials from being personally financially interested as private individuals in any such contract. ...”

In a 1993 opinion, the Attorney General stated:

“... Section 1090 is concerned with financial interests, other than remote or minimal interests, which would prevent officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their public agencies. Moreover, when Section 1090 is applicable to one member of the governing body of a public entity, the proscription cannot be avoided by having the interested member abstain; the entire governing body is precluded from entering into the contract. A contract which violates Section 1090 is void.”

Even if the terms of the contract might be advantageous to the public agency, Section 1090 would still prohibit entering into the contract.

Government Code Section 1092 provides that every contract made in violation of Section 1090 may be avoided by any party except the official with the conflict of interest. Despite the wording “may be avoided,” the case law holds that any contract made in violation of Section 1090 is void, not merely voidable.

A public officer who is found guilty of willfully violating any of the provisions of Sections 1090, et seq., is punishable by a fine of not more than \$1,000 or imprisonment in state prison. Additionally, such an individual is forever disqualified from holding any office in this state. In People v. Honig, the Court of Appeal affirmed the conviction of former State Superintendent of Public Instruction Bill Honig for violating Government Code sections 1090 and 1097.

The Political Reform Act of 1974 prohibits board members and management employees from participating in decisions if the board’s decision (including, but not limited to contracts) will have a material effect on the board member, the management employee or his immediate family. Government Code section 87100 states:

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

Government Code Section 87103(c) states:

“An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable



that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

\* \* \*

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.”

However, Government Code Section 82030(b)(2) states that “income” does not include:

“Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic, or charitable organization.”

Since the spouse’s salary is received from a local government agency, it does not constitute “income” within the meaning of Government Code Section 87103(c). A regulation of the California Fair Political Practices Commission expands on this exception, as follows:

“(c) Notwithstanding subsection (a) an official does not have to disqualify himself or herself from a governmental decision if:

(1) The decision only affects the salary, per diem, or reimbursement for expenses the official or his or her spouse receives from a state or local government agency. This subsection does not apply to decisions to hire, fire, promote, demote, or discipline an official’s spouse, or to set a salary for an official’s spouse that is different from salaries paid to other employees of the spouse’s agency in the same job classification or position.”

Since the charter schools are part of the public school system, the conflict of interest provisions would apply.



CEE Charter  
Summary of 2002-03 ADA at P-2 per J18-19

2002-03 Resident			
Regular Elementary and High School	Elementary	High School	Total
Total Kindergarten	0.59		
Total Grades 1-3	1.06		
Total Grades 4-6	3.13		
Total Grades 7-8	1.2		
Total Grades 9-12		6.15	
Total Regular ADA	5.98	6.15	
Extended Year 7-8			
Extended Year 9-12		0.00	
Total ADA	5.98	6.15	12.13

NOTE: No non-resident

Cumulative Enrollment	15	16
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CEE Charter  
Verification of ADA/Enrollment  
2002-03

Student Number	Grade	Date Enrolled	Last Date Disenrolled	8-26/9-20	9-23/10-18	10-21/11-15	11-18/12-13	12-16/1-24	1-27/2-21	2-24/3-21	FCMAT Calculation				ADA Claimed on J18/19
				# days 14 ADA Days Claimed Month 2	# days 20 ADA Days Claimed Month 3	# days 20 ADA Days Claimed Month 4	# days 17 ADA Days Claimed Month 5	# days 19 ADA Days Claimed Month 6	# days 18 ADA Days Claimed Month 7	# days 20 ADA Days Claimed Month 8	Total Days by Student	Total Days By Grade	ADA by Grade	ADA by J-18/19 Category	
1	0	12/11/2002		0	0	0	3	19	18	20	60				
2	0	3/3/2003		0	0	0	0	0	0	15	15	75	0.586	0.59	0.59
3	2	12/11/2002		0	0	0	3	19	18	20	60				
4	2	12/11/2002		0	0	0	3	19	18	20	60	120	0.938		
5	3	3/3/2003		0	0	0	0	0	0	15	15	15	0.117	1.05	1.06
6	4	12/11/2002		0	0	0	3	19	18	20	60				
7	4	12/11/2002		0	0	0	3	19	18	20	60				
8	4	3/3/2003		0	0	0	0	0	0	15	15				
9	4	1/27/2003	2/19/2003	0	0	0	0	0	15	0	15	150	1.172		
10	5	12/11/2002	1/20/2003	0	0	0	3	5	0	0	8	8	0.063		
11	6	12/11/2002		0	0	0	3	19	18	20	60				
12	6	12/11/2002		0	0	0	3	19	18	20	60				
13	6	12/11/2002		0	0	0	3	19	18	20	60				
14	6	12/11/2002		0	0	0	3	19	18	20	60	240	1.875	3.11	3.13
15	7	12/11/2002		0	0	0	3	14	18	20	55				
16	7	1/27/2003		0	0	0	0	0	18	20	38				
17	7	12/11/2002		0	0	0	3	19	18	20	60	153	1.195	1.20	1.2
18	9	1/30/2003		0	0	0	0	0	15	20	35				
19	9	12/11/2002		0	0	0	3	19	18	20	60				
20	9	3/3/2003		0	0	0	0	0	0	15	15				
21	9	12/11/2002		0	0	0	3	19	18	20	60				
22	9	12/11/2002		0	0	0	3	14	18	20	55	225	1.758		
23	10	12/11/2002		0	0	0	3	19	18	20	60				
24	10	12/11/2002		0	0	0	3	19	18	20	60				
25	10	12/11/2002		0	0	0	3	14	18	7	42				
26	10	3/13/2003		0	0	0	0	0	0	7	7				
27	10	12/11/2002		0	0	0	3	14	18	20	55				
28	10	12/11/2002		0	0	0	3	19	18	20	60				
29	10	12/11/2002		0	0	0	2	13	14	20	49				
30	10	12/11/2002		0	0	0	3	19	18	20	60				
31	10	12/11/2002		0	0	0	3	17	8	20	48	441	3.445		
32	11	12/11/2002		0	0	0	3	19	18	20	60				
33	11	12/11/2002		0	0	0	3	14	18	20	55	115	0.898	6.10	6.15
Appor days				0	0	0	74	428	466	574	1542	1542	12.046875	12.046875	12.13
ADA claimed							4.35	22.53	25.89	28.7		12.047		Difference	0.083

Note: Per J18-19 State P-2 Report, CEE reported 31 students Total Possible Days = 128

The difference between the ADA reported by CEE and the FCMAT calculation is .083 ADA. This amount was considered an immaterial difference for apportionment purposes in 2002-03.



CEE Charter  
Teacher - Karyn Messler Big Bear Location  
Summary of 2003-04 ADA

FCMAT Student			Summary of Possible Apportionment Days							Using FCMAT P-2 Calendar					
File # for										***	Total	Reason for loss of			
K Messler			Grade	9/2-9/29	9/30-10/27	10/28-11/25	12/1-1/9	1/12-2/9	2/10-3/10	3/11-4/21	P-2	apportionment days			
Total Possible Days				Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	ADA				
				20	20	20	20	20	20	15	135	1	2	3	4
KM	1	6		11	20	20	20	20	20	15	126			-126	
KM	2	8		5	20	20					45				
KM	3	6		20	20	20	20	20	20	15	135				
KM	4	3			6	6	20				32				
KM	5	10		20							20				
KM	6	6		20	20	20					60				
KM	7	3		20	20	20					60				
KM	8	7		20	20	20					60				
KM	9	1		20	20	20					60				
KM	10	2		20	20	20	20				80			-80	
KM	11	3		20	20	20	20				80			-80	
KM	12	10		20	20	20	20	20	20	15	135				-135
KM	13	7					20	20	20	15	75				-75
KM	14	6					20	20	20	15	75				-75

CEE Charter  
Teacher - Karyn Messler Big Bear Location  
Summary of 2003-04 ADA

FCMAT Student			Summary of Possible Apportionment Days								Using FCMAT P-2 Calendar			
File # for			9/2-9/29	9/30-10/27	10/28-11/25	12/1-1/9	1/12-2/9	2/10-3/10	3/11-4/21	Total	Reason for loss of			
K Messler			Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	P-2	apportionment days			
			ADA											
Total Possible Days			20	20	20	20	20	20	15	135	1	2	3	4
KM	15	10	20	20	20	20	20	20	15	135				-135
KM	16	7						12		12				
KM	17	3	20	20	20					60				
KM	18	9	20	20	20	20				80				
KM	19	8	20	20	20	20				80				
KM	20	1	20	20	20	20				80				
KM	21	7							15	15				-15
KM	22	11				20	20	20	15	75				-75
KM	23	9	20	20	20	20	20	20	15	135				-135
KM	24	2	20	20	20	20	20	20	15	135			-115	
KM	25	8						16	15	31				
KM	26	11	20	20	20	20	20	20	15	135				



CEE Charter  
Teacher - Karyn Messler Big Bear Location  
Summary of 2003-04 ADA

FCMAT Student			Summary of Possible Apportionment Days								Using FCMAT P-2 Calendar					
File # for			9/2-9/29	9/30-10/27	10/28-11/25	12/1-1/9	1/12-2/9	2/10-3/10	3/11-4/21	Total	Reason for loss of apportionment days					
K Messler			Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	P-2 ADA						
Total Possible Days			20	20	20	20	20	20	15	135	1	2	3	4		
KM	27	7		19	0					19						
KM	28	6	14	20	20	20	20	20	15	129				-129		
KM	29	8	20	20	20	20	20	20	15	135				-135		
KM	30	7	20	20	20	20	20	20	15	135				-135		
Total Days Claimed			410	445	426	380	260	288	225	2,434	0	0	(401)	(1,044)		
Total Days Disallowed										(1,445)						
Total Days Allowable										989						

\*\*\* Number of Days for Month 7 adjusted to 15 to tie to FCMAT's revision of CEE calendar. P-2 divisor should be 135 days.

- Note 1: Reasons for Loss of Apportionment Days
1. One or more roll sheets not signed by teacher
  2. Missing one or more roll sheets
  3. Agreement dates incorrect or missing element
  4. No student file available/no work sample

CEE Charter  
Teacher - Julie Harris Highland Location  
Summary of 2003-04 ADA

FCMAT			Summary of Possible Apportionment Days at P-2 Reporting Period							Using FCMAT P-2 Calendar	Reason for loss of apportionment days			
Student	File # for Harris	Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11-4/21 Month 7	Total P-2 ADA				
Total Possible Days			20	20	20	20	20	20	15	135	1	2	3	4
JH	1	10				20	20	20	15	75			-12	
JH	2	7		17	17	20	20	20	15	109				
JH	3	8		20	20					40				
JH	4	6		18	18	20	20	20	15	111				
JH	5	8		14	14	20	20	20	15	103			-11	
JH	6	8							14	14		-14		
JH	7	6		18						18		-18		
JH	8	10		20	20	20	20	20	15	115				
JH	9	11				20	20	20	15	75				-75
JH	10	11		20	20	20	10			70		-10		
JH	11	9			2	20	20	20	15	77			-77	
JH	12	8			13	20	20	20	12	85				
JH	13	10		17	17	20	20	20		94				-94



CEE Charter  
Teacher - Julie Harris Highland Location  
Summary of 2003-04 ADA

FCMAT Student File # for Harris			Summary of Possible Apportionment Days at P-2 Reporting Period							Using FCMAT P-2 Calendar ***	Total P-2 ADA	Reason for loss of apportionment days			
			Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11-4/21 Month 7					
Total Possible Days				20	20	20	20	20	20	15	135	1	2	3	4
JH	14	9						4	20		24		-5		
JH	15	10						11	20	15	46				-46
JH	16	7			20	20	20	20	20	15	115			-31	
JH	17	6			14						14				-14
JH	18	9									0				
JH	19	6				20					20				-20
JH	20	9					0	20			20			-20	
JH	21	8			18	18	20	20	20	15	111			-31	
JH	22	11			18	18	20	20	20	15	111				
JH	23	10					2	20	20	15	57				-57
JH	24	9					2	20	20	15	57				-57
JH	25	10				20					20				
JH	26	11						20	20	15	55			-55	

CEE Charter  
Teacher - Julie Harris Highland Location  
Summary of 2003-04 ADA

FCMAT Student File # for Harris			Summary of Possible Apportionment Days at P-2 Reporting Period							Using FCMAT P-2 Calendar ***	Total P-2 ADA	Reason for loss of apportionment days			
			Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11-4/21 Month 7		1	2	3	4
Total Possible Days				20	20	20	20	20	20	15	135				
JH	27	8			20	20	20	20	20	15	115				
JH	28	6			20		20	20	20	15	95		-40		
JH	29	8					1	20	20		41				-41
JH	30	8			20	20					40			-40	
JH	31	10			16	16	20	20	20	15	107			-61	
JH	32	8			18	20					38			-38	
JH	33	3			20						20				-20
JH	34	5			16						16				-16
JH	35	5			20						20				-20
JH	36	9			14	20	20	20	20	15	109			-109	
JH	37	9								15	15				
JH	38	11						11	20	15	46				-46
JH	39	10								15	15			-15	

CEE Charter  
Teacher - Julie Harris Highland Location  
Summary of 2003-04 ADA

FCMAT Student File # for Harris			Summary of Possible Apportionment Days at P-2 Reporting Period								Using FCMAT P-2 Calendar ***			
Grade			9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11-4/21 Month 7	Total P-2 ADA	Reason for loss of apportionment days			
Total Possible Days			20	20	20	20	20	20	15	135	1	2	3	4
JH	40	8		20	20	20	20	20	15	115			-115	
JH	41	10				20	20	20	7	67			-67	
JH	42	9					20	20	1	41			-20	
JH	43	9		20	20	20	20	20	15	115			-69	
Total Days Claimed			0	418	373	405	536	540	379	2,651	0	-87	-771	-506
										Total Days Disallowed	-1,364			
										Total Days Allowable	1,287			

\*\*\* Number of Days for Month 7 adjusted to 15 to tie to FCMAT's revision of CEE calendar. P-2 divisor should be 135 days

- Note 1: Reasons for Loss of Apportionment Days
1. One or more roll sheets not signed by teacher
  2. Missing one or more roll sheets
  3. Agreement dates incorrect or missing element
  4. No student file available/no work sample

Note 2: Julie Harris took over this group of students in month 2 or later.



CEE Charter  
Teacher - Leah Cherry Big Bear Location  
Summary of 2003-04 ADA

FCMAT Student		Summary of Possible Apportionment Days						Total Days	Reason for loss of apportionment days			
File # for Cherry	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1 - 12/31 Month 4	9/2 - 12/31 Month 1-4			1	2	3	4
Total Possible Days		20	20	20	15	75						
LC 1	11	20	20	20	15	75						-75
LC 2	6				15	15					-15	
LC 3	3				15	15					-15	
LC 4	7				15	15					-15	
LC 5	1				15	15					-15	
LC 6	11	20	20	20	15	75						-75
LC 7	3	20	20	20	15	75						-75
LC 8	7	20	20	20	15	75						-75
LC 9	3					0						
LC 10	2					0						
LC 11	6	20	20	20	15	75					-75	
LC 12	5	20	20	20	15	75						-75
LC 13	11	20	20	20	15	75						-75

CEE Charter  
Teacher - Leah Cherry Big Bear Location  
Summary of 2003-04 ADA

FCMAT		Summary of Possible Apportionment Days						Total Days	Reason for loss of apportionment days			
Student File # for Cherry	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1 - 12/31 Month 4	9/2 - 12/31 Month 1-4						
Total Possible Days		20	20	20	15	75			1	2	3	4
LC 14	10	11	20	20	15	66						-66
LC 15	7	20	20	20		60						-60
LC 16	6	20	20	20		60						-60
LC 17	7					0						
LC 18	7					0						
LC 19	3				15	15					-15	
LC 20	5	20	19	20	15	74						
LC 21	10	20	20	20	15	75						-75
LC 22	11	17				17				-17		
LC 23	11	20	20	20		60						-60
LC 24	11					0						
LC 25	7					0						
LC 26	7	20	20	20	15	75						-75

CEE Charter  
Teacher - Leah Cherry Big Bear Location  
Summary of 2003-04 ADA

FCMAT Student		Summary of Possible Apportionment Days						Total Days		Reason for loss of apportionment days			
File # for Cherry	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1 - 12/31 Month 4	9/2 - 12/31 Month 1-4							
Total Possible Days		20	20	20	15	75	1	2	3	4			
LC	27	10	20	20	20	15	75				-75		
LC	28	1	20	18	20	15	73						
LC	29	4	20	19	20	15	74			-74			
LC	30	7	20	20	20	15	75				-75		
LC	31	7	20	20	20	15	75				-75		
LC	32	4	20	20	20	15	75	-20					
LC	33	6	20	20	20	15	75				-75		
LC	34	12	20	20	20	15	75			-75			
LC	35	1	20	20	20	15	75						
LC	36	8	20	20	20	15	75				-75		
LC	37	10	20	20	20	14	74			-74			
LC	38	7					0						

CEE Charter  
Teacher - Leah Cherry Big Bear Location  
Summary of 2003-04 ADA

FCMAT

Student		Summary of Possible Apportionment Days				Total Days	Reason for loss of apportionment days			
File # for Cherry	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1 - 12/31 Month 4	9/2 - 12/31 Month 1-4				
Total Possible Days		20	20	20	15	75	1	2	3	4
LC	39	7				0				

Total Days Claimed	508	496	500	404	1,908	-20	-17	-373	-1,221
		Total Days Disallowed			(1,631)				
		Total Days Allowable			277				

- Note 1: Reasons for Loss of Apportionment Days
1. One or more roll sheets not signed by teacher
  - 2.. Missing one or more roll sheets
  3. Agreement dates incorrect or missing element
  4. No student file available/no work samples

Note 2: Leah Cherry's credential expired 1/1/04. All apportionment is disallowed after 12/31/03.

CEE Charter  
Teacher - Edward Kennepohl Palmdale Location  
Summary of 2003-04 ADA

FCMAT Student		Summary of Possible Apportionment Days					Total ADA Days Claimed	Reason for loss of apportionment days			
File # for Kennepohl	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5 See Note 2		1	2	3	4
<i>Total Possible Days</i>		20	20	20	20	9	89				
EK 1	10	1	14	20	10		45				-45
EK 2	12					9	9				-9
EK 3	11	2					2				-2
EK 4	9	9	3		7	9	28			-12	
EK 5	10	20	20	20	20	4	84			-84	
EK 6	10	2					2				-2
EK 7	11	20	20				40				
EK 8	9	2					2			-2	
EK 9	12	17					17			-17	
EK 10	12				17		17				
EK 11	12					4	4				-4
EK 12	12	20					20			-20	
EK 13	10	20	20	20	10	4	74	-20			



CEE Charter  
Teacher - Edward Kennepohl Palmdale Location  
Summary of 2003-04 ADA

FCMAT Student File # for Kennepohl			Student Grade	Summary of Possible Apportionment Days				See Note 2	Total ADA Days Claimed	Reason for loss of apportionment days			
			9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	1		2	3	4	
Total Possible Days				20	20	20	20	9	89				
EK	14	10						2	2				-2
EK	15	12		20					20				
EK	16	11					9		9				-9
EK	17	10		16	8				24				
EK	18	11		9	13				22				
EK	19	10		16	20	20	20	9	85				-85
EK	20	11		16	12	20	20	9	77				
EK	21	10		7					7				
EK	22	11		12	8				20				
EK	23	10					8		8				-8
EK	24	11		15	13	20	20	9	77				
EK	25	9		17					17			-17	
EK	26	10				13	20	9	42				

CEE Charter  
Teacher - Edward Kennepohl Palmdale Location  
Summary of 2003-04 ADA

FCMAT Student File # for Kennepohl			Student Grade	Summary of Possible Apportionment Days				See Note 2	Total ADA Days Claimed	Reason for loss of apportionment days			
			9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	1		2	3	4	
Total Possible Days				20	20	20	20	9	89				
EK	27	12		20	3				23				
EK	28	11			8	20	20	9	57				
EK	29	11		5	6				11				-11
EK	30	11						9	9				-9
EK	31	9		16	16				32			-32	
EK	32	12			18				18				-18
EK	33	11		15	20	20	10	9	74				
EK	34	12		20	20	20			60			-60	
EK	35	11			1	20	20	9	50			-23	
EK	36	12			14	20			34			-34	
EK	37	12						9	9				-9
EK	38	11					19		19				
EK	39	11					2		2				-2

CEE Charter  
Teacher - Edward Kennepohl Palmdale Location  
Summary of 2003-04 ADA

FCMAT

Student			Summary of Possible Apportionment Days					See Note 2	Total ADA Days Claimed	Reason for loss of apportionment days			
File # for Kennepohl	Student Grade		9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5			1	2	3	4
<i>Total Possible Days</i>			20	20	20	20	9		89				
EK 40	9					14	4		18		-4		
EK 41	12		11	20	20	10	5		66			-66	
EK 42	12		17	20	14				51			-51	
EK 43	11		17	12	20	20			69				
EK 44	9			2	20	20	9		51			-1	
EK 45	12					19	9		28		-28		
EK 46	9		18	20	20	20	9		87				
EK 47	12		6						6			-6	
EK 48	9		3						3			-3	
EK 49	12		19	20	20	20	4		83		-4		
EK 50	12						4		4				-4
EK 51	9			18	20	20			58				
EK 52	9		12	13	8	20			53				

CEE Charter  
Teacher - Edward Kennepohl Palmdale Location  
Summary of 2003-04 ADA

FCMAT			Summary of Possible Apportionment Days				See Note 2	Total ADA Days Claimed	Reason for loss of apportionment days				
Student File # for Kennepohl	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	1		2	3	4		
Total Possible Days			20	20	20	20	9	89					
EK	53	11	19					19					
EK	54	12	18					18			-18		
EK	55	11	17	1				18			-18		
EK	56	12	18					18				-18	
Total Days Claimed			492	383	375	395	157	1,802		-20	-36	-464	-237
Total Days Disallowed								-757					
Total Days Allowable								1,045					

**Note 1 : Reasons for Loss of Apportionment Days**

1. One or more roll sheets not signed by teacher
2. Missing one or more roll sheets
3. Agreement dates incorrect or missing an element
4. No student file available/no work samples

**Note 2:** This site discontinued operations after first semester Jan 23, 2004 with just 9 days in month 5.



CEE Charter  
Teacher - Dave Fogal Highland Location  
Summary of 2003-04 ADA

FCMAT

Student		Summary of Possible Apportionment C Days				Reason for loss of apportionment days			
File # for Fogal	Student Grade	9/2-9/29 Month 1	Total ADA Days Claimed			1	2	3	4
Total Possible Days		20	20						
DF 1	10	20	20					-20	
DF 2	7	20	20			-20			
DF 3	6	20	20						
DF 4	8	20	20						
DF 5	UNK	20	20						-20
DF 6	10	20	20			-20			
DF 7	11	20	20						-20
DF 8	11	10	10					-10	
DF 9	9	20	20					-20	
DF 10	8	20	20					-20	
DF 11	10	20	20						-20
DF 12	9	6	6					-6	
DF 13	7	20	20						
DF 14	9	20	20					-20	
DF 15	8	20	20						
DF 16	11	20	20						

CEE Charter  
Teacher - Dave Fogal Highland Location  
Summary of 2003-04 ADA

FCMAT

Student		Summary of Possible Apportionment C Days				Reason for loss of apportionment days			
File # for Fogal	Student Grade	9/2-9/29 Month 1	Total ADA Days Claimed						
Total Possible Days		20		20		1	2	3	4
DF	17	10	20	20					-20
DF	18	9	20	20					-20
DF	19	11	20	20				-20	
DF	20	8	20	20				-20	
DF	21	6	20	20			-20		
DF	22	8	20	20			-20		
DF	23	8	20	20			-7		
DF	24	9	20	20				-20	
DF	25	8	20	20					
DF	26	10	20	20				-20	
DF	27	UNK	20	20				-20	
DF	28	9	20	20				-20	
Total Days Claimed		536		536		-40	-47	-216	-100
Total Days Disallowed				(403)					
Total Days Allowable				133					

Note 1: Reasons for Loss of Apportionment Days  
 1. One or more roll sheets not signed by teacher  
 2. Missing one or more roll sheets  
 3. Agreement dates incorrect or missing an element  
 4. No student work samples

Note 2: Mr. Fogal taught only month 1. Students in this program were mostly transferred to Julie Harris in month 2. UNK grades counted as high school.

CEE Charter  
Teacher - Dorothy McCandliss Pasadena Location  
Summary of 2003-04 ADA

FCMAT

Student		Summary of Possible Apportionment Days			Reason for loss of apportionment days			
File # for McCandliss	Student Grade	9/2-9/29 Month 1	Total ADA Days Claimed		1	2	3	4
Total Possible Days		20	20					
Mc	1 2	20	20					-20
Mc	2 3	3	3				-3	
Mc	3 4	20	20					-20
Mc	4 6	20	20					-20
Mc	5 5	20	20					-20
Mc	6 11	20	20					
Total Days Claimed		103	103		0	0	-3	-80
Total Days Disallowed			(83)					
Total Days Allowable			20					

Note 1: Reasons for Loss of Apportionment Days

1. One or more roll sheets not signed by teacher
2. Missing one or more roll sheets
3. Agreement dates incorrect or missing an element
4. No student file available/no student work

Note 2: This teacher taught only one month.

CEE Charter  
Teacher - Dawn Manwell Pasadena Location  
Summary of 2003-04 ADA

FCMAT

Student

Summary of Possible Apportionment Days

File # for Manwell	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/10-1/23 Month 5	Total ADA Days Claimed	Reason for loss of apportionment days			
Total Possible Days		20	20	20	15	5	0	1	2	3	4
DM 1	5	20	20	20	15	5	80	-80			
DM 2	K	20	20	20	15	5	80				
DM 3	2	20	20	20	15	5	80				
DM 4	K	20	20	20	15	5	80		-5		
DM 5	2	20	20	20	15	5	80		-5		
DM 6	5	20	20	20	15	5	80		-5		
DM 7	3	20	20	20	15	5	80	-20	-5		
DM 8	K	20	20	20	15	5	80	-20	-5		
DM 9	7	20	20	20	15	5	80	-20	-5		
DM 10	3	20	20	20	15	5	80		-5	-17	
DM 11	1	20	20	20	15	5	80		-5	-17	
DM 12	8	20	20	20	15	5	80		-20		
DM 13	5	20	20	20	15	5	80		-20		
DM 14	K	20	20	20	15	5	80		-20		
DM 15	4	20	20	20	15	5	80		-20		
DM 16	K	20	20	20	15	5	80		-15		



CEE Charter  
Teacher - Dawn Manwell Pasadena Location  
Summary of 2003-04 ADA

FCMAT Student		Summary of Possible Apportionment Days							Reason for loss of apportionment days			
File # for Manwell	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/10-1/23 Month 5	Total ADA Days Claimed		1	2	3	4
Total Possible Days		20	20	20	15	5	0		1	2	3	4
DM 17	6	20	20	20	15	5	80			-20		
DM 18	4	20	20	20	15	5	80			-20		
DM 19	6	20	20	20	15	5	80			-20	-7	
DM 20	7	20	20	20	15	5	80		-12	-20		
DM 21	2	20	20	20	15	5	80		-20	-5		
DM 22	8	20	20	20	15	5	80					-80
DM 23	8	20	20	20	15	5	80			-20		
DM 24	7	20	20	20	15	5	80			-20		
DM 25	5	20	20	20	15	5	80			-20		
DM 26	K	20	20	20	15	5	80			-20		
DM 27	4	20	20	20	15	5	80			-20		

Total Days Claimed	540	540	540	405	135	2160	-172	-320	-41	-80
				Total Days Disallowed (613)						
				Total Days Allowable		1547				

Note 1: Reasons for Loss of Apportionment Days

1. One or more roll sheets not signed by teacher
2. Missing one or more roll sheets
3. Agreement dates incorrect or missing an element
4. No student file/no work samples

Note 2: This site discontinued operations after first semester.

CEE Charter  
Teacher - Ed Messler Big Bear Location  
Summary of 2003-04 ADA

FCMAT			Summary of Possible Apportionment Days							Using FCMAT P-2 Calendar ***	Total ADA	Reason for loss of apportionment days			
Student File # for E Messler	Student Grade		9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11 - 4/21 Month 7	Claimed at P-2		1	2	3	4
Total Possible Days			20	20	20	20	20	20	15	135					
EM 1	10								15	15					-15
EM 2	10		20	20	18					58		-14			
EM 3	3						20	20	12	52		-9			
EM 4	10					20	20	20	15	75					-75
EM 5	6								15	15					-15
EM 6	12		20	17	14	20	0			71		-1			
EM 7	11		20	14	0					34			-34		
EM 8	3						9	20	15	44					-44
EM 9	3						9	20	15	44					-44
EM 10	7						4	11		15					-15
EM 11	3									0					
EM 12	3									0					
EM 13	11		14	20	14	9	9			66		-9			

CEE Charter  
Teacher - Ed Messler Big Bear Location  
Summary of 2003-04 ADA

FCMAT		Summary of Possible Apportionment Days								Using FCMAT P-2 Calendar		Total ADA			
Student	File # for	Student	9/2-9/29	9/30-10/27	10/28-11/25	12/1-1/9	1/12-2/9	2/10-3/10	3/11 - 4/21	Claimed	Reason for loss of				
E Messler		Grade	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	at P-2	apportionment days				
Total Possible Days			20	20	20	20	20	20	15	135		1	2	3	4
EM	14	9	20	20	20	20	20	20	0	120		-4			
EM	15	10	6	20	20	20	20	20	15	121			-75		
EM	16	7							15	15				-15	
EM	17	10	20	9	0					29				-29	
EM	18	9				20	20	20	14	74		-14	-29		
EM	19	8				20	20	20	14	74		-14	-29		
EM	20	1				20	20	20	14	74			-74		
EM	21	7				0				0					
EM	22	7					4	14		18				-18	
EM	23	8							11	11			-11		
EM	24	10	20	20	20	20	20	20		120					
EM	25	10	12	20	8					40				-40	
EM	26	9	20	13	0					33			-33		



CEE Charter  
Teacher - Ed Messler Big Bear Location  
Summary of 2003-04 ADA

FCAT Stunt File for E Messler	Student Grade	Summary of Possible Apportionment Days							Using FCMAT P-2 Calendar ***	Total ADA Claimed at P-2	Reason for loss of apportionment days			
		9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11 - 4/21 Month 7			1	2	3	4
Total Possible Days		20	20	20	20	20	20	15		135				
A 27 11		17	20	20		20	20	15		112				
I 28 9		20	13	0						33			-33	
A 29 10		20	20	20	20	20	20	15		135		-16		
A 30 9		17	16	13	12	20	20	9		107				-107
A 31 7					20	20	20	15		75			-29	
I 32 10		20	20	20	20	20	20	15		135			-20	
A 33 11						12		12		24				-24
A 34 9		15	18	12						45		-45		
I 35 10		18	20	14	20	20	20	15		127		-5		
I 36 8								15		15				-15
I 37 9		20	20	17	20	20	20	15		132				-132
I 38 11						13	20	15		48		-48		
I 39 11						0				0				
E 40 10		20	16	20	20	20				96			-11	

CEE Charter  
Teacher - Ed Messler Big Bear Location  
Summary of 2003-04 ADA

FCMAT		Summary of Possible Apportionment Days								Using FCMAT P-2 Calendar ***	Total ADA	Reason for loss of apportionment days			
Student File # for E Messler	Student Grade	9/2-9/29 Month 1	9/30-10/27 Month 2	10/28-11/25 Month 3	12/1-1/9 Month 4	1/12-2/9 Month 5	2/10-3/10 Month 6	3/11 - 4/21 Month 7	Claimed at P-2			1	2	3	4
Total Possible Days		20	20	20	20	20	20	15	135						
EM 41	5					10	20	15	45					-45	
EM 42	7	20	20	20	20	20	20	15	135					-80	
EM 43	12					5	20	15	40						-40
EM 44	9	16	20	18	20	20	20	15	129					-41	
EM 45	10	20	20	18	20	20	20	15	133					-64	
EM 46	11	20	17	15	9	9	20	0	90						-90
EM 47	9	20	20	14	20	0	20	15	109						
EM 48	11							15	15						-15
EM 49	7				15	20	20		55						-55
EM 50	4				15	20	20		55				-55		
EM 51	9	20	20	20	20	20	20	15	135						-135
Total Days Claimed		455	453	355	440	524	585	431	3,243			0	-234	-608	-923
										Total Days Disallowed	(1,765)				
										Total Days Allowable	1,478				

\*\*\* Number of Days for Month 7 adjusted to 15 to tie to FCMAT's revision of CEE calendar. P-2 divisor should be 135 days.

Note 1:

Reasons for Loss of Apportionment Days

1. One or more roll sheets not signed by teacher
2. Missing one or more roll sheets
3. Agreement dates in correct or missing element
4. No student file available/no work samples



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October 27, 2006

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m.chidester@californiaschoollaw.net

\*A PROFESSIONAL CORPORATION

REF. OUR FILE

BV-82

**VIA FACSIMILE AND U.S. MAIL**

Fiscal Crisis and Management  
Assistance Team  
1300 17<sup>th</sup> Street - CITY CENTRE  
Bakersfield, California 93301

Attention: Ms. Michele McClowry  
Management Analyst

Re: FCMAT Final Draft Audit/Report  
Of Center For Educational  
Excellence Charter School

Dear Ms. McClowry:

This office is general counsel to the Bear Valley Unified School District.

This letter concerns issues discussed at the meeting held at San Bernardino County Office of Education ("SBCOE") on October 24, 2006 between you, Ron , Interim Superintendent of the Bear Valley Unified School District ("District"), two SBCOE employees and the undersigned, wherein you presented the Final Draft of the Fiscal Crisis and Management Assistance Team's ("FCMAT") Audit of the defunct Charter School, the Center For Educational Excellence ("CEE").

Please find below the District's comments, for your consideration, with respect to certain issues and language contained in the Draft Audit Report that arose during the course of our meeting.

**I. FUNDING MODEL CONCERNS**

The Final Draft states "The District established a funding model that required CEE to expend funds first and then seek reimbursement through the District, which may have had a partial impact on CEE's cash flow problems."



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**MARGARET A. CHIDESTER & ASSOCIATES**

Michele McClowry  
October 27, 2006  
Page 2

The District strenuously objects to any suggestion that any action or policy of the District, rather than CEE's own mismanagement, was in any way the cause of CEE's cash flow problems.

First, the reimbursement based funding model was implemented in keeping with CEE's own Charter Petition and was repeatedly agreed to by CEE.

In a letter to Mr. John Dunn dated December 12, 2002, then Bear Valley Superintendent Ronald B. Peavy stated:

"In our meeting, you proposed a new funding model that would fund the Charter directly rather than executing transactions through the District as originally stated in your petition. Direct funding presents a monitoring concern to us. An independent auditor has determined that documentation does not support any ADA being generated since the beginning of the school year. This places potential liability on the District for debt that you may have incurred and this is not acceptable." (Emphasis added.)

In Mr. Dunn's reply letter of January 10, 2003 he wrote:

"Direct vs. indirect funding. We are currently not proposing deviating from our indirect funding understanding."

(Copies of Mr. Peavy's, Mr. Dunn's and auditor CPA Jeanne Garcia's letters are attached.)

Second, in reviewing several different areas of CEE's financial operations, Michael W. Ammermon, CPA, CFE commented at least 9 separate times that CEE's accounting practices "are irregular in nature, demonstrate poor internal control, and are not proper application of generally accepted accounting principles."

Additionally, Mr. Ammermon's CEE Financial Close-Out Audit Findings set out sixteen separate examples under:

**"Aged BVUSD Reimbursement Requests"** (Selected Examples Described):



Michele McClowry  
October 27, 2006  
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"The following transactions are examples of expenditures that the organization incurred but did not invoice BVUSD for reimbursement until in many instances, months later. By not invoicing for expense reimbursement in a timely manner, even with other cash sources potentially available, CEE would place itself in a cash poor position to meet its obligations. Since CEE is on a reimbursement program with the BVUSD, in order to meet their obligations timely reimbursement requests with proper documentation should have been submitted every two weeks or at least monthly. Untimely submittal of reimbursement requests understates revenues on a monthly basis, demonstrates poor internal controls, is not proper application of generally accepted accounting principles and mismanages the operating cash needs of the organization." (Emphasis added.)

Mr. Ammermon's comments speak volumes. The District believes that CEE caused its own cash flow problems.

## **II. PUBLIC AID FOR SECTARIAN PURPOSES**

The decision by the District to revoke CEE's Charter was prompted in part by on-going concerns about CEE's use of public funds for the benefit of religious purposes.

Article 16, Section 5 of the California Constitution states:

[N]either the Legislature, nor any country, city and county, township, school district, or any other municipal corporation shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any city, city and country, town or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI.



Michele McClowry

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California Education Code section 47605(d)(1) expressly prohibits charter school's from engaging in sectarian activities. It provides in pertinent part:

[A] charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations...

Throughout the course of its existence, CEE maintained an inappropriately close, and to this date largely unexplained relationship with various religious organizations and entities, many of which relationships appeared to advance the interests of the religious organization at public expense.

**A. Religious Content Of CEE Online Curriculum**

In an April 29, 2004 e-mail to "John Dunn" provided to the District by CEE via fax on April 30, 2004, "Molly Wall" who identified herself as "co-designer of the curriculum used" at CEE's Pasadena Learning Center states that:

I can attest that while the curriculum is designed with sectarian components . . . parents were provided the option of using the sectarian components of the curriculum.

**B. Inappropriate CEE Satellite Site Contracts**

On August 21, 2004, while the Dispute Resolution Process between CEE and the District was in process, CEE Director Karyn Messler signed a "Revised Proposal for Education Partnership" with "Bob Housden Pastor, Highland Church of the Nazarene" for a ten month period at \$750.00 per month during which CEE would pay the cost of electrical work to upgrade the stage at the Nazarene site, and the Charter School and the Church would split the cost of cubicle work station construction. The "Revised Proposal for Education Partnership" also provided "that CEE staff work with Church outreach staff to become familiar with CEE's computer based curriculum" and that "CEE will pay for the cost of a portable outdoor sign at a suitable location (on the church property) for the local advertising of the Center for Excellence in Education."



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**C. CEE's Rental Agreements At The Village Center**

In the first year of its existence, CEE entered into a rental agreement for space in a building in Big Bear Lake known as the Village Center. CEE, as tenant, leased from Village Center, as landlord, certain premises at the Village Center, consisting of three upstairs rooms, or 1,000 square feet, for the period from September 2002 through June 30, 2003 in the amount of \$500 per month for 1000 square feet.

In June 2003, CEE sublet the same premises from the new tenant, "World Harvest Faith Center" for an amount three times the previous lease, or \$1,500 per month for 2,000 square feet. The lease was executed by landlord, "Pastor John Dunn", "World Harvest Faith Center," and Karyn E. Messler, Assistant Director, Center for Excellence in Education. At the time of this transaction, John Dunn was the Director of CEE. CEE records provided by the Charter School during the Dispute Resolution Process show that John Dunn was listed as a Board member for school year 2002, having been appointed in August of 2002, a continuing Board member for 2003, and having resigned as Board member on February 4, 2004.

On or about July 1, 2004, CEE, by Karyn Messler, entered into a new lease agreement effective July 1, 2004, despite the fact that the previous lease did not terminate until June 30, 2005. The new, third lease agreement was executed by the World Harvest Faith Center and "Pastor John Dunn" for the same premises in the amount of \$3,500 per month for the same 2000 square feet.

At the second Dispute Resolution Process meeting on August 17, 2004, Karyn Messler stated that the World Harvest Faith Center, John Dunn's church, was becoming the owner of the Village Center.

The District learned during summer 2004 that the World Harvest Faith Center mailing address and telephone number as listed on the internet are the same address and phone number listed for CEE.

**D. Constitutional And Statutory Violations**

As can be seen from the above facts, CEE maintained numerous inappropriate financial and programmatic relationships whereby public funds given to CEE flowed to religious organizations operated wholly or in part by the same individuals behind CEE.



Michele McClowry  
October 27, 2006  
Page 6

These relationships constituted numerous and express violations of Article 16, section 5 and Education Code section 47605(d)(1). The District believes these violations should be addressed in the Final Draft of the FCMAT Audit.

### **III. UNLAWFUL GIFT OF PUBLIC FUNDS**

The above facts also establish that CEE repeatedly violated the California Constitution and California Government Code's prohibitions against any gift of public funds.

Article 16, section 6 of the California Constitution provides in pertinent part:

The Legislature shall have no power... to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever.

#### **A. The Highland Church Of The Nazarene Lease**

When CEE signed a rental agreement with the Highland Church of the Nazarene on August 21, 2004, CEE agreed to provide the:

- (1) the cost of electrical upgrades to the church facilities;
- (2) half of the cost to install cubicles work stations on church property;
- (3) training for church staff regarding CEE's computer-based programs; and
- (4) the cost of installing a portable outdoor sign on to church property.

The rental agreement permitted the church to retain all of these improvements at no cost at the expiration of the 10 month rental agreement. These improvements were provided in addition to the \$750.00 per month in rent paid by CEE. These facts indicate the Highland Church of the Nazarene lease was an unlawful gift of public funds.



Michele McClowry  
October 27, 2006  
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**B. The Village Center Leases**

Similarly, the multiple lease agreements executed between CEE, by Karyn Messler, by the World Harvest Faith Center and by Pastor John Dunn, for CEE's space in the Village Center from the period June 2003 to August 2004 put increasingly higher monthly rental income under the exclusive control of John Dunn at a time Mr. Dunn was still a Director and Board Member of CEE. The rent checks from the District were written in John Dunn's name.

In addition giving rise to a clear conflict of interest, the unreasonably generous terms of the lease agreements constitute a gift of public funds to the World Harvest Faith Center and John Dunn.

**IV. DIRECT BENEFIT TO INDIVIDUALS CONCERNS**

The Draft FCMAT Report contains language to the effect that "there is no evidence that any individual received a direct benefit from CEE's funds." The District objects to this language as mischaracterizing the facts involved.

First, Mr. Ammermon's CEE Financial Close-Out Audit Findings as incorporated into the Final Draft of the FCMAT Audit stated under "Recommendations" that:

"Employee advances totaling \$1,300 were unsupported advances. Those funds should be requested to be returned to the district."

Secondly, Mr. Ammermon found that:

"In December 2003 approximately \$2,835.71 in payroll Christmas bonuses were distributed to five (5) certificated and classified employees of the organization. Based on the documentation provided and employment contracts reviewed, there are no "incentive" programs or contractual provisions to provide employee bonuses. without specific provisions within the organizations contracts with employees, considering that the funds the organization received to operate are based on public funds, such bonuses may be considered a gift of public funds and are therefore disallowed. In addition,



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**MARGARET A. CHIDESTER & ASSOCIATES**

Michele McClowry  
October 27, 2006  
Page 8

on December 17, 2003, CEE borrowed \$50,000 from Glynlyon, Inc. in order to supplement cash requirements and shortly thereafter issued Christmas bonuses. Issuing Christmas bonuses while in times of borrowing is both mismanagement of funds and represents a conflict of interest between management, the needs of the organization and employees."

The District believes that, in any reasonable definition of the phrase "received a direct benefit", unsupported employee advances and Christmas bonuses paid from public funds constitute a direct financial benefit to CEE employees.

**V. NAME OF CEE NON-PROFIT CORPORATION**

The undersigned believes the name of CEE's non-profit may have been incorrectly reported in the FCMAT Final Draft Audit Report. For the sake of accuracy, the name of CEE's non-profit was "Charter School of Big Bear Valley" when it was formed on June 13, 2002. (Copy attached.)

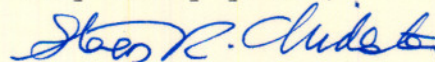
**CONCLUSION**

The Bear Valley Unified School District respectfully asks that you consider the above facts in composing the Final version of the FCMAT Audit Report.

The District also wishes to sincerely thank you for your years of hard work on the CEE FCMAT Audit.

If you have any questions, please do not hesitate to contact the undersigned or Margaret A. Chidester.

Very truly yours,



Steven R. Chidester

SRC:dr

cc: Mr. Ron Peavy  
Superintendent  
Bear Valley Unified School District



BOARD OF TRUSTEES  
Dr. Larry Poland  
Mr. Phil Hamilton  
Mrs. Kathleen Campbell-Kite  
Mr. Gary Thielboldt  
Dr. Ken Turney  
Mr. Ronald Peavy  
Superintendent

# Bear Valley Unified School District

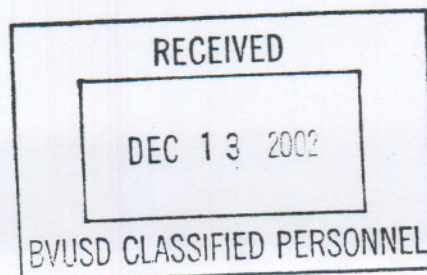
*Educating for Success*

BEAR VALLEY SCHOOLS  
Big Bear Elementary  
Big Bear High School  
Big Bear Middle School  
Glen Martin Elementary  
North Shore Elementary  
Chautauqua High School  
Baldwin Lane Elementary

❖ P.O. Box 1529 ❖ 42271 Moonridge Road ❖ Big Bear Lake, CA 92315 ❖ (909) 866-4631 ❖ Fax (909) 866-2040 ❖

December 12, 2002

Mr. John Dunn  
Center for Excellence in Education  
P. O. Box 3270  
Big Bear City, CA 92314



Dear John:

As a follow up to our meeting between you, Lin Rang, Michael Tolerico, Rolff Christensen, Dr. John Niederkorn, and myself on Wednesday, December 4, 2002, the District has immediate concerns regarding the program of the newly formed Charter School, Center for Excellence in Education. Our concern stems from meetings with various representatives of the Charter School, visits by an independent auditor, and Dr. Steve Schour our Independent Study Coordinator.

Specifically, we have concerns with the following items, and as we discussed at our meeting, we need a formal response from you.

## Governance

A<sub>1</sub> A<sub>2</sub> The status of your non profit community based corporation is unknown at this time. We have not received the names of your Board of Directors, the methodology for their election or Corporate Charter Bylaws.

## Budget

B The budget presented in your petition does not represent current operations. A revised budget based on realistic ADA and expenditures is necessary. In Element 9 of the petition specific budgetary timelines have not been addressed. In addition, a student attendance calendar, as required by statute, has not been presented to us. In our meeting, you proposed a new funding model that would fund the charter directly rather than executing transactions through the District as originally stated in your petition. Direct funding presents a monitoring concern to us.

An independent auditor has determined that documentation does not support any ADA being generated since the beginning of the school year. This places potential liability on the District for debt that you may have incurred and this is not acceptable (please see attached letter).

## Personnel

C Elements 5 and 6 discuss employee qualifications. Current employees of the charter do not meet the specifications as spelled out in the petition. In addition, this petition states that all employees must comply with the charter's processing and policy procedures which includes fingerprinting, criminal background check, pre-employment physicals, and TB test.



Mr. John Dunn  
Center for Excellence in Education  
December 12, 2002  
Page 2

**D<sub>1</sub> D<sub>2</sub>** Curriculum

Current independent study agreements do not contain the necessary signatures and elements required by law. Also, you have identified the ILS as an important part of the charter's educational program. We would like to see concrete evidence that the ILS has been developed and implemented. Conversations with your staff indicate that staff development is not occurring. The district also needs a list of text book and other curriculum materials that are being used by the charter. As stated in statute as well as your petition, these materials must be aligned with California State Standards.

The District Independent Study Coordinator observed that students received credit for a class entitled "The Bible". As we have discussed, religious instruction is not permitted in a public school setting. An examination of the course syllabus is necessary.

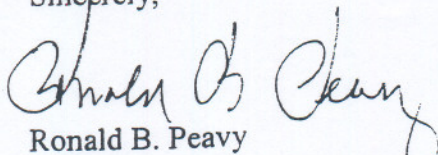
**E<sub>1</sub> E<sub>2</sub>** Assessment

Element 2 of the petition measures Student Outcomes. The district would like review assessments that have been developed and implemented to measure student achievement related to the goals stated in the student's ILS.

Regarding pupil progress, your petition states that quarterly reports of educational performance will be presented to the charter's board. We are not aware that this has occurred. If this report has been made, the district would like to have a copy of the report as part of our review. The District would like to know what kind of preparation is being made for the administration of the State required assessments which begin in April, 2003. In addition, current sophomores and juniors are required to pass the CAHSEE in order to obtain a diploma. These students should have multiple opportunities to pass this test.

As you are aware, the Board of Trustees of Bear Valley Unified School District has a responsibility to monitor any charter they approve. Even though we worked collaboratively to develop a viable charter petition, we have outlined our concerns. The above concerns indicate substantial deviation from the original charter petition approved on May 1, 2002. Based upon these deviations or omissions, the Trustees have the authority to immediately rescind the charter authority of The Center for Excellence in Education. Our concerns need to be addressed no later than January 8, 2003. Your response will be presented to the Bear Valley Unified School District Trustees at the regularly scheduled meeting on January 15, 2003.

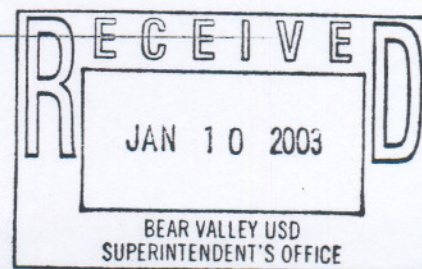
Sincerely,

  
Ronald B. Peavy  
Superintendent



CHARTER SCHOOL OF BIG BEAR VALLEY  
DBA CENTER FOR EXCELLENCE IN EDUCATION

January 10, 2003



Mr. Ronald Peavy, Superintendent  
Bear Valley Unified School District  
42271 Moonridge Road  
Big Bear Lake, CA. 92315

Dear Ron,

Thank you for your list of issues needed to be addressed by the Charter School. As you probably have noticed we are operating with a proficient and learned team in regards to charter law, policy and issues relating to our particular charter. I will address the issues pertinent to governance, partial budget, curriculum and partial assessment.

If you have any questions that need clarification do not hesitate to call.

*Governance:*

CEE is a public non-profit corporation that was filed with the state in June of 2002. Our status is Active.

We have also filed for our 501-C3, tax deductible status and that is pending. Our filing for this was sometime in December of 2002 and as you may be aware it usually takes up to six months for completion.

The names of our current Board of Directors is attached as well as our Corporate Charter Bylaws.

Our charter stipulates that the first year board is to be appointed by charter developers and approved by the district superintendent. The original board created upon filing was myself, Lin Rang and Michele Dunn. That was done strictly to legitimize the corporation with its original meeting and minutes. We did not seek any approval as it was to be a temporary board.

The current board has the members and team that we desire to work with. The three members you may not be familiar with are:

Dr. Eric Johnson- Eric is a Board Certified emergency trauma care physician who has taught for ten years at Loma Linda Medical Center.

Margaret Tiefenthaler- Margaret is a business person who operates the Book and Bean store in the village. She has been involved with independent home education for over twenty years.



January 10, 2003

Jolynda Bratton- Jolynda is one of the parents of our enrolled charter students and has been very helpful and insightful.

We had an official meeting in December and these names are being submitted to the district for approval.

*Budget:*

Direct vs indirect funding. We are currently not proposing deviating from our indirect funding understanding. I did attach educational code section 47651 that deals with direct funding for informational purposes.

*Curriculum:*

Attached you will find a letter from our vendor, Core Curriculum of America, verifying that the curriculum material we are using meets the California Academic State Standards. Also is a list of textbooks and other curriculum materials that are being used at CEE.

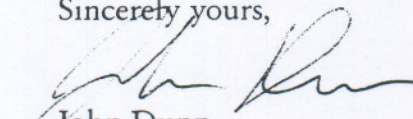
The course titled "The Bible" does not exist and never has. A number of our students have submitted extra curricular work that we have put into their portfolios, but we do not give them any credit for them, nor is this applied toward our ADA.

*Assessment:*

Our, " Learning Records" are what we are using to create our Individual Learning Strategies. The learning records are completed every twenty days and assessment of progress is evaluated. We currently have seven students that have customized curriculum based on their portfolios and learning records. We are at the beginning stages of development as far as assessments but we currently have a good program in place to build our foundation.

A copy of our quarterly report of educational performance will be presented to the charter board at their January 14<sup>th</sup> meeting. This report will be given to the district in our annual report as mentioned in the charter. If an earlier copy would be desired, we would be happy to supply the district with this information and any other documents.

Sincerely yours,

  
John Dunn  
CEE Director

*agenda  
minutes*



2-26-07

ARTICLES OF INCORPORATION  
OF  
CHARTER SCHOOL  
OF  
BIG BEAR VALLEY

ENDORSED - FILED  
in the office of the Secretary of State  
of the State of California

JUN 13 2002

BILL JONES, Secretary of State

I

The name of this corporation is Charter School of Big Bear Valley.

II

- A. This corporation is a nonprofit PUBLIC BENEFIT CORPORATION and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.
- B. The specific purpose of this corporation is to operate a charter school in the Big Bear Valley.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

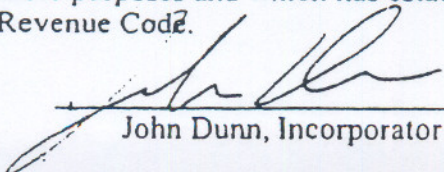
John Dunn  
640 Conklin Road  
Big Bear Lake, California 92315

IV

- A. This corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501 ( c ) ( 3 ), Internal Revenue Code.
- B. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V

The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501 ( c ) ( 3 ), Internal Revenue Code.

  
John Dunn, Incorporator







# BOCETA, MACON, WORKMAN & ASSOCIATES

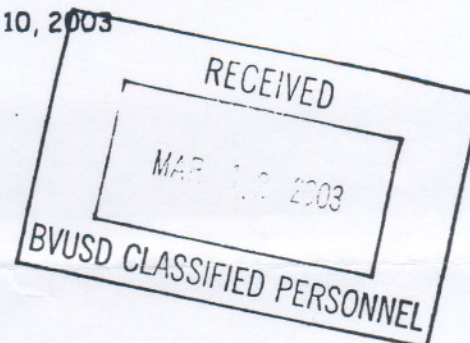
CERTIFIED PUBLIC ACCOUNTANTS

SAMUEL J. MACON, JR.  
CPA

JEANETTE L. GARCIA  
CPA

John Niederkorn, Ph.D.  
Director of Business Services  
Bear Valley Unified School District  
P. O. Box 1529  
Big Bear Lake, CA 92315

March 10, 2003



Dear Dr. Niederkorn:

## SUBJECT: CENTER FOR EXCELLENCE IN EDUCATION

At the request of the Bear Valley Unified School District, we were engaged to audit the J-18/19-P1 attendance report of the charter school, Center for Excellence in Education. We visited the offices of the charter school on Friday, March 7, 2003.

Our previous audit in December 2002 disclosed that all independent study written agreements were deficient in some way and, as a result, any apportionment attendance earned by the students is disallowed. The deficiencies included missing signatures of parent and/or teacher and incomplete contract information such as duration, credits to be earned and/or methods of evaluation. All of the written agreements have been revised as of December 11, 2002 and appear to be in compliance.

Furthermore, it was noted previously that the teachers were not initialing and dating the representative samples of homework to document their evaluation of the homework. This is now being done. In addition, it did not appear that the charter school reported attendance using a proper attendance calendar consisting of months of 20 days each. This also appears to have been corrected.

The only attendance days reported on the J-18/19-P1 are the 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> of December 2002. In the first attendance period, the charter school reported a total of 1.02 ADA for these three days. It is our opinion that this ADA is fairly reported.

If you have any questions, please call.

Yours Very Truly,

Jeanette L. Garcia, CPA  
Partner

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SUITE 300  
SAN BERNARDINO  
CALIFORNIA 92408

(909) 386-5420  
FAX (909) 386-5424

MEMBERS:  
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CERTIFIED PUBLIC  
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CALIFORNIA  
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ACCOUNTANTS