

CLCS Task Force Studying Employees Serving on the CLCS Board

From the CLCS website:

CLCS Governing Board

The CLCS Board of Directors is made up of community, business and educational leaders. The CLCS Board of Directors meets monthly or as necessary to oversee the work of the ACLC and Nea Governing Boards. The CLCS board of directors provides guiding leadership, inspiration and business expertise as a foundation of support for CLCS charter schools and governing boards to achieve their mission and the CLCS vision.

<http://www.clcschools.org/page.cfm?p=376>

Vision Statement

CLCS schools provide opportunity and access in an active, dynamic, diverse, and participatory environment so all youth can achieve their learning potential.

Mission Statement

The CLCS board of directors provides guiding leadership, inspiration and business expertise as a foundation of support for CLCS charter schools and governing boards to achieve their mission and the CLCS vision.

Board members are ambassadors for the CLCS schools' mission: To empower all youth to take ownership of their educational experience, to celebrate their diverse community and to actively participate as members in a democratic society. <http://www.clcschools.org/page.cfm?p=9>

de·moc·ra·cy as defined by Merriam-Webster

noun \di-'mä-krə-sē\

: a form of government in which people choose leaders by voting

: a country ruled by democracy

: an organization or situation in which everyone is treated equally and has equal rights

Democracy: Merriam Webster: <http://www.merriam-webster.com/dictionary/democracy>

Points for May 29, 2014 Presentation

1. Summation of Major Points:

- a. **Are we trendsetters or followers?** YMC Argument about current Trends in removing employees from Boards vs. CLCS Schools living their mission statement of creating schools in which learners and stakeholders “actively participate as members in a democratic society” CLCS has never been a trend follower: “If you are not the Lead sled dog, your view never changes.”
- b. **Will we have Broad Perspectives on the Board or Limited Perspectives?** If paid employees are removed from the Board, will the Board be less informed or more informed about day-to-day practices and concerns from campus sites and numerous stakeholder perspectives?
- c. **Discussion of legal points as raised by YMC**
- d. **Problem-Solving Ideas**

2. Facilitators on Board bring perspectives:

- a. Sylvia Fajardo, Pacoima Elementary Charter School: “The board feels it is vital to have the advice from those in the school and classrooms every day since the voting board members are not there and cannot know what the day-to-day needs are of the school. They feel the staff who advise the board are invaluable.”
- b. Richard Sutton, Helix Charter High School: “We probably would not have gone Charter, had employees been excluded from the process. Teachers and other employees led us in our charter process. It would seem rather strange to exclude those who led the charge from the further involvement in the process.”
- c. Sherri Wallace, Harriet Tubman Charter School: “(T)here was never an issue with having unionized teachers on the board, and having them there meant that the decisions being made about the school were well-informed and that the teachers helped clarify issues.”
- d. Dan Schwartzlander, Creative Arts Charter School “Without having a teacher representative on the board it is hard to understand how effective communication would occur a) representing teacher sentiment, opinion, and interests to the board and b) ensuring teachers are up to date on the work of the board. I would say further that having a union in place only raises the need for closer communication as you would not want teachers to feel they should go to the union for questions and concerns that would best be fielded by the admin. team or board.”
- e. Board President of Darnell Charter School: “Advantages of having teachers & other staff on the Board: provides greater perspective & helps with decisions in closed and open sessions. Chair said, "It's hard to imagine not having them on the Board."
- f. Sheri Eichar, Children’s Community Charter School: “I think the board appreciates knowing they have someone "in the trenches" to give formative information. I am not there to disrupt or to create "dysfunction" but to speak from experience and remind them we are trying to do what's best for children.....within our budgetary means.”

3. **Legal questions 1090/AB1531/SB1317Conflict of Interest** -- Interested persons = “persons who have received compensation or are related to Board members”

- a. Code 1090 - **Conflict of Interest** -- Interested persons = “persons who have received compensation or are related to Board members” Does not currently apply to CLCS Board, re: YMC letter (shared at meeting w/Board members)
 - i. YMC PPT (see attachment)
 - 1. 1090 “debatable whether applicable to charter schools” (p. 54)
 - 2. SB 1317 seeks to reject 1090 which would “effectively prohibit paid employees or vendors from serving on the Board”(p. 55)
 - 3. Karen Crist, Board member, Children's Community Charter School in Paradise, CA: Our mutual legal counsel advised us against having teacher representation on our governing board as well, and as with all legal advice, it is just that: advice. We (and this pre-dates me as a board member but not as a stakeholder) as a school community, decided that allowing for the teachers to have representation was necessary to the health and well-being of our school community. That sentiment did not change when our teaching staff voted to form their own collective bargaining unit. Some former board members were quite upset when our staff decided to unionize, but I think that stemmed from some misconceptions about unions in general. My personal opinion is that teaching is an inherently hazardous job, and one incompetent administrator or one well-connected parent can ruin a teacher's career. Teachers need representation (read protection). As a board member, I feel that if your board and administration are doing things the right way, you have nothing to fear from unionized staff.
 - 4. Many charter schools, such as Palisades Charter whose Board president is a teacher at the school are represented by Young, Minney, Corr
- b. Contrary to YMC assertions, AB 1531 Does not suggest that facilitators are not on Boards: AB1531 Text, Section 1, c3: *“(3) Nothing in this subdivision limits or supersedes the ability of a charter school operated pursuant to this section to either use an election process or other community involvement process to select nominees for the board of directors of the nonprofit public benefit corporation for consideration by the initial chartering authority or to nominate persons for positions on the board of directors of the nonprofit public benefit corporation by using specified eligibility criteria. **It shall be the policy of the state to encourage and to promote parental, educator, and community participation in the governance of a charter school.***
<http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml>
- c. Moot point: AB 1531 was suspended 5/23/14
<http://ctweb.capitoltrack.com/public/publishbillinfo.aspx?bi=C1fYA%2fYWIO7IN1h>

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- i. Douglas Buhr--Montague Charter Academy for the Arts and Sciences: "Upon our third renewal our sponsoring school district (LAUSD) insisted that the majority had to be non-employees so we changed the structure of the board. Our sponsoring district approved our charter with employee board members. We included a provision in our charter that called for the recusal of employee board members from all union contract negotiations. However, when we went to the nine member board there was an effort by the five non-interested board members to get the district to direct our school to change its governing structure so that all of the board members were non-employees. LAUSD did not agree to their request. We are in the process this year of negotiating our own union contracts (previously we used the contracts negotiated between the unions and the sponsoring district). Because our lawyers insisted that the executive director would be the board's representative in union contract negotiations (and therefore according to PERB could not be a union member) she is no longer a union member but works under an independent contract with the board."
- d. Board President of Darnell Charter School: "Currently, there are 5 people on the Board: 2 parents, 2 teachers, & 1 community member. One teacher must be chosen by the union members and the other teacher/staff is chosen by all F/T staff. Then they are presented to the Board for election by majority vote. Darnell's charter does not allow School Director or Leadership Team to be on the Board. Role of the Board is to oversee School Director or Leadership Team to ensure that the school's mission and Strategic Plans are reflected in day to day operations of the school."
- e. Dan Schwartzlander, Creative Arts Charter School: "Our board meetings are scheduled, noticed and agendized as per Brown Act requirements. The meetings are open, though the board president may at any time limit discussion to those recognized to speak. Closed session, in circumstances allowed by the Brown Act, do not include the teacher representative. This includes properly agendized personnel matters and contract negotiation where the teacher representative might have a conflict of interest."+
- f. Richard Sutton, Helix Charter High School: "Any matters related employment- wages –benefits etc.... Employees recuse themselves and have done so for the past 12 years. We have a nine member board and employees represent only 33% of our board."
- g. Darnell Charter School: "Employees would, of course, recuse themselves from discussions of collective bargaining, salary, benefits. They could also recuse themselves from less direct issues of financial interest, such as increasing the learner population if it leads to a financial bonus for employees."

4. PR Concerns About the decision to retain or remove employees from the CLCS Board

- a. PR Concern about not having employees on the Board
 - i. PR Concern about not having all perspectives on the Board, (would bring more trust to the Board, brings pertinent information to the Board)
 - ii. Decreased credibility -- Need to ensure that the Board is not spending all of their time and energy and money having to respond to complaints that say that the Board is not diverse
 - iii. If Board is not considered credible, families may choose to leave and then the school loses money from family's leaving
 - iv. Missing out on help for consensus building
 - v. Decreases commitment by the community. (having stakeholders on the Board gives the community ownership of the Board and ownership of the decisions)
 - vi. Ignores Founding Interest that is hearing from all stakeholders in a democratic community
 1. Karen Crist, Board member, Children's Community Charter School in Paradise, CA: Our school philosophy, our school culture even, is based on the mutual cooperation of, for the mutual benefit of, three very distinct groups of stakeholders: the students, the parents of the students, (on whom we rely on to perform a multitude of services that would normally take dollars away from our students), and the staff. We throw that word - stakeholders - around a lot. It is HUGE. If our stakeholders do not share an equal buy-in to our goals as an educational institution, we will fail. If we all work together, respect each other and support each other, we will succeed and flourish.
- b. PR Concern about having employees on the Board
 - i. Could be potential lawsuits (conflict of interest), although "it is debatable" if 1090 applies to charter schools

5. Reasons for having employees on the Board

- a. Board benefits from getting all the information, getting the fullest picture possible. Board will be better informed if it contains members who experience the learners, classroom, campus and parents personally on a daily basis.
- b. Commitment by the community (having stakeholders on the Board), gives the community ownership of the Board and ownership of the decisions
- c. Perspective: Learner member feels like her perspective is a vital one even if she cannot vote on many issues
- d. Collaborate on Projects with other Board members, such as PR, Recruitment, etc.
- e. Board members are informed of developments

6. How to address the concerns that facilitators' "loyalty to the Union" will supersede their loyalty to CLCS and their fiduciary responsibilities as Board members

- a. Similar to parents, learners and Lead Facilitators on the Board with “ties” to a particular school, the facilitators are confident that they can make the fiduciary responsibility of the Board their number one priority
- b. Recusal process will address conflict of interest for facilitators and other paid employees

7. Problem-Solving Ideas:

- a. Board President indicates on Board Agenda which items Paid Employees must recuse themselves from voting on
 - i. Given that there are time constraints for non-Board member, even if facilitators can't vote on many items, they will be able to share a perspective during discussions
- b. Jim's ideas:
 - i. Provide seats for Ex. Dir. ; LF (ACLIC and Nea) and Fac. (ACLIC and NEA) as we have historically.
 - ii. Provide seats for Ex. Dir. ; LF (ACLIC and Nea) and Fac. (ACLIC and NEA) on an informed, assumption of risk basis. This is to be done with an express carve-out for financial conflicts and a disclaimer and assumption of risk that while there is a no clear and strict prohibition against employees serving on the Board, either statutorily or contractually, at least one district attorney has brought a criminal action against a Charter school board member for conflict of interest.
 - iii. Eliminate employee eligibility on the board, but provide standing Agenda Items for: Ex Dir. Report; LF Reports and Fac Reports. This would be an opportunity for direct communications to the board, but without voting rights or possible legal exposure/liability. This would permit these important stakeholders set agenda time beyond the normal three minute discussion limitation and permit a wider latitude of permissible topics.... It would also give the board members more latitude to ask questions and "converse" with these important community members.

8. Speaker -- if not, present the written examples

- 9. Final Thoughts:** Why do we want to be aligned with schools who have removed paid employees? The Board could re-examine this decision each year to refine the process. Our choice should be to go by what is best for our model given that there are no current definitive pieces of legislation prohibiting it.