

Transcript of the February 17, 2023, Orange County Board of Education Special Meeting

SPARKS: I call the Orange County Board of Education special board meeting to order. Darou, can we have roll call?

SISAVATH: Trustee Valdes?

VALDES: Here.

SISAVATH: Trustee Shaw?

SHAW: Here.

SISAVATH: Trustee Sparks?

SPARKS: Here.

SISAVATH: Trustee Williams?

WILLIAMS: Present.

SISAVATH: Trustee Barke?

BARKE: Present.

SPARKS: Okay. Dr. Williams, would you like to do the Pledge of Allegiance?

WILLIAMS: Absolutely. Please stand for the pledge to the greatest symbol of freedom and liberty. I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SPARKS: Thank you, Dr. Williams. All right, do I have a motion to adopt the special meeting of February 17, 2023?

BARKE: So moved.

WILLIAMS: Second.

SPARKS: All in favor?

BARKE, WILLIAMS, SPARKS, SHAW, VALDES: Aye.

SPARKS: Do we have any public comments related to closed session?

BOYD: We do not have any public comments related to closed session, but I do have a statement from the Superintendent that he asked me to read. That would be considered a public comment.

“The safety of students is at the forefront of everything we do at the Orange County Department of Education. Based on concerns raised by some members of the public, the County Superintendent has initiated the process of reviewing and monitoring the current operations of Orange County School of the Arts. Pursuant to his authority under Education Code Section 47604.4, the Superintendent is specifically taking steps to ensure policies and procedures are in alignment with legal requirements, including processes for addressing complaints.

In past interactions with Orange County School of the Arts, the County Superintendent has found the Orange County School of the Art’s board and executive staff to be responsive, collaborative, and professional, and would anticipate the same moving forward. While charter schools in California are empowered to make local operational decisions under the leadership of their governing boards and administrative teams, charter authorizers are responsible for monitoring charter schools to provide fiscal oversight, and to ensure compliance with the charter and all applicable statutes. By law and by practice, any reasonable suspicion of child abuse or criminal wrongdoing is immediately referred to relevant law enforcement agencies or the Orange County District Attorney's Office for investigation and response.

SPARKS: Thank you. All right, we will move on into closed session.

[The Orange County Board of Education conducts closed session and returns.]

SPARKS: Welcome back to the Orange County Board of Education. We are coming out of closed session, and I refer to our good counsel, Greg Rolen to report out on closed session.

ROLEN: In closed session, the Board voted unanimously to approve the resolution, to have the resolution posted on the website and read into the record. I will do my very best to read it. The resolution is as follows, it's entitled, “Resolution Requesting County Superintendent of Schools to Conduct an Independent Investigation into the Orange County School of the Arts Under the Authority Granted by the California Education Code, dated February 17.”

Whereas, on January 8, 2020, the Orange County Board of Education, here and after “Board,” accepted an appeal submission from the Orange County School of the Arts, here and after “OCSA,” for the denial of the school’s renewal charter petition by the Santa Ana Unified School District for the charter term of July 1, 2020, to June 30, 2025. Whereas, on March 4, 2020, the Board voted 3-1-1; Williams, Sparks, and Barke voted yes; Gomez voted no, and Trustee Bedell abstained to approve the charter petition as written.

Whereas, Education Code Section 1241.5 (c) states, “At any time during the fiscal year, the county superintendent may review and audit expenditures and internal controls of any charter school in his or her county if he has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The review or audit conducted by the county superintendent shall be focused on alleged fraud, misappropriation of funds, or

other illegal fiscal practices, and shall be conducted in a timely and efficient manner. The county superintendent shall report findings and recommendations to the governing board of the charter school at a regularly scheduled meeting and provide a copy of information to the chartering authority of the charter school within 45 days of completing review, audit, or examination. The governing board of the charter school shall have no later than 15 calendar days after receipt of the report to notify the county superintendent and its chartering authority of its proposed response to the recommendations.”

Whereas, Education Code Section 47604 (c) states, “An authority 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 the acts, errors, or omissions of the charter school if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by 47604.32 and subdivision M of Section 47605.”

Whereas, Education Code section 47604.03 states, “A charter school shall promptly respond to all reasonable inquiries, including, but not limited to, inquiries about 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.”

Whereas, Education Code section 47604.4 states, “In addition to authority granted under sections 1241.5 and 47604.3, the 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 charter school. If the county superintendent of school monitors or investigates a charter school pursuant to this section, the county office shall not incur any liability beyond the cost of the investigation.”

Whereas, 47605 (c) states in relevant part, “In reviewing petitions for establishment of a charter, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California education system and that the establishment of charter schools may be encouraged. The governing board of the school district shall grant a charter for the operation of the school under this part if it is satisfied that granting the charter is consistent with sound educational practices and the interests of the community in which the school is proposing to locate. The governing board of the school district shall consider the academic needs of the pupils of the schools they serve.

The governing board of the school district shall not deny a petition for establishment of the charter school unless it makes written findings, specific to a particular petition, setting forth specific facts to support one or more of the following findings: That a charter school presents an unsound educational program to the pupils to be enrolled in the charter school. The petitioners are demonstratively unlikely to successfully implement the program set forth in the petition. The petition does not contain the number of signatures required in subdivision (a). The petition does not contain an affirmation of each of the conditions described in subdivision (e).

The petition cannot reasonably provide comprehensive descriptions of all of the following: ... (f) The procedures that the charter school will follow to ensure the health and safety of pupils and staff. These procedures shall include the following: (1) That each employee of the charter school furnish the charter school with a criminal record summary as described in Section 44237. (2) The development of a safety plan, which shall include the safety topics listed in subdivisions (A) to (J) inclusive of paragraph (2) of subdivision (a) of Section 32282. (3) That a school safety plan be reviewed and updated on March 1 of every year by the charter school.”

Whereas, Education Code section 47604.32 states, “Each chartering authority, in addition to other duties imposed by this part, shall do all of 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 annually (3) Ensure each charter school under its authority complies with all reports required of the charter schools by law, including the local control and accountability plan and annual update to the local control and accountability plan required by section 47606.5 (4) Monitor the fiscal condition of each charter school under its authority (5) Provide timely notification to the Department if any of the following circumstances occur, or will occur, with regard to the charter for which the chartering authority (a) a renewal of the charter is denied (b) is revoked, or (c) the charter school shall cease operation for any reason.”

Whereas at the January 4, 2023, and February 1, 2023, Board meetings, the Board received public comment alleging sexual misconduct at OCSA. Whereas, the Board, and each and every member thereof, vehemently condemned predatory behavior, including but not limited to, grooming, sexual harassment, sexual assault, or sexual violence perpetrated against children, students, or staff. Whereas, the Board intends to exercise its statutory authority in a manner to protect students and staff from sexual violence of all form and fashion.

Whereas on February 8, 2023, the Board requested the County Superintendent of Schools to conduct an investigation of OCSA pursuant to its authority granted under the California Education Code including, but not limited to, 1241.5 (c) and 47604.4, see attachment 1. Therefore, whereas on February 16, 2023, at 5:39 PM we received a response from the Superintendent's counsel stating in relevant part, the Superintendent notes some members of the public have provided information that would independently justify the Superintendent to review and monitor the current operations of OCSA under Education Code Section 47604.4. To that end, the Superintendent has engaged in preliminary communication with OCSA regarding this matter.

Therefore, the Board resolves to formally request the Superintendent and Department, collectively OCDE, act as follows: Conduct an investigation of OCSA’s hiring, supervision, and safety procedures pursuant to the authorities set forth above. (2) Report the investigatory findings to the Board in accordance with policies and protocols established by the OCDE Charter Schools Unit. (3) Continue cooperation with the Board to organize and present a public school safety forum to inform students, parents, faculty, school employees, and members of the public as to best practices in recognizing, reporting, and preventing sexual violence on campus.

Madam President, that is the resolution.

SPARKS: Thank you, Mr. Rolen. I have a comment I would like to make, but perhaps you?

SHAW: I would love to make a comment, Dr. Sparks, thank you. Thank you, Dr. Sparks for your leadership on this, and Mr. Rolen for all your work preparing the resolution. I just wanted to make a personal comment, I guess. I'm a father of six kids. I send them off to public schools every morning, and you hope and pray that they are safe at school. It is very sickening to hear allegations of adults taking advantage of students at school. We have had to hear that the last couple meetings and it actually made me physically ill hearing it. It is very disheartening that anything like that would ever happen anywhere, let alone in Orange County.

I think it is important that we make a statement if anyone is watching online, or if anyone hears of what we are doing here today, that people understand if they are a witness to, or have evidence of, a sexual assault at a school, particularly involving minor children and an adult. Obviously, that is a crime and it should be immediately reported to law enforcement.

I think we should always be encouraging people to contact law enforcement in these situations. I was pleased to hear Dr. Mijares' statement and it sounds like he will be investigating this and working on that. That is terrific. Apart from that, whatever work he is going to be doing, I think we could always encourage people if they are privy to a crime, that they immediately go to law enforcement.

SPARKS: Thank you. And, yes, thanks to the Superintendent for allocating his staff and resources to this effort. As president of the Board, I think I speak on behalf of my board members that we have heard the public, and we take all of this very seriously. We take these allegations to heart. We have given this a lot of very careful thought. We think this is a common sense governance measure for the benefit of all involved, so thank you. I will adjourn the meeting at this point.

WILLIAMS: I make a motion for adjournment.

SPARKS: Motion for adjournment. Second?

BARKE: Second.

SPARKS: Adjourned. Thank you.