AGENDA ITEM EXECUTIVE SUMMARY

- I. Public Education Commission Meeting Date: May 12, 2017
- II. Item Title: DISCUSSION AND POSSIBLE ACTION TO CONSIDER FUTURE CHARTER REVOCATION HEARING REGARDING DZIT DITL'OOI SCHOOL OF EMPOWERMENT, ACTION AND PERSEVERANCE (DEAP) BASED ON REPORTED PROBLEMS WITH ORGANIZATIONAL STRUCTURE, FINANCIAL ADMINISTRATION AND FINANCIAL REPORTING, AND LACK OF AN EDUCATION LEADER
- III. Executive Summary and Proposed Motions:

During the Spring Budget Workshop, a former business manager for Ditl'OOi School Of Empowerment, Action And Perseverance (DEAP) approached a PED member and reported concerns about the financial management at the school. The concerns were reported to the PED and the PED School Budget and Financial Analysis Bureau began communicating with the business manager.

Based on the reports in the attached affidavits, the PED Audit Bureau and the PED School Budget and Financial Analysis Bureau conducted an unannounced audit of the school. No information has been provided about that audit to date. However, the PED School Budget and Financial Analysis Bureau Director did provide notice to the school that access to the school bank accounts and all check signing authority was to be immediately transferred to the school's licensed administrator and business manager. At the time this report is being written, PED has not received notification that this action has been taken.

The affidavits raise the following concerns:

- The licensed Head Administrator has reported that she is "principal in name only"
- The licensed Head Administrator appears to be supervised by, and is given directives by an unlicensed employee of the school
- The same unlicensed employee makes all budget decisions, staffing decisions, and operational decisions effectively administrating in a public school without an administrative

license

- The unlicensed employee may have changed the description of work for federal time and labor reporting on a federal grant after the original report was rejected by the licensed business manager because the work did not comply with the terms of the grant
- The licensed Head Administrator reported that the school "implemented a policy of shredding all receipts"
- The unlicensed employee, when told that federal grant proceeds could not be used for personnel, directed the business manager to violate the terms of the grant and "ask for forgiveness later"
- The unlicensed employee has ignored the directions of the business manager in relation to proper procurement processes and as a result purchases have been made by the school in violation of the state's procurement code
- The school's business manager resigned after three months due to concerns about the schools failure to follow her directive to ensure compliance with state and federal law

In FY 16, the school's first year of operation, the school received four audit findings:

Internal controls and Accounts Payable (Significant deficiency)

Condition: During accounts payable test work, we noted \$6,373 in unrecorded liabilities as of June 30, 2016.

Criteria: Based on the Schools Financial Policies and Procedures, "A system of authorization and recording procedures to ensure that all transactions are properly approved and recorded."

Effect: The School is not in compliance with internal policies and procedures.

Cause: Proper internal controls were not in place to ensure that all liabilities were recorded at the fiscal year-end.

Recommendation: Ensure that all liabilities are recorded at the fiscal year end.

Management's Response: At the end of the fiscal year the Business Manager who knew how to prepare these entries resigned and her replacement did not know how to make these entries. We now have an experienced school Business Manager to mentor our Business Manager and help with these year-end entries. This will be corrected by the Business Manager for the year ended June 30, 2017.

• Procurement (Compliance)

Condition: The School does not have a chief procurement officer.

Criteria: NMSA 13-1-95.2 states "On or before January 1, 2015, the state purchasing agent shall establish a certification program for chief procurement officers that includes initial certification and recertification every two years for all chief procurement officers. In order to be recertified, a chief procurement officer shall pass a recertification examination approved by the secretary of general services."

Effect: The School is not in compliance with NMSA 13-1-95.2.

Cause: Due to the size of the School, it's difficult to find an individual with available time to go through the certification process.

Recommendation: Ensure an individual from the School or associated with the School completes the certification program for chief procurement officers.

Management's Response: The Executive Director is responsible to ensure a trained chief procurement officer is chosen by January 2017

• Audit Committee Structure (Compliance)

Condition: During our testing of the audit committee requirements, we noted that the audit committee did not include a parent volunteer.

Criteria: NMAC 22.8.12.3 states "Except as otherwise provided in this section, each local school board shall appoint an audit committee that consists of two board members, one volunteer member who is a parent of a student attending that school district and one volunteer member who has experience in accounting or financial matters. The superintendent and the school district business manager shall serve as ex-officio members of the committee. A local school board with more than five members may appoint more than two board members to its audit committee."

Effect: The School is not in compliance with NMAC 22.8.12.3.

Cause: DEAP has been unsuccessful in recruiting a board member with the required experience.

Recommendation: Ensure that audit committee requirements are followed as to the composition of the audit committee members.

Management's Response: DEAP has made efforts to recruit a parent volunteer to serve on the Audit Committee, but it has been difficult to identify a parent willing to do so and even more difficult to find a parent volunteer with the required experience to serve on such Committee. However, the Executive Director is responsible for recruiting a parent volunteer by the quarter ended March 31, 2017.

• Excess of Expenditures over Budget (Compliance)

Condition: The School has expenditure functions where actual expenditures exceeded budgetary authority:

Operational:

Instruction \$4,552

Central Services \$471

Food Service Operations \$25,622

Criteria: Per NMAC 6.20.2.9 (A) every school district shall follow budget requirements stated in Sections 22-8-5 through 22-8-12.2, NMSA 1978, and procedures of the department in preparing, submitting, maintaining and reporting budgetary information. Budgetary control shall be at the function level. Over expenditure of a function shall not be allowed.

Effect: The School expenditures in the above functions exceeded the total approved budgeted expenditures by \$30,645.

Cause: Budgetary controls were not in place to adequately monitor and regularly compare budget to actual results. As a result, measures were not taken to avoid or minimize the amount that actual expenditures exceeded the approved budget.

Recommendation: Budget adjustment requests should be presented to and approved by PED before expending funds in excess of budget. Controls should be implemented to ensure that budgeted amounts are compared to actual on a regular basis and the budget effectively utilized for controlling expenses and managing cash flow.

Management's Response: While the budget by Fund was not exceeded, the Function budget was exceeded. At the end of each quarter, the Business Manager will look closely at budget vs. actual spending and prepare any BARs needed to adjust the budget.

In December 2016 and in January 2017 this school was included on the PEC's agenda at the request of the PED's School Budget and Financial Analysis bureau because the school had failed to timely submit financial data and reporting as required. No action was taken by the Commission at that time.

AFFIDAVIT

State of New Mexico)
) ss.
County of Bernalillo)

- I, Kay Girdner, being of lawful age and being first duly sworn upon my oath, state:
- 1. I currently reside in the County of Bernalillo, in the State of New Mexico. I am currently employed by Native American Community Academy (NACA), a charter school, as a business manager.
- 2. At all times relevant to the statements made in this affidavit, I was employed by NACA. In my capacity as an employee of NACA, I was and am responsible for the charter school's business and financial operations, including but not limited to: budgeting, accounting and receipt and disbursement of the charter school's revenues.
- 3. As part of my duties in working as a business manager for NACA, I advise two other business managers associated with the non-profit "NACA-Inspired Schools Network", which works with the New Mexico charter school Dzit Dit Lool School of Empowerment, Action and Perseverance (DEAP).
- 4. While advising and working with the business manager for DEAP, Ms. Donna Overson, I was present on March 29, 2017 when the head administrator for DEAP, Jennie Jimenez stated that:
 - a.) she (Jimenez) was principal "in name only";
 - b.) she (Jimenez) signed whatever documents Prestene Garnenez instructed her to sign;
 - c.) she (Jimenez) had no role in decisions made about DEAP's operations and did not want any role in said decisions;
 - d.) Prestene Garnenez would be responsible for all staffing decisions;
 - e.) Prestene Garnenez would be responsible for all budget decisions; and
 - f.) Prestene Garnenez did not want to hire a head administrator and only did so because New Mexico Public Education Department required the school to have a licensed head administrator.
- I have attended one governing council meeting for DEAP and at that meeting witnessed Prestene Garnenez take a leadership role for DEAP's operations. During my involvement with DEAP, it was my understanding that Prestene Garnenez was the primary point of contact for DEAP's financial matters.

6. In my role as a consultant and advisor to DEAP's former business manager, Donna Overson, I was included in an email dated March 31, 2017, stating that Prestene Garnenez changed the description of work for federal time and labor reporting on a federal grant after a timesheet was rejected by Ms. Overson, the DEAP business official, in the following way: After timesheets for Lane Franklin that coded time and labor reporting initially for AmeriCorps training were rejected by Ms. Overson, with notes that these were not covered under the applicable grant, the timesheets were resubmitted with AmeriCorps training removed and replaced with the description "travel to Albuquerque".

Date: 4/21/2017

{signature of affiant}

Subscribed and sworn to before me by {name of affiant}, this 21 day of 4pc; , 2017.

NOTARY PUBLIC

My Commission Expires:

Muy 27, 2020

AFFIDAVIT

State of New Mexico)
) ss
County of Torrance)

- I, Donna Overson, being of lawful age and being first duly sworn upon my oath, state:
- I currently reside in the County of Torrance, in the State of New Mexico. I am currently employed as a business manager by Native American Community Academy Inspired Schools Network (NACA-ISN), a non-profit that provides third party administrator financial services to two charter schools, Dzit Dit Lool School of Empowerment, Action and Perseverance (DEAP) and Six Directions Indigenous Charter School..
- At all times relevant to the statements made in this affidavit, I was employed by NACA-ISN, and in some instances was acting as Dzit Dit Lool School of Empowerment, Action and Perseverance's (DEAP's) third party business manager. In my capacity as an employee of NACA-ISN, providing services to, DEAP, I was one of the persons involved in DEAP's business and financial operations, including budgeting, accounting and receipt and disbursement of DEAP's revenues, based upon the information provided to me by DEAP.
- 3. While acting as the third party business manager for DEAP, I was present when the head administrator for DEAP, Jennie Jimenez stated that:
 - a.) she (Jimenez) was principal "in name only";
 - b.) she (Jimenez) signed whatever documents Prestene Garnenez instructed her to sign;
 - c.) she (Jimenez) had no role in decisions made about DEAP's operations and did not want any role in said decisions;
 - d.) Prestene Garnenez would be responsible for all staffing decisions;
 - e.) Prestene Garnenez would be responsible for all budget decisions; and
 - f.) Prestene Garnenez did not want to hire a head administrator and only did so because New Mexico Public Education Department required the school to have a licensed head administrator.
- 4. I was present in person for one governing council meeting and on the phone for two such meetings and during those times witnessed Prestene Garnenez take a leadership role for DEAP's operations.

- I saw Prestene Garnenez change the description of work on a timesheet for federal time and labor reporting on a federal grant after I had rejected this timesheet because the work described did not comply with terms of the grant. When I rejected these timesheets, which were for Lane Franklin for AmeriCorps training, I provided Prestene Garnenez with the explanation for my rejection: namely that the coded time and labor did not comply with the terms of the applicable grant. These timesheets were then resubmitted by Prestene Garnenz with AmeriCorps training removed by whiteout and replaced with the description "travel to Albuquerque".
- 6. I was present when Jennie Jimenez stated that DEAP had implemented a policy of shredding all receipts.
- 7. I was present when Kay Girdner sent Prestene Garnenez an emal that federal grant proceeds related to Native American education could not be used for personnel. Ms. Garnenez instructed me to pay for the personal out of the grant and "ask for forgiveness later".
- 8. Among other instructions, I instructed school personnel, including Prestene Garnenez, on proper internal controls related to purchasing, including the use of purchase requisitions and purchase orders as they relate to the procurement code.
- 9. My instructions regarding proper procurement processes were routinely ignored by Prestene Garnenez and others at DEAP while I was the third party business manager, and purchases were made without a purchase requisition or purchase order in violation of the state's procurement code.
- I resigned from DEAP after three months due to concerns about the school operating independently of my instructions to comply with elements of state and federal law, and I sent an email to Kara Bobroff stating these facts on March 31, 2017.

Date: 421 2017

Signature of affiant?

Subscribed and sworn to before me by {name of affiant}, this 21 day of April

, 2017.

NOTA DV DUDIO

My Commission Expires:

May 27, 2020

NACA Inspired Schools Network

03/06/2017

Supervisor: Prestene Garnenez

Period: -

03/19/2017

Member:

Lane Franklin Site: DZIL DITL?OOI SCHOOL OF EMPOWERENT, ACTION AND PERSEVERANCE

Approved: 3/21/2017 9:04:41 AM

Approve/Review Timesheets

		Training	Service	
Day	Fundraising	Training	Direct Service	Total Hours
Mon Mar 6	0	0	0	0
Tue Mar 7	0	0	0	0
Wed Mar 8	0	0	6	6
Thu Mar 9	0	0	0	0
Fri Mar 10	0	0	8.5	8.5
Sat Mar 11	0	0	0	0
Sun Mar 12	0	0	0	0
Mon Mar 13	0	0	0	0
Tue Mar 14	0	0	4	4
Wed Mar 15	0	0	5	5
Thu Mar 16	0	0	0	0
Fri Mar 17	0	0	0	0
Sat Mar 18	0	0	0	0
Sun Mar 19	0	0	0	0
Totals:	0	0	23.5	23.5

Americorps Member: Lane

Site Supervisor 1: Prestene

Site

Site

Franklin

Garnenez

Site Supervisor 2:

Supervisor 3:

Supervisor 4:

Submitted: 3/20/2017 5:06:51 PM

Approved: 3/21/2017 9:04:41

Approved:

Approved:

Approved:

Period: 03/06/2017 - 03/19/2017

NACA Inspired Schools Network

Period: **Supervisor:** Prestene Garnenez

03/05/2017

02/20/2017

3/6/2017 DZIL DITL?OOI SCHOOL OF EMPOWERENT, Lane 11:33:10 Site: Member: Franklin

Approved: ACTION AND PERSEVERANCE AM

Approve/Review Timesheets

		Training	Service	
Day	Fundraising	Training	Direct Service	Total Hours
Mon Feb 20	0	0	8.5	8.5
Tue Feb 21	0	0	4	4
Wed Feb 22	0	0	1	1
Thu Feb 23	0	0	0	0
Fri Feb 24	0	0	0	0
Sat Feb 25	0	0	0	0
Sun Feb 26	0	0	0	0
Mon Feb 27	0	0	8	8
Tue Feb 28	0	0	0	0
Wed Mar 1	0	0	5.5	5.5
Thu Mar 2	0	0	9	9
Fri Mar 3	0	0	7.5	7.5
Sat Mar 4	0	0	0	0
Sun Mar 5	0	0	0	0
Totals:	0	0	43.5	43.5
Comments: (no comments)				

Site Site Americorps Member: Lane Site Supervisor 1: Prestene Site

Supervisor 3: Supervisor 4: Supervisor 2: Franklin Garnenez

Submitted: 3/6/2017 **Approved:** 3/6/2017 11:33:10

Approved: Approved: Approved: 11:17:04 AM AM

Period: 02/20/2017 - 03/05/2017

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Supervisor's Signature:	7	Sand A		Date: 3/20/17

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2/2

Date

Th 2/23

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2/20 MI 2/2

2/25 12/2

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General Description of work performed Collaborated w/ other organization

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10tal 28		
Employee's Signature:	for trahes	Date: 2/28 ///
Supervisor's Signature:	女女なんか、人	Date: 2/28/17
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Supervi

From: girdner@nacaschool.org [mailto:girdner@nacaschool.org]

Sent: Wednesday, April 19, 2017 12:17 PM

To: Craig, David, PED Cc: Bobroff, Kara Subject: [FWD: DEAP]

David,

Here is the email you asked me to forward when you called today. I will give Kara your cell number when I meet with her this afternoon.

Kay Girdner, Finance Director
DEAP, Six Directions Indigenous School, and
Native American Community Academy
1000 Indian School Rd NW
Albuquerque, NM 87104
Phone: 505-266-0992 X.1042

Fax: 505-266-2905

----- Original Message -----

Subject: DEAP

From: Donna Overson < donna@nacainspiredschoolsnetwork.org

Date: Fri, March 31, 2017 2:00 pm

To: kbobroff@nacaschool.org

Hi Kara,

After meeting with the Principal (Jennie Jimenez) of DEAP and after having Prestene Garnenez change the description of work performed on a federal grant timesheet I can no longer work as DEAP's business manager.

Jennie told both Kay Girdner and myself that she is Principal in name only. She signs whatever papers Prestene tells her to sign and she has nothing to do with the making decisions about the running of the school nor does she want to. I reminded her that Principals are in charge of staffing and she corrected me and said Prestene is in charge of all staffing decisions. She also told us that Prestene would make the budget decisions. Jennie stated that Prestene did not want to hire a principal and only did so because PED required the school to have one.

When I received the timesheets for Lane Franklin I noticed that on more than one day it stated AmeriCorps training. When I emailed Prestene to let her know that the grant could not pay for this she then changed the description to "travel to Albuquerque". I believe that Prestene does not want a business manager and I'm only there because PED requires her to have one.

I also believe that there are no checks and balances at DEAP. This opens the door for situations to happen that can lead to investigation and possible closure. State and Federal regulations are put in place for a reason and it doesn't seem to me that there is a commitment to follow them. Recently she asked me to spend Federal funds that were not in line with the Grant and when I told her it didn't meet the terms of the Grant she instructed us to do it anyway. (we have not complied with her direction)

Bottom line is there must be trust between a business manager and administration and I don't feel there is any.

I will be glad to complete the quarterly reports but I'm sorry I cannot continue with the daily finances of this school.

Sincerely, Donna Overson

Donna Overson

Business Manager

Dzil Ditl ooi School of Empowerment, Action & Perseverance

And

Six Directions Indigenous School

505-266-0992 Ext. 1051

donna@nacainspiredschoolsnetwork.org

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From: girdner@nacaschool.org [mailto:girdner@nacaschool.org]

Sent: Wednesday, April 19, 2017 12:21 PM

To: Craig, David, PED **Cc:** Bobroff, Kara

Subject: [FWD: RE: DEAP Budget Draft 1]

David.

You will see in the email below, 2nd paragraph, that I explained to Prestene that I would not be able to serve as DEAP's Business Manager.

Kay Girdner, Finance Director
DEAP, Six Directions Indigenous School, and
Native American Community Academy
1000 Indian School Rd NW
Albuquerque, NM 87104
Phone: 505-266-0992 X.1042

Fax: 505-266-2905

------ Original Message -------- Subject: RE: DEAP Budget Draft 1 From: <girdner@nacaschool.org>
Date: Tue, April 18, 2017 1:07 pm

To: "Prestene Garnenez" < pgarnenez@deapschool.org >

Cc: "Kara Bobroff" < kbobroff@nacaschool.org > , "Alan Brauer"

<al>alan@nacainspiredschoolsnetwork.org>

Hello Prestene,

I have entered formulas for employee benefits so as you change Wages/Salaries the ERB, Retiree Healthcare, FICA, etc. should change too. I also added some notes and entered amounts you should budget for Lease and Prop/Liab Insurance. I don't know what your SEG will be but I imagine Pam Bowker has sent your 910B-5 worksheet by now.

Last week when we texted you said you would like for me to return to being your Business Manager since Donna resigned. I am glad to know we have a good working relationship but I must let you know I can't take on that additional work; I have so many responsibilities that I already work 9-10 hr/day on average plus at least one Saturday every month. A different solution will have to be found. I need to reduce the number of hours I work while still being a resource for each School's Business Manager.

Kay Girdner, Finance Director DEAP, Six Directions Indigenous School, and Native American Community Academy 1000 Indian School Rd NW Albuquerque, NM 87104

Phone: 505-266-0992 X.1042

Fax: 505-266-2905

----- Original Message ------Subject: DEAP Budget Draft 1

From: Prestene Garnenez pgarnenez@deapschool.org>

Date: Fri, April 07, 2017 1:40 pm

To: "donna@nacainspiredschoolsnetwork.org donna@nacainspiredschoolsnetwork.org"

<a href="mailto: donna@nacainspiredschoolsnetwork.org, Kay Girdner

<girdner@nacaschool.org>

Donna and Kay,

Please find attached Draft 1 of the 2017-2018 Budget. This budget reflects input from our GC Budget Committee, the GC as a whole, and our DEAP Leadership Team. I need your assistance in determining the benefits for staff. When I changed the overall numbers for staff salaries, I noticed the benefits don't change. I think with the addition of benefits the figure will go up over the projected cost of \$268K. But, if you can estimate those calculations for benefits so we can take a look at it again that would be appreciated. We will the meet to see where costs will be cut again.

Thank you.

--

Prestene S. Garnenez Director of Operations Dzil Ditl'ooi School of Empowerment, Action and Perseverance P.O. Box 156 Navajo, New Mexico 87328

T: (505) 777-2053 F: (505) 777-2054

E: pgarnenez@deapschool.org

www.deapschool.org