

BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

IN RE: NOTICE OF INTENT TO REVOKE THE CHARTER OF
DZIL DITL'OOÍ SCHOOL OF EMPOWERMENT, ACTION AND
PERSEVERANCE

TRANSCRIPT OF PROCEEDINGS
PUBLIC HEARING

Volume One

October 13, 2017

1:30 p.m.

Jerry Apodaca Public Education Building - Mabry Hall
300 Don Gaspar
Santa Fe, New Mexico

REPORTED BY: Cynthia C. Chapman, RMR-CRR, NM CCR #219

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 8 MR. TIM CRONE, Member
 9 MS. DANIELLE JOHNSTON, Member
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1 THE CHAIR: So I'm going to bring to order
 2 this meeting of the Public Education Commission.
 3 And I will lead us in the Pledge of Allegiance and
 4 the New Mexico Salute.
 5 (Pledge of Allegiance and Salute to the
 6 New Mexico Flag conducted.)
 7 THE CHAIR: And I will ask Commissioner
 8 Armbruster to do a roll-call vote, please.
 9 COMMISSIONER ARMBRUSTER: Commissioner
 10 Robbins.
 11 COMMISSIONER ROBBINS: Here.
 12 COMMISSIONER ARMBRUSTER: Commissioner
 13 Toulouse.
 14 COMMISSIONER TOULOUSE: Present.
 15 COMMISSIONER ARMBRUSTER: Commissioner
 16 Armbruster is here.
 17 Commissioner Conyers.
 18 COMMISSIONER CONYERS: Present.
 19 COMMISSIONER ARMBRUSTER: Commissioner
 20 Peralta.
 21 COMMISSIONER PERALTA: Here.
 22 COMMISSIONER ARMBRUSTER: Commissioner
 23 Gipson.
 24 THE CHAIR: Here.
 25 COMMISSIONER ARMBRUSTER: Commissioner

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1 Johnston.
 2 COMMISSIONER JOHNSTON: Present.
 3 THE CHAIR: Commissioner Crone.
 4 COMMISSIONER CRONE: Here.
 5 COMMISSIONER ARMBRUSTER: Commissioner
 6 Ruiz.
 7 COMMISSIONER RUIZ: present.
 8 THE CHAIR: Commissioner Caballero.
 9 COMMISSIONER CABALLERO: Here.
 10 COMMISSIONER ARMBRUSTER: We are all here,
 11 a quorum of ten.
 12 THE CHAIR: Thank you.
 13 This hearing is being held at Mabry Hall
 14 in the Jerry Apodaca Building, Santa Fe, New Mexico.
 15 The purpose of this hearing is to take evidence
 16 concerning the Notice of Intent to revoke the
 17 charter issued against Respondent DEAP.
 18 The hearing is being conducted in
 19 accordance with the Charter School Act, NMSA 1978,
 20 Sections 22-8B-1, to 17.1 1978, as amended through
 21 2015, and the Uniform Licensing Act, NMSA 1978,
 22 Sections 61-1-1 through 61-1-31.
 23 The hearing is scheduled for approximately
 24 three hours.
 25 The Commission will provide 20 minutes for

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1 opening statements, ten minutes for each party,
2 60 minutes for each side to present the case,
3 including the examination of witnesses and questions
4 by Commissioners, and 20 minutes for public comment.

5 If anyone wishes to speak during Public
6 Comment, there is a sign-up sheet in the back,
7 which -- oh, you've already -- it's over here. If
8 you have not signed up, please do so if you wish to
9 speak. There is, however, only a total of
10 20 minutes. So the time will be divided by the
11 number of signatures.

12 If there's a number of you wishing to
13 speak, and you're all speaking on the same topic, it
14 might be helpful to get more information out if you
15 join together and had one person speak per topic.
16 That might help you out a little bit.

17 The PED representative will present
18 evidence first, and then the Respondent, DEAP, will
19 present evidence in defense of the allegations.

20 Any witness offering testimony will be
21 questioned first by the party offering the testimony
22 and then by the opposing party. The PEC will permit
23 direct examination, cross-examination, redirect
24 examination, and recross-examination of all
25 witnesses. The PEC may question witnesses when both

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1 members of the Commission, my name is Seth McMillan.
2 I'm with the law firm of Montgomery & Andrews here
3 in Santa Fe. With me here this afternoon is Kaitlyn
4 Luck, my colleague who will be presenting the case
5 for revocation.

6 This is certainly -- this is an
7 unfortunate situation, and it's -- in all candor,
8 it's no great pleasure for me personally to present
9 a case for closure of a school. It is, however, a
10 very serious situation and one that deserves serious
11 consideration.

12 Let me briefly describe what we're not
13 here to do. We're not here to malign the children
14 attending the school, their academic performance,
15 their parents, their teachers, all of whom seem to
16 be very passionate about the school. It's -- we
17 also are not here to call into question the
18 principles and entirely laudable goals that the
19 school has set out to reach.

20 It's not philosophical; it's not personal;
21 it's just business, quite literally. We're dealing
22 with a school here that has a long history of
23 compliance problems on the business side of
24 operations. We've seen a lack of compliance with
25 Generally Accepted Accounting Principles, violations

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1 parties have finished their examinations. No other
2 questioning will be permitted after the PEC has
3 finished questioning the witnesses.

4 The PEC will limit all testimony and
5 public comment to the issues identified as being
6 within the scope of the hearing. The scope of the
7 hearing has been set out in the Notice of Intent to
8 Revoke the Charter.

9 After the presentation from both parties
10 and the public, the PEC will enter into Executive
11 Session to deliberate. After deliberation, the
12 Commission will return to the public hearing and
13 announce its decision, if reached.

14 The Commission's determination will be
15 issued in writing and submitted to the parties. The
16 Commission will provide a written decision within
17 30 days.

18 And I will ask individuals, when you do
19 come up to speak, if you will please state your name
20 and spell your name for the record. Thank you.

21 Okay. So I guess PED is up first.

22 MR. McMILLAN: Can you hear me okay?

23 THE CHAIR: Yes. As long as the green
24 light is on, it's working.

25 MR. McMILLAN: Madam Hearing Officer,

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1 of State law, violations of the -- the Charter
2 contract, not to mention violations of federal grant
3 reporting that jeopardize not just this school's
4 funding, but potentially have ramifications
5 statewide.

6 These issues, as the Commission knows,
7 have been on the PEC's agenda since 2016. They came
8 up in January of 2017, May of 2017, and, of course,
9 June of '17, when the Commission voted to hold this
10 hearing.

11 These are not new problems; these are not
12 new issues. This is not a brand new thing being --
13 that this school is suddenly becoming aware of. The
14 school has had plenty of time to address its
15 financial governance problems; but thus far, to
16 date, they have not demonstrated to PED, the School
17 Budget people or the Audit people, that they have
18 done anything in response, either to the PED's
19 school Site Visit Report, dated June 9th --
20 occasionally called an "Audit Report" -- however, to
21 clarify upfront, that particular document is not a
22 formal audit. It was simply a report compiled from
23 a site visit that we'll get into later.

24 Nor has the school ever responded to the
25 audit findings done -- the audit done by an external

<p style="text-align: right;">Page 10</p> <p>1 independent auditor, Axiom, in 2016. 2 These -- this conduct is representative of 3 a pattern and practice of acting as if the 4 accounting rules and state and federal law don't 5 apply to the school. 6 We also have issues with turnover of 7 staff, gaps in staffing, with particular emphasis -- 8 and, really, the focus here, is on a lack of a 9 Licensed Head Administrator, a Licensed Business 10 Manager. 11 And we would note that although that -- 12 those issues are broken out as a second issue in the 13 Notice of Intent, they really are intertwined with, 14 and in many ways indistinguishable from, the problem 15 the school has had with implementing an acceptable 16 internal control environment. 17 Now, I -- I think we're all aware that we 18 were served last night with a 142-page document, a 19 response from the school. And I don't know if the 20 Commission has had a chance to review that document. 21 THE CHAIR: Can I interrupt you just for a 22 second? Because, no, that came to me, and it came 23 late. 24 MR. McMILLAN: Okay. 25 THE CHAIR: So that there was no</p>	<p style="text-align: right;">Page 12</p> <p>1 Again, the school has been shirking its 2 reporting requirements, has been -- has not 3 responded to the audit, and has not responded to the 4 Site Visit Report. 5 Now that the school's back is against the 6 wall, unfortunately, and it's facing revocation, we 7 get this response, which is -- I would characterize 8 it as substantially comprised of promises and 9 proposals. It's telling that of the 30 problems 10 identified and addressed, 14 of them, the School has 11 a proposed remedy. Question we would pose is why 12 weren't these remedies proposed to PED earlier in 13 the course of -- or what should have been a response 14 to the Site Visit Report, the audit findings, or 15 otherwise? 16 Madam Chair and members of the Commission, 17 I think we all understand that the best indication 18 of future performance is past performance. A lot of 19 what the school is going to be presenting today 20 seems to be related to their belief that the future 21 is going to be far better than the past, at least on 22 the business side of things. But unfortunately, 23 charter schools are not about future promises; 24 they're about past performance. 25 This school cannot be allowed to keep</p>
<p style="text-align: right;">Page 11</p> <p>1 opportunity -- did not go out to -- and I don't have 2 the ability to send out e-mails to every 3 Commissioner -- 4 MR. McMILLAN: I see. 5 THE CHAIR: -- and break OMA. 6 MR. McMILLAN: So the response -- 7 THE CHAIR: Correct. We -- 8 MR. McMILLAN: Before -- it's currently 9 before the Commissioners; is that correct? 10 THE CHAIR: It is now; but there's been no 11 opportunity for the Commissioners to review it. 12 MR. McMILLAN: Okay. And I did want to 13 make a quick word as to the timing. There really 14 was no time for us to review it, either. It seems 15 to me, as it purports on its face, to be a response 16 to the July 3rd, 2017, Notice of Intent, that it's 17 wildly untimely, given that they've had three months 18 to respond, and we received this thing the night 19 before. 20 Also, the -- despite the heft of this 21 document, it seems to be too-little-too-late. The 22 heft is understandable, given that there were more 23 than 30 outstanding issues to address; but the 24 information provided in this document is all brand 25 new to PED.</p>	<p style="text-align: right;">Page 13</p> <p>1 stringing along the PEC, the PED School Budget 2 Bureau, and the CSD with promises of improvement. 3 We -- what we're presenting today as evidence that 4 the school's past performance on the financial side 5 really is unacceptable. 6 The pleading that was -- that's before you 7 that the School filed also generally supports our 8 case. Our case is essentially that the Revocation 9 Statute -- that's section 22-8B-12K -- it doesn't 10 speak to remedying violations or future conduct. It 11 speaks to revocation for past conduct. 12 And in this case, there are three of the 13 four subsections we believe apply. 14 Revocation is appropriate where there are 15 violations of the charter contract. We'll be 16 demonstrating that there have been violations there, 17 where there's a failure to meet Generally Accepted 18 Standards of Fiscal Management; similarly, we'll be 19 presenting evidence that that standard has not been 20 met; and, finally, that any -- that there was a 21 violation of any provision of law from which the 22 school was not exempted. 23 As it turns out, the provisions of law 24 that we are bringing evidence in support of 25 violation are closely intertwined with the</p>

<p style="text-align: right;">Page 14</p> <p>1 violations of the charter contract and the general 2 failure to meet Generally Accepted Standards of 3 Fiscal Management. 4 Let's see. 5 So essentially, as counsel, we -- we feel 6 for the school children of the school; but they 7 deserve a well-run school. This is -- has not been 8 a well-run school. The question may well be asked 9 today, "Would these children be better served by the 10 McKinley Gallup School District [verbatim]?" 11 And the answer may be, "Yes." 12 This is about making sure that the kids, 13 at root, have the education that they have a right 14 to under the New Mexico Constitution. And attending 15 a school that has been in violation of so many 16 things since -- really, since the inception, really 17 isn't fair to the children. 18 The Commission will be hearing evidence 19 and considering exhibits from three witnesses today. 20 First, we'll hear from Katie Poulos, the 21 Director of PED's Options for Parents and Families; 22 then from David Craig, the Director of PED's School 23 Budget and Finance Analysis Bureau; finally, Molly 24 Saiz, the Audit and Accounting Bureau Chief. 25 We're confident that after you've heard</p>	<p style="text-align: right;">Page 16</p> <p>1 document, in total, is 142. Most of that is 2 supporting documentation, and that's to refute the 3 allegations that the Department has made that DEAP 4 does not keep supporting documentation. 5 DEAP submitted over 100 pages showing that 6 DEAP has kept supporting documentation to refute 7 most of the allegations that the Department brought 8 forth in their June 9th audit report. 9 So having submitted DEAP's written 10 response, I've just handed out a 25-page copy of the 11 actual response to each of the Commissioners, so you 12 have that. I hope today that DEAP can address for 13 the Commission DEAP's response to specific points 14 contained in the Notice of Intent to Revoke. 15 Until this moment, DEAP has never been 16 given an opportunity to respond to the allegations 17 against the school, which is extremely unfortunate. 18 DEAP was never given a Corrective Action Plan. 19 Instead, DEAP has been brought to this moment in 20 which it is forced to defend itself against charter 21 revocation. This is an egregious and unfortunate 22 oversight. 23 Pursuant to this, it is still the School's 24 position that the Commission should have implemented 25 a Corrective Action Plan after hearing the</p>
<p style="text-align: right;">Page 15</p> <p>1 PED's presentation today, that the PEC will 2 understand that this is a school that has been 3 mismanaged on the business side since its inception, 4 that revocation is entirely warranted under State 5 law based on past violations and transgressions, and 6 that revocation is, in fact, in the best interest of 7 the children attending the school. 8 That's all I have. Thank you. 9 THE CHAIR: Thank you. 10 MS. CUYLEAR: Good afternoon, Madam Chair, 11 members of the Commission. My name is Natasha 12 Cuylear. I'm an attorney at Johnson Barnhouse and 13 Keegan, and my law firm represents DEAP Charter 14 School. I'm here today with my co-counsel, Justin 15 Solimon, who is a partner at the law firm. 16 You've heard certain statements from 17 Mr. McMillan. That is correct. DEAP did -- I did 18 submit DEAP's written response to Chair Gipson 19 yesterday, I believe, at 5:17 p.m. And there was no 20 protocol for submitting the response. Statutorily, 21 DEAP is allowed -- statutorily, DEAP must submit a 22 written response and be given that opportunity, and 23 the response must be given its due weight. 24 So I did submit the written response. The 25 written response itself is 25 pages long; the</p>	<p style="text-align: right;">Page 17</p> <p>1 allegations from the Department back in June. 2 The Department raised a lot of concerns at 3 that June meeting, and I understand and I can 4 appreciate that the Commission had some concerns and 5 questions of their own. But this was not the place 6 for those questions to be addressed. The School 7 should have been given the opportunity to go through 8 a Corrective Action Plan, supplied the supporting 9 documentation that the Department was looking for, 10 and that was the process that we are arguing should 11 have been followed. 12 Pursuant to the statute that Mr. McMillan 13 referenced, you know, what we're really talking 14 about today is that DEAP has not failed to make 15 substantial progress towards achievements of the 16 Department's standards. They have made progress 17 towards those achievements of the Department's 18 standards. 19 DEAP has not failed to make substantial 20 progress towards accepted standards of fiscal 21 management. DEAP has made progress in that area. 22 And DEAP is not guilty of the violations 23 that the Department has claimed. DEAP has made 24 substantial progress in the area of its 25 administration, its operations, and its fiscal</p>

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1 management, which we intend to show the Commission
2 today.

3 Even without being given the opportunity
4 to -- for a Corrective Action Plan, DEAP, on its own
5 initiative, has treated this process as a Corrective
6 Action Plan, and they have taken action to correct
7 those areas where the School may have fallen short
8 in the past. DEAP wants to stay open. And with
9 this goal in mind they have done everything they can
10 to make sure that they are compliant, which is
11 evidenced by the response we've submitted and the
12 supporting documentation.

13 DEAP took this process very seriously. In
14 fact, DEAP went through every single law cited in
15 the Notice of Intent to Revoke, and which the
16 Department claimed DEAP had violated, because DEAP
17 wanted to understand where the Department was coming
18 from.

19 The testimony and the evidence that you
20 will hear today, which we will present today, will
21 show that DEAP has taken those proceedings and the
22 allegations very seriously.

23 You will hear testimony from DEAP's Head
24 Administrator, Louella Poblano. Ms. Poblano signed
25 on as DEAP's Head Administrator on July 11, 2017,

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1 Garnenez. Ms. Garnenez is one of DEAP's cofounders,
2 and she currently serves as DEAP's Director of
3 Operations. But most importantly, Ms. Garnenez
4 remains a strong leader at the school and in her
5 community, and she has proven herself both capable
6 and committed to DEAP's mission.

7 Mrs. Garnenez' testimony will be limited
8 to the allegations that have been made directly
9 against her and the evidence that the Department has
10 brought forth.

11 Lastly, if we have time -- and I don't
12 know if he's present -- we intend to call Alan
13 Brauer -- he is with NACA Inspired School Network --
14 to share some -- explain to the Commission what the
15 ongoing support is from NISN for DEAP.

16 I'd just like to address a few --
17 Mr. McMillan made several comments about that DEAP
18 has a long history of compliance problems. This
19 isn't a long history of compliance problems. We're
20 looking at violations, alleged violations, from the
21 Department. And a lot of those violations never
22 happened. This is not a long history of compliance
23 problems. And we've addressed the alleged
24 violations that did not occur.

25 So, again, I want to reiterate that we

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1 which is shortly after these proceedings were
2 initiated. Ms. Poblano will tell you how she has
3 become a strong leader for the school. She has the
4 full faith and support of the Governing Council.
5 And she's really taken on this role, and she
6 continues to move forward with DEAP.

7 You also will hear from Benita Litson.
8 She is a member of DEAP's Governing Council. And
9 she will share with you a statement that DEAP's
10 Governing Council has prepared, which was also
11 submitted with DEAP's written response. That
12 statement will explain the actions that the
13 Governing Council has taken since these proceedings
14 were initiated.

15 You will also hear from DEAP's current
16 Business Manager, Sean Fry. Sean Fry and the Vigil
17 Group Signed on as DEAP's business management
18 provider in late June, right after these proceedings
19 were commenced, more evidence that DEAP is taking
20 this very seriously.

21 Mr. Fry will walk you through the work
22 that he has completed with regard to DEAP's
23 financial records and the work that he continues to
24 do.

25 And you will also hear from Prestene

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1 submitted DEAP's response yesterday. And I believe
2 it should be given its due weight, as the school is
3 entitled statutorily to submit a response, and the
4 Commission must consider the response that was
5 submitted.

6 Thank you.

7 MR. McMILLAN: Madam Chair, shall I go
8 ahead and call our first witness?

9 THE CHAIR: Yes.

10 MR. McMILLAN: And I would call Katie
11 Poulos. And where, precisely, should we seat the --

12 THE CHAIR: Probably over -- actually, by
13 her nameplate.

14 KATHERINE MARIE POULOS,
15 after having been first duly sworn under oath,
16 was questioned and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MCMILLAN:

19 **Q. Can you state your full name for the
20 record?**

21 A. My full name is Katherine Marie Poulos.

22 **Q. And give us a sense of your education.**

23 A. Yes. I graduated from the University of
24 North Carolina at Chapel Hill with a Bachelor's
25 degree in Political Science, and then Vanderbilt

1 University Law School with a Juris Doctorate.
2 And -- and that's it.

3 **Q. Great. And what background and training**
4 **do you have to -- that led to your current position?**

5 A. After practicing law for several years, I
6 joined Teach for America. And I taught in the
7 Mississippi Delta. I was an eighth-grade
8 pre-algebra teacher; and then, from there, was
9 offered a position, a Fellowship with the National
10 Association of Charter School Authorizers.

11 Through that fellowship, I received a
12 year's worth of intense professional development in
13 the field of charter schools authorizing, while
14 serving as a staff member at the Arizona State Board
15 for Charter Schools.

16 **Q. And who is your current employer?**

17 A. My current employer is the Public
18 Education Department.

19 **Q. And your current position?**

20 A. The Director of Options for Parents and
21 Families.

22 **Q. And how long have you been there?**

23 A. Two-and-a-half years.

24 **Q. Great. Can you just briefly describe your**
25 **general duties?**

1 A. I oversee the team that supports the
2 Public Education Commission by providing staff
3 support. We do that by overseeing, monitoring,
4 conducting site visits for charter schools, as well
5 as overseeing the new application process, the
6 renewal application process.

7 We process and make recommendations on new
8 applications, renewals, also amendment requests, as
9 well as any recommendations that need to be made
10 regarding the revocation of charter schools.

11 **Q. And is oversight and monitoring of these**
12 **charter schools, is that a substantial duty of -- or**
13 **is that a substantial part of CSD's role with**
14 **respect to charter schools?**

15 A. Yes, it is. In addition to that, we're
16 also responsible for providing technical assistance
17 and responsibility, which we do, as well; but
18 probably more of our work is in the monitoring and
19 oversight.

20 **Q. Are you familiar with DEAP, the school at**
21 **issue here today?**

22 A. I am.

23 **Q. Have you visited DEAP?**

24 A. Yes, I have.

25 **Q. Are you familiar with the founders?**

1 A. Yes, I am.

2 **Q. Have you been familiar with the school,**
3 **really, since its charter was granted in 2015?**

4 A. So the application, I believe, occurred in
5 2014, and I was not present at that time. From that
6 time, June of 2014 through when I started in April
7 of 2015, that was -- you know, other people were
8 involved who were at the Department.

9 But since I have been at the Department
10 since 2015, when the school was approved to commence
11 operations, I believe in May or June of 2015, I have
12 been familiar with the school.

13 **Q. And have you had any specific -- can you**
14 **just briefly describe your specific role in the**
15 **monitoring and oversight of the school?**

16 A. Sure. I was part of the -- the group that
17 visited the school early in its operations. And
18 then since that time, really, my team has done the
19 on-the-ground monitoring work. But I have been
20 involved in some of the communications, certainly,
21 in making the recommendation for revocation that's
22 being considered today.

23 **Q. Okay. Let's take a quick look at**
24 **volume -- Exhibit 1 from the -- oh.**

25 MR. McMILLAN: And for the -- the

1 Commission's information, the binder before you
2 labeled, descriptively enough, "Hearing, October
3 13th, 2017," this is our exhibit binder. We'll be
4 moving for the admission of these exhibits one at a
5 time, as opposed to trying to move the whole binder
6 in.

7 **Q. Do you recognize -- do you have a binder**
8 **in front of you?**

9 A. I do not.

10 (Exhibit binder presented to Ms. Poulos.)

11 **Q. Okay. Flipping behind Tab 1, do you**
12 **recognize this document?**

13 A. Yes, I do.

14 **Q. And what is it?**

15 A. This is the notice of Intent to Revoke the
16 Charter.

17 **Q. Do you understand what the purpose of this**
18 **document is?**

19 A. Yes.

20 **Q. Can you tell me?**

21 A. The purpose was to communicate to the
22 school the decision of the Commission to hold a
23 revocation hearing, as well as the reasons for the
24 revocation hearing being held.

25 **Q. Does the Notice of Intent identify two**

1 **broad areas? First, issues of financial and**
2 **procurement concerns; and, second, issues of concern**
3 **regarding actions of unlicensed person?**

4 A. Yes, it does.

5 **Q. Is it your understanding that PED**
6 **witnesses will be providing evidence today in**
7 **support of the allegations contained in those two**
8 **issues?**

9 A. Yes.

10 **Q. Are you familiar with -- well, there are**
11 **citations throughout the Notice to the charter**
12 **school contract. Are you familiar with the contract**
13 **between the PEC and DEAP?**

14 A. Yes, I am.

15 **Q. Can we turn to Tab 2? Do you recognize**
16 **this document?**

17 A. Yes, I do.

18 **Q. Is this a signed copy of the charter**
19 **school contract between the school and the PEC?**

20 A. It is.

21 **Q. Can we take a look together at**
22 **Section 4.03?**

23 **And let me get a page number here for you.**
24 **It will be Page 16. The page numbers are lower**
25 **left.**

1 that warrants revocation.

2 **Q. Are you familiar with the June 9th site**
3 **visit report developed by PED with respect to the**
4 **school?**

5 A. I am, yes.

6 **Q. Is it your testimony that that document**
7 **could very reasonably be categorized as a review,**
8 **pursuant to this section of the contract?**

9 A. Absolutely.

10 **Q. And is it your testimony that "the**
11 **Authorizer," that being PEC, is not required to**
12 **allow corrective action if an unsatisfactory review**
13 **warrants revocation?**

14 A. Yes. And I believe, in fact, the statute
15 also states -- that there's a provision in the
16 statute that continues, after language about
17 corrective action, that if the review warrants
18 revocation, then the revocation procedures apply,
19 not the corrective action procedures.

20 **Q. Thus, are you familiar with the revocation**
21 **statute?**

22 A. Yes, I am.

23 **Q. With respect to the revocation**
24 **contemplated here, do you understand that statute to**
25 **say anything at all about substantial progress?**

1 A. Okay.

2 **Q. Do you understand this section to lay out**
3 **the requirements for revocation?**

4 A. Yes.

5 **Q. At least the processes therefore?**

6 A. I do see that.

7 **Q. Great.**

8 **And let's also take a look at Section**
9 **11.01. That'll be -- sorry, I don't have my tabbed**
10 **copy in front of me. 11.01 is located on Page 57.**

11 A. Yes, I see that.

12 **Q. Do you -- can you -- do you see, Under**
13 **Section 11.01, the language, second -- can you read**
14 **to us the second sentence of that -- that paragraph?**

15 A. Yes. It says, "The Authorizer is not
16 required to allow corrective action as set forth
17 below if the unsatisfactory review warrants
18 revocation."

19 **Q. What do you understand "the review" in**
20 **that sentence to mean?**

21 A. I believe it means any sort of review by
22 the Commission or the Public Education Department on
23 behalf of the Commission that finds -- through any
24 process of reviewing documents, visiting the school,
25 that finds that there is unsatisfactory performance

1 A. No. In fact, the statute for revocation
2 lays -- or non-renewal -- lays out several reasons.
3 The first reason is academic. And in relation to
4 academic, it states, "Makes substantial progress."
5 And that's Subsection (A), 22-8B-12K(A), I think.
6 And then the following provisions after that, (B),
7 (C), (D), and maybe (F), are all separate reasons
8 for revocation, or non-renewal, including the
9 failure to meet all legal requirements and the
10 failure to comply with Generally Accepted Accounting
11 Principles.

12 None of those subsections have the
13 language that's included in the first subsection
14 related to substantial progress.

15 **Q. Okay. Thank you for that clarification.**
16 **Let's take a look at Section 8.08. That's**
17 **on Page 46 of the charter contract.**

18 A. (Witness complies.)

19 **Q. And is it correct that this is one of the**
20 **three subsections of the charter contract that are**
21 **called out in the Notice of Intent as having been**
22 **provisions that PED has evidence that the school**
23 **violated?**

24 A. It is. And you can see that on Page 3 of
25 the Notice of Intent to Revoke.

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1 **Q. And does this section -- does this**
 2 **subsection ask the question, "Is the school meeting**
 3 **financial reporting and compliance requirements?"**
 4 A. That's correct.
 5 **Q. And is it your understanding that the**
 6 **evidence to be produced today will answer that**
 7 **question in the negative?**
 8 A. That's correct.
 9 **Q. Okay. Let's look at Section 8.09**
 10 **together. That will be on the next page, Page 47.**
 11 A. (Witness complies.)
 12 **Q. And is it your understanding that this,**
 13 **too, is a section of the charter contract that is**
 14 **called out in the Notice of Intent as having been**
 15 **violated by the school?**
 16 A. Yes.
 17 **Q. And does this subsection ask the question,**
 18 **"Is the school following Generally Accepted**
 19 **Accounting Principles?"**
 20 A. Yes, that's correct.
 21 **Q. And is it your understanding that there is**
 22 **evidence to be heard today that the school, in fact,**
 23 **has not followed Generally Accepted Accounting**
 24 **Principles?**
 25 A. That is my understanding.

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1 **Q. And what is this?**
 2 A. This is the initial recommendation that my
 3 Department issued to recommend that this Commission
 4 hold a revocation hearing.
 5 **Q. Did you draft this recommendation?**
 6 A. Yes, I did.
 7 **Q. What sources did you refer to in putting**
 8 **this recommendation together?**
 9 A. So, obviously, the statute, and then
 10 the -- the review that was conducted on June 5th, I
 11 believe that is, by -- or -- sorry. The June 5th
 12 was the technical budget review. But the review
 13 taken by David Craig and I believe staff in Molly
 14 Saiz's department, at the School, to investigate
 15 concerns that had been brought to them by an
 16 individual who was their -- the Business Manager for
 17 DEAP who felt that there were violations of law and
 18 Generally Accepted Accounting Principles.
 19 **Q. Okay. Do you also kind of borrow from the**
 20 **Axiom Independent Audit conducted in 2016, in Fiscal**
 21 **Year '16, with respect to the School?**
 22 A. Yes. Actually, now that I look through
 23 this more, I do see that some of this is directly
 24 taken from the Independent Annual Audit.
 25 I believe there's other information in

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1 **Q. And then, finally, Section 8.12; that's on**
 2 **Page 49 at the bottom. Is this the third and final**
 3 **section of the charter school contract that's called**
 4 **out in the Notice of intent?**
 5 A. Yes.
 6 **Q. And is this section asking the question,**
 7 **"Is the school meeting teacher and other staff**
 8 **credentialing requirements?"**
 9 A. Yes, that's correct.
 10 **Q. Is it your understanding that there will**
 11 **be testimony and evidence today that, in the past,**
 12 **the School has not met staff credentialing**
 13 **requirements with -- at least with respect to its**
 14 **Business Manager and its Head Administrator?**
 15 A. Yes, that at various times, the School did
 16 not have a Licensed Head Administrator or a Licensed
 17 Business Manager, and, additionally, that an
 18 individual operating at the school in a leadership
 19 role as what would be considered the Head
 20 Administrator, having administrator
 21 responsibilities, failed to have an administrative
 22 license.
 23 **Q. Okay. Let's look behind Tab 3. Do you**
 24 **recognize Exhibit 3?**
 25 A. Yes, I do.

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1 here that we talk about the specific affidavits; so
 2 that is other information that we did use to
 3 conduct -- or to complete this draft.
 4 **Q. Okay. And while we'll hear more about**
 5 **this later, as you sit here now, do you have any**
 6 **idea whether this school has ever addressed, with**
 7 **the audit folks, the four findings listed in this**
 8 **notice?**
 9 A. I do not believe they have.
 10 **Q. Okay. Let's take a look at Page 6 of this**
 11 **document. The paragraph right above**
 12 **"Recommendations," I note that in December 2016 and**
 13 **in January 2017 this school was included on the**
 14 **PEC's agenda at the request of PED because the**
 15 **school had failed to timely submit financial data**
 16 **and reporting, as required. No action was taken by**
 17 **the Commission at that time.**
 18 **While we'll hear more about this later, is**
 19 **it your understanding that -- well, do you have any**
 20 **reason to believe that the School has, since this**
 21 **time, caught up on the financial reporting**
 22 **requirements?**
 23 A. I don't have that information. I believe
 24 there may have been times when they did submit; but
 25 I don't believe, at this time, that they have

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1 submitted their required documents.
 2 **Q. Okay. In any event, does this paragraph**
 3 **indicate that these are not new problems, that**
 4 **they've been problems that have existed for a while**
 5 **now?**
 6 A. Yes, certainly. And I believe there may
 7 have been another time when this school was on the
 8 agenda for other compliance issues, based on the
 9 initial visit to the school early in its first year
 10 of operation. And there were others that also
 11 occurred prior to opening that related to bank
 12 accounts and having the proper bank account for a
 13 school.
 14 **Q. So those, again, were issues on the**
 15 **business side of operation.**
 16 A. I think both on the kind of just
 17 operational side, academic, and the org
 18 requirements, as well as the financial, yes.
 19 **Q. Okay. In what way -- well, let's do this:**
 20 **Let's take a look at Exhibit No. 4. The -- let's**
 21 **see. What is this document here?**
 22 A. This is the process -- or the documents --
 23 it's called a "Monitoring Instrument Item Report."
 24 So we have a system called Web EPSS. And we have
 25 embedded in that system for our State-authorized

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1 charter schools the Public Education Commission's
 2 performance framework. And this is the system we
 3 use to report on that and to make sure that the
 4 school's receiving the information; but also just to
 5 house the evaluations for the Commission
 6 historically.
 7 **Q. Okay. So is this document kind of a**
 8 **latest-and-greatest snapshot of where the school is**
 9 **at with respect to the annual monitoring?**
 10 A. Yes. For the 2016-'17 School Year, this
 11 is, I believe, the finalized report on the
 12 performance of the school in three areas: Academic,
 13 organizational, and financial, for the 2016-'17
 14 school year.
 15 **Q. Okay. And to the extent that any -- with**
 16 **respect to any of these categories within this**
 17 **framework, where there is a finding that the**
 18 **standard is not met, is that essentially due to the**
 19 **fact that the school has not provided documentation**
 20 **to support a finding that the standard was met?**
 21 A. Yes. So at some point during the summer
 22 or late spring, we gave schools an opportunity,
 23 about a month-and-a-half, maybe two months, to
 24 respond to any findings we had at that point in
 25 time, asked them to include that information in

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1 their Web EPSS, which then allowed my staff to go in
 2 over the past month and evaluate what additional
 3 documentation was submitted, and come to a final
 4 evaluation.
 5 It could have been "Meets," "Exceeds,"
 6 "Does Not Meet," in some cases; and, in other cases,
 7 "Working to Meet," or "Falls Far Below."
 8 And anywhere that it is "Working" -- "Does
 9 Not Meet" or "Falls Far Below," it is because we
 10 were not able to say that they were "Working to
 11 Meet" that standard, because they did not submit
 12 documents that showed they had implemented processes
 13 to come into compliance with the finding that we had
 14 presented to them initially.
 15 **Q. Okay. So for a specific example, if we**
 16 **look at Page 2 of 20, under "Operating Budgets," we**
 17 **see that the status is, "Falls Far Below Standard."**
 18 **Is that due to a -- essentially, a failure**
 19 **of the school to provide an appropriate operating**
 20 **budget?**
 21 A. So this is actually rated because the
 22 school did not complete what we have -- the
 23 financial performance framework. Every school is
 24 required -- and the PEC's instructions on that
 25 framework indicate -- that every school is required

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1 to complete that document with the help of the
 2 Finance Committee Chair, the Business Manager, and
 3 the Principal, and to submit that to us.
 4 And that information was not submitted.
 5 When it comes to this financial
 6 performance framework, it's really a self-evaluation
 7 by the school.
 8 The questions are, "Did you do this in a
 9 timely manner?"
 10 They are required to answer those
 11 questions and then submit them to us. They're a
 12 self-evaluation.
 13 If we are aware of information that
 14 indicates they are not in compliance, we will also
 15 take that into account when we evaluate these.
 16 MR. McMILLAN: Okay. Well, that's about
 17 all I have for Ms. Poulos.
 18 I would move, at this time, the admission
 19 of Exhibits 1 through 4.
 20 THE CHAIR: So moved.
 21 Does DEAP have any objections?
 22 MR. SOLIMON: We have no objections to
 23 those.
 24 THE CHAIR: Okay.
 25 MR. SOLIMON: This is the first time I'm

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1 speaking. Let me introduce myself.
 2 My name is Justin Solimon. I'm one of the
 3 attorneys representing DEAP in this matter. And I
 4 have just a few questions.
 5 CROSS-EXAMINATION
 6 BY MR. SOLIMON:
 7 **Q. I believe, just a few moments ago, you**
 8 **testified that you were not certain what DEAP has**
 9 **done since the audit in June of this year.**
 10 A. I believe it was that we are -- I have not
 11 received information that indicates they've done
 12 anything to correct those concerns.
 13 **Q. Okay. And are you aware that Sean Fry,**
 14 **who's DEAP's Licensed Business Manager of the Vigil**
 15 **Group, has worked on a reconciliation of the schools**
 16 **accounts and general ledger for Fiscal Year 2017?**
 17 A. The information hasn't been reported into
 18 our Web EPSS system, where we would monitor that; so
 19 I have not been made aware by the School.
 20 **Q. Okay. So you're not aware that he's**
 21 **completed that reconciliation?**
 22 A. I haven't been made aware by the School,
 23 that is correct.
 24 **Q. Okay. And earlier, you testified**
 25 **regarding some of the reasons why a school like DEAP**

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1 **might qualify for revocation under the statute. And**
 2 **I'm curious. One of the -- I believe -- and you can**
 3 **correct me.**
 4 **One of the options that the PED has, short**
 5 **of recommending revocation, is to suspend the school**
 6 **Board of Finance; is that correct?**
 7 A. I would disagree that it's in lieu of or
 8 instead of. In fact, the statute on Boards of
 9 Finance indicates that they -- there is -- that the
 10 Public Education Department should consider making a
 11 revocation recommendation if the Board of Finance is
 12 revoked.
 13 So that's -- I think there's -- I wouldn't
 14 say "in lieu of."
 15 I would actually -- if you are revoked,
 16 the statute makes clear that there should be
 17 consideration of -- sorry.
 18 If the Board of Finance is revoked, the
 19 statute makes clear that there should be
 20 consideration of revocation of the charter. There
 21 is nothing in the statute that says, "Before a
 22 charter revocation, there should be a Board of
 23 Finance revocation."
 24 **Q. Sure. But it's common that that would be**
 25 **the next question, if the Board of Finance is**

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1 **suspended.**
 2 A. The revocation of the whole charter would
 3 be the next step. That's correct.
 4 **Q. Okay. And to your knowledge, has PED**
 5 **attempted to suspend the Board of Finance of DEAP?**
 6 A. The decision, I believe, was made by PED's
 7 School Budget and Financial Analysis Bureau to, in
 8 fact, let the Commission exercise their oversight
 9 and their corrective action processes, including
 10 revocation, prior to taking the action to revoke the
 11 Board of Finance. Ultimately, that's a decision
 12 that's made by the School Budget and Finance
 13 Analysis Bureau, along with the Deputy Secretary of
 14 Finance and Operations.
 15 **Q. And would you agree with me that if the**
 16 **School's charter is revoked, then there's no further**
 17 **issue about suspending the Board of Finance?**
 18 A. If the School's charter is revoked, there
 19 may still be the question of revoking the Board of
 20 Finance. The reason that the Public Education
 21 Department -- one of the reasons that the Public
 22 Education Department would revoke a Board of Finance
 23 is to protect State funds.
 24 And so, certainly, in the case that there
 25 is a revocation of a charter, the School Budget and

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1 Financial Analysis Bureau would continue to monitor
 2 very closely to decide if there is, at any point in
 3 time, the need to revoke the Board of Finance to
 4 protect State -- State funds.
 5 **Q. But if a charter is revoked, typically,**
 6 **the school will close at some point?**
 7 A. Typically, we -- honestly, we don't like
 8 to do it in the middle of the year. And so the
 9 matter when the revocation decision was made, it
 10 would typically occur at the end of the year; so
 11 that's why there would be that very close monitoring
 12 to protect students and, again, taxpayers over the
 13 term that the school would still be operating, with
 14 the idea that it would close at the end of the year.
 15 **Q. And in addition to suspending the Board of**
 16 **Finance, there are also other mechanisms or options**
 17 **open to PED to remedy potential financial**
 18 **mismanagement or improve reporting of school**
 19 **finances? Is that your understanding?**
 20 A. There were provisions in the law for
 21 things like if a school fails to submit budget, to
 22 withhold all of their funding; I believe it's
 23 100 percent of their funding. So there are things,
 24 other provisions.
 25 I think it's obviously one of the things

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1 that the PED decides is when there is a financial
 2 concern, we certainly need to give the Commission
 3 their opportunity to exercise oversight.
 4 **Q. And in the Notice of Intent to Revoke --**
 5 **excuse me. I believe it's the recommendation, I**
 6 **believe, that you participated in drafting.**
 7 A. Is that Exhibit 3?
 8 **Q. Isn't that right?**
 9 A. The recommendation.
 10 **Q. The recommendation. Sorry. Sorry about**
 11 **that.**
 12 **Is other options short of revocation**
 13 **discussed in that document?**
 14 A. We were making the recommendation from the
 15 Public Education Department that we believed a
 16 revocation was appropriate at this time. And so
 17 that was the recommendation we made.
 18 I think, certainly, the Commission had the
 19 opportunity during the discussion, and did, during
 20 the discussion, where they considered this
 21 recommendation of alternatives.
 22 But ultimately, from the Public Education
 23 Department, our decision was not to make a
 24 recommendation for other alternatives to the
 25 Commission. Again, Board of Finance wouldn't have

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1 been in there, because they don't suspend a Board of
 2 Finance. The Public Education Department does. But
 3 this was really our recommendation to what the
 4 Commission should do.
 5 MR. SOLIMON: Okay. Thank you. That's
 6 all I have.
 7 MR. McMILLAN: I have no redirect.
 8 THE CHAIR: Thank you.
 9 MR. McMILLAN: We would call our next
 10 witness, Mr. David Craig.
 11 DAVID THOMAS CRAIG,
 12 after having been first duly sworn under oath,
 13 was questioned and testified as follows:
 14 DIRECT EXAMINATION
 15 BY MR. MCMILLAN:
 16 **Q. Good afternoon. Sir, would you please**
 17 **state your full name for the record?**
 18 A. Sure. It's David Thomas Craig.
 19 **Q. Could you give us a sense of your**
 20 **education?**
 21 A. Sure. I have a Bachelor of Arts in
 22 History from Southern Illinois University at
 23 Carbondale. I have a Master's of Public
 24 Administration from the University of Illinois at
 25 Springfield. And I have a Master's of Accounting

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1 from the University of New Mexico's Anderson School
 2 of Management.
 3 MR. McMILLAN: And I think you want to be
 4 a little closer to the microphone.
 5 (A discussion was held off the record.)
 6 **Q. (By Mr. McMillan) Can you give us an idea**
 7 **of your -- your background and training that led you**
 8 **to your current employment?**
 9 A. Sure. I've worked as a Legislative
 10 Performance and Program Evaluator/Performance
 11 Auditor for four years for two different
 12 legislators.
 13 I've worked as a Fiscal Analyst for three
 14 different Legislatures.
 15 I've served as a Budget Analyst,
 16 developing appropriations for class -- for two
 17 different Legislatures, all in the last 12 years.
 18 **Q. And who is your current employer?**
 19 A. It is the Public Education Department.
 20 **Q. And your current position?**
 21 A. Director of School Budget and Finance
 22 Analysis Bureau.
 23 **Q. How long have you been in this position,**
 24 **Mr. Craig?**
 25 A. March 2016; so a year and eight months.

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1 **Q. Okay. And can you describe generally**
 2 **your -- or briefly describe your general duties?**
 3 A. Sure. I review and verify all operating
 4 budgets for every charter school and school district
 5 in the state. I review quarterly reports for
 6 actuals, expenditure and revenue reports, the cash
 7 reports, as well as the 925F reports, which is the
 8 county property tax receipts, the set property tax
 9 statements, and ensure general obligation bond debts
 10 are paid. And we have oversight of those entities
 11 from whom the Secretary of Education has suspended
 12 their ability to act as a Board of Finance.
 13 **Q. Similarly, in broad strokes, can you let**
 14 **us know what your specific duties were with respect**
 15 **to this school and the issues arising in this**
 16 **hearing?**
 17 A. Sure. We have to review and approve all
 18 of their operating budgets in the middle of every
 19 year. So for this time, that was FY '18. We review
 20 and approve all their quarterly review and
 21 expenditure reports, as well as their cash position
 22 reports.
 23 And in this instance, after -- which we'll
 24 get to later, I had to go out and do -- participate
 25 in a limited risk review to determine if any SEG

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1 dollars were placed at risk.
 2 **Q. Let's start with your first involvement**
 3 **with DEAP. When did you first get involved?**
 4 A. It would have been April, the week of
 5 April 20th; so April 21st, I believe. My Executive
 6 Budget Analyst assigned to Bear Mountain DEAP
 7 indicated that their -- their Licensed School
 8 Business Official was missing, and there could be
 9 issues related to the timeliness of their operating
 10 budget submittal as -- well, for the record, all
 11 charter schools in school districts have to have an
 12 operating budget submission reviewed and verified
 13 and approved for the next fiscal year by June 30th
 14 of each fiscal year.
 15 If there is not an operating budget that
 16 has been submitted, we are required to set an
 17 operating budget for the entity. So it's not
 18 withhold of SEG. It actually becomes my job to make
 19 the operating budget. I want to clarify that point.
 20 So at that point in time, I called over to
 21 DEAP, and I said, "Where are we at? It's my
 22 understanding that we don't have a Licensed School
 23 Business Official."
 24 The school indicated that Kay Girdner --
 25 who is also, from my interactions with NACA, a

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1 Licensed School Business Official at that school --
 2 they indicated she was going to be taking over the
 3 Licensed Business Official duties, and there
 4 shouldn't be any hiccups in the timeline for
 5 operating budget review, verification, and
 6 submittal.
 7 I said, "Are you sure? Because I'm going
 8 to pick up the phone and call Kay Girdner."
 9 And they said, "Yeah." And they said,
 10 "It's going to be Kay."
 11 So I picked up the phone and called Kay
 12 Girdner.
 13 And she said, "No, not only am I not their
 14 Licensed School Business Official, I instructed them
 15 through many times that I was not going to be their
 16 Licensed School Business Official," at which time I
 17 knew we had a problem.
 18 I said, "Okay. So who was their Licensed
 19 School Business Official?"
 20 I knew it had been Donna Overson. And I
 21 knew that she was located through the NACA Inspired
 22 Schools Network at the NACA site.
 23 And she said -- I said, "Do you have any
 24 understanding of why she resigned or why you don't
 25 want to take it on?"

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1 And then she presented to me a little bit
 2 hesitant -- hesitancy to speak on the issue. But
 3 after I told her, "Look, you know, we're going to
 4 probably have a good look at this school," she then
 5 presented to me the information -- said that I
 6 needed to speak with Donna first and then confirm
 7 the information that she saw in the sworn
 8 affidavits, Mr. McMillan.
 9 **Q. Sure. And so you -- both Kay Girdner and**
 10 **Donna Overson executed sworn affidavits; correct?**
 11 A. That's correct, yeah.
 12 So I reported my phone conversation to the
 13 Deputy Secretary of Finance and Administration at
 14 the time, Hipolito "Paul" Aguilar, and said, "I
 15 think we have some real issues here. There's issues
 16 with -- problems with federal time-and-labor
 17 reporting, as well as numerous -- I don't know --
 18 failure to adhere to Generally Accepted Accounting
 19 Principles, as well as the procurement code, as well
 20 as any financial and audit reporting requirements
 21 under State law."
 22 And he recommended the sworn affidavit
 23 process.
 24 I agreed, because I thought it would make
 25 a good legal foundation for a follow-up that I knew

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1 we were probably going to have to have from the
 2 Audit and Accounting Bureau.
 3 **Q. Okay. Were these affidavits drafted based**
 4 **on the conversations that you had with Donna Overson**
 5 **and Kay Girdner?**
 6 A. Yeah. I asked them -- I called them and I
 7 asked them how best to proceed.
 8 And I said, "Do you guys want me -- do you
 9 want to write it up, or do you want me to take a
 10 crack at it and you can edit it?"
 11 They said, "Why don't you write it up?"
 12 Because they were a little shell-shocked.
 13 I wrote it up. I sent it to them. They
 14 made their changes, saying, "I really feel this is
 15 more accurate, and I'd like to have this included."
 16 And so they edited it and sent it back to
 17 me.
 18 **Q. Let's take a look behind Tab 5. Does this**
 19 **appear to be the affidavit of Donna Overson?**
 20 A. Yeah.
 21 **Q. And behind Tab 6, does that appear to be**
 22 **the affidavit of Kay Girdner?**
 23 A. Yeah. One more thing for the record I
 24 should note, that although, I -- I look pretty
 25 sharp, I'm not a legal expert. So I actually had to

1 employ the Office of the General Counsel of PED in
2 actually trying to get a shell for what an actual
3 sworn affidavit needs to look like; because this is
4 the first time I'd ever drafted one of these,
5 Mr. McMillan.

6 **Q. Generally speaking, what did the testimony
7 captured in the affidavits suggest to you?**

8 A. Well, at least a couple of things.
9 There's certainly a lot of talk about a "School
10 Leader." And it's tough; because it's, like, I'm
11 going to use the term "School Leader"; but it's a
12 person normally we would expect to be the Licensed
13 Head Administrator making these decisions.

14 But it captures they're not licensed; so
15 it's tough to find a term of art to refer to those
16 individuals. But it certainly talks about a School
17 Leader without an understanding of the legal
18 financial requirements and a concerning, if not
19 brazen, attitude towards the recommendations
20 presented by the Licensed School Business Official
21 and the instructions they're given for how to
22 perform on a federal grant, and, certainly, a
23 failure to understand the responsibilities to which
24 they've made assertions that they're well aware of
25 when they developed their charter contract.

1 MR. SOLIMON: And it's our concern that
2 they're so prejudicial. They're over seven months
3 old, I believe, at this point. They've been drafted
4 by multiple people that are not the affiant.

5 You know, we would ask that they not be
6 considered at this time if those individuals could
7 be here to testify.

8 MR. McMILLAN: And if I may respond
9 briefly, the -- let's see. First of all, DEAP has
10 every opportunity today to refute the testimony in
11 the affidavits. And, secondly, we heard testimony
12 that the affiants were free to edit and make
13 changes, and, in fact, did so. They are their
14 affidavits.

15 THE CHAIR: They will be admitted; but
16 their weight will be considered when we go into
17 closed session.

18 MR. McMILLAN: Thank you, Madam Chair.

19 **Q. (By Mr. McMillan) Let's see. Let's flip
20 behind tab 7.**

21 **And are these documents related to a
22 specific concern raised in the affidavits concerning
23 time sheets?**

24 A. Sure, Mr. McMillan.

25 **Q. Can you explain to us what you -- what**

1 MR. McMILLAN: At this time, I'd move for
2 the admission of Exhibits 5 and 6, the affidavits.

3 THE CHAIR: Do you have any objections?

4 MR. SOLIMON: We would, Commissioners,
5 just based on this is hearsay. Those individuals
6 could easily be called in to the Commission to
7 deliver that testimony. These are affidavits that
8 are stale at this point. I know that the
9 Commissioners have seen them repeatedly; but we
10 would object on the grounds of hearsay.

11 MR. McMILLAN: Well, it seems to me that
12 that hearsay evidence is entirely acceptable in this
13 forum and that we have foundation laid for how these
14 affidavits came to be. They are sworn to; they are
15 notarized; they are testimony.

16 MR. SOLIMON: And if I could respectfully
17 follow up, I mean, one of the issues that we just
18 heard was that the affidavits were originally
19 drafted by not the actual affiant in there. They're
20 drafted by Mr. Craig here. Sorry.

21 THE WITNESS: You got it.

22 MR. SOLIMON: Mr. Craig? You have two
23 first names.

24 THE WITNESS: That's okay. I'm not going
25 to get your last name right; so...

1 **your understanding is, in speaking with Kay Girdner
2 and with reference to the affidavit, what transpired
3 here?**

4 A. Sure. This would actually have been Donna
5 who gave me this information.

6 **Q. I'm sorry. Thank you.**

7 A. So Donna presented to me -- I said, "You
8 know, Donna, why did you resign?"

9 And she said, "Well, I didn't feel like I
10 could -- I could follow the instructions of the
11 School Leader and still keep my ethical requirements
12 as a Licensed School Business Official."

13 And when I asked why, she presented me
14 with these documents. And one of them is the
15 reporting of the upload for AmeriCorps
16 reimbursement, on which they have to report -- I
17 think that's the first one on Page 24 -- that it
18 indicates which dates for which the total hours that
19 they were doing.

20 And then the other one was the backup time
21 sheets that she has to submit to prove, you know,
22 that that individual was doing work related to and
23 being able to be reimbursed under an AmeriCorps
24 grant.

25 Starting on Page 26, those are the

<p style="text-align: right;">Page 54</p> <p>1 handwritten ones that are sideways, members of the 2 Commission. 3 And so she's highlighted dates on which 4 she submitted them back to the school and said, "You 5 can't submit this to AmeriCorps, because these don't 6 qualify for AmeriCorps funding," at which point in 7 time the school told her, "We want you to submit it 8 anyhow." 9 And she said, "Well, it doesn't fit." 10 And then what they did was, on the 11 difference between 26 and 27, I believe, is they 12 just -- it's easier to see in the original one that 13 has blue and black ink on it. They lighted out 14 the -- what they felt was -- what they felt was the 15 offending line items for AmeriCorps and just changed 16 what that individual did, which -- you know, a 17 couple of things here to unpack. 18 One is that the time sheet reporting for 19 both the federal grant indicates that they don't 20 match the grant requirements. And so Donna was 21 saying, "Look, you just can't even code these guys 22 for AmeriCorps." 23 But the School Leader didn't have the 24 wherewithal to understand that. And they just also 25 changed and whited out the section that said,</p>	<p style="text-align: right;">Page 56</p> <p>1 upload to AmeriCorps, not the time sheet. And 2 that's a violation of the School Leader's financial 3 requirements under the grant and the School's 4 requirements under the grant. 5 But on its face, it's unethical. It would 6 be enough to launch a licensure investigation into 7 the Head Administrator. But this individual didn't 8 have a Head Administrator license. So, I mean, all 9 of these issues are complicated, right? 10 As a federal flow-through recipient for 11 federal receipts, the PED makes assurances to the 12 USDE, as part of its Elementary-Secondary Education 13 Act and its IDEA-B funding, that as a federal 14 flow-through entity that it's going to have 15 oversight and monitoring responsibilities for all 16 revenues that it received, all federal revenues. 17 That's made at the SEA -- what we call the 18 "State Education Agency" -- level as a condition of 19 those awards. 20 So if we were -- could receive notice that 21 somebody was doctoring federal time-and-labor 22 reporting sheets under a federal grant that we 23 didn't even -- it doesn't matter if we monitor it or 24 not, if we were not to implement our oversight 25 activities, you're putting at risk all the Title I</p>
<p style="text-align: right;">Page 55</p> <p>1 "AmeriCorps" when that's not even the issue; but it 2 also raises ethical complications, because the 3 School Leader just can't change elements of 4 time-labor reporting when the person was already 5 reported to be doing one thing to what you think 6 would fit better under a grant requirement. 7 The idea was that you were supposed to 8 take down those hours from the grant reimbursement. 9 When you've just changed the time-and-labor 10 reporting sheet, then you're making false assertions 11 to the federal government for grant reimbursement; 12 so... 13 Q. And what are the potential ramifications 14 of that kind of conduct? 15 A. Well, they're big, Mr. McMillan. I'm 16 trying to keep this as low level and not wonky as 17 possible. 18 Q. I appreciate that. 19 A. Thank you. So when you submit for 20 reimbursement under a federal grant, you're 21 asserting that you're going to use the proceeds 22 according to the grant requirements. 23 When the School Leader instructed that the 24 time sheet didn't fit the grant requirements, they 25 should have changed -- they should have changed the</p>	<p style="text-align: right;">Page 57</p> <p>1 funding for the State, all the IDEA-B funding, all 2 of the federal funds that we take that we need so 3 much for all of our neediest students. 4 That's all part of the investigation that 5 we have -- our investigation requirements are 6 audited as part of our Independent Public Audit by 7 our Independent Public Auditor yearly, under what 8 used to be called OMB Circular A-133 audits. Now 9 it's under the Super Circular. And we would be held 10 to compliance requirements if we were found in 11 breach of that. 12 So thank you, Mr. McMillan. 13 Q. So the ramifications are very serious. 14 A. I mean hundreds of millions of dollars to 15 the State. 16 MR. McMILLAN: I would, at this time, move 17 the admission of Exhibit 7. 18 THE CHAIR: I have a 19 question/clarification for the exhibit. 20 MR. McMILLAN: Sure. 21 THE CHAIR: 'Cause I think I'm a little 22 confused. 23 If we're looking at Page 26 -- I'm just -- 24 getting -- I need some clarification on this. I'm 25 looking on Page 26.</p>

1 And the three dates that -- that would --
2 that were highlighted, which are 3/2, 3/3, and 3/10,
3 is it my understanding, Mr. Craig, that the -- on
4 Page 27, those same three dates, that's where the
5 alteration on the time sheet came in?

6 THE WITNESS: No. And -- no, Madam Chair
7 and Mr. McMillan, and for the record.

8 You have two issues here. One is that the
9 Licensed School Business -- so many things at this
10 school.

11 The Licensed School Business Official
12 said, "Look, the -- the documentation that -- the
13 upload that we have shows that you have hours for
14 3- -- 3/2, 3/3, and 3/10 on the upload."

15 And those are entered on Page 24. They're
16 reporting 8.5 hours.

17 And then on Page 25, they're reporting 9
18 and 7.5 hours.

19 And so the Licensed School Business
20 Official took this back to the School Leader and
21 said, "Your general description of work performed
22 here does not fit the requirements of the federal
23 grant. We had to change the upload. Are you" --
24 and then what they changed was lines 3/23, 3/24, and
25 resubmitted it to the Licensed School Business

1 Official and did not address the issue that the
2 Licensed School Business Official raised.

3 And so you have multiple issues here. One
4 is that the Licensed School Business Official said,
5 "These don't work for federal grant reporting
6 requirements"; they would need to change the federal
7 grant reporting.

8 And they said here, "We're just going to
9 resubmit the -- the time-and-labor sheet, and we'll
10 just take out any reference to AmeriCorps on it."

11 And so that speaks to the lack of
12 understanding of financial requirements by the
13 School Leader and the lack of financial acumen. But
14 it also is representative of so many issues at this
15 school, in that the issue that was supposed to be
16 addressed wasn't addressed.

17 And then the way it was addressed raises
18 another issue, which is you can't just change what
19 you said to -- because you think it works better. I
20 mean, here -- they changed that the guy attended
21 AmeriCorps Summit event for day one and day two, to
22 say that they collaborated with various
23 organizations for a spring event and traveled to ASO
24 for an agriculture conference.

25 I mean, so it's one or the other; right?

1 I mean either he's with AmeriCorps or he's at the
2 agricultural thing.

3 So, again, you know, it's -- it's a
4 tough -- I understand the confusion here; because it
5 took me a while to walk through it with Donna,
6 Madam Chair and McMillan -- Mr. McMillan -- but it
7 was -- you've got multiple issues there that are
8 ethically concerning to me as the School Budget and
9 Financial Analysis Bureau Director.

10 **Q. And, Mr. Craig, in direct response to the**
11 **Hearing Officer's question, is it lines -- if we**
12 **look at Page 26, are the entries for 3/23 and**
13 **3/24 -- have they been changed to entries for 3/21**
14 **and 3/22 on Page 27?**

15 A. That's correct.

16 **Q. With the general description of work**
17 **performed is whited out and changed.**

18 A. Being altered. And it's very obvious in
19 color, because it was in black ink. And it was --

20 **Q. Okay. Subsequent to --**

21 THE CHAIR: One moment, please. I'm
22 sorry. I'll ask Commissioner Caballero, does it
23 relate directly to this exhibit?

24 COMMISSIONER CABALLERO: Yes. Yes.

25 THE CHAIR: Okay.

1 COMMISSIONER CABALLERO: I'm not quite
2 clear as to what -- what has been pointed out is
3 that there's been changes were made to a document.
4 And then those changes not given in the upload.
5 That's clear to me.

6 But I'm not quite sure whether anybody has
7 talked about whether those changes are actually
8 activity that happened; and, therefore, those
9 changes are illegitimate.

10 And so we're -- we're making a conjecture
11 to that point, just by -- by that, by what has been
12 said. And presenting the document as evidence, I
13 have -- I have difficulty with that. So it's not
14 clear.

15 THE WITNESS: Madam Chair?

16 THE CHAIR: I'm going to ask the counsel
17 to address that in his closing arguments or come
18 back to it.

19 MR. McMILLAN: Sure, sure. Along the same
20 lines, those might be appropriate questions for the
21 School to address.

22 THE CHAIR: Right.

23 MR. McMILLAN: May I continue? Sorry.

24 THE CHAIR: (Indicates.)

25 **Q. (By Mr. McMillan) Subsequent to**

1 **executing -- well, both Donna Overson and Kay**
2 **Girdner have since left the school; correct?**

3 A. To my knowledge, yes. I believe that
4 they're still working as Licensed School Business
5 Officials in the State.

6 **Q. Are those the only two Business Managers**
7 **whom you're aware of having resigned from the**
8 **school?**

9 A. So for clarification purposes, I don't
10 believe Kay Girdner was ever a Licensed School
11 Business Official for DEAP. I believe it was only
12 Donna Overson of those two. But my understanding is
13 that they've had upwards of six School Business
14 Officials in two years, which is an unusual rate of
15 turnover.

16 MR. McMILLAN: And I'll note for the
17 record that the School represents that they actually
18 had a turnover of five.

19 **Q. (By Mr. McMillan) But regardless of**
20 **whether it's five or six, is this an unusual amount**
21 **of turnover in a charter school's business**
22 **operations?**

23 A. Yeah, I believe I said that. Yeah. Okay.
24 I might have been wrong for the record, too. It
25 could have been five. But the amount of traffic in

1 **evidence that PED has today?**

2 A. No, they do not constitute the bulk of the
3 evidence.

4 **Q. Okay. Did you attend a site visit at**
5 **DEAP?**

6 A. I did.

7 **Q. April 24th and 25th. Does that ring a**
8 **bell?**

9 A. April 24th. I believe the team from the
10 Audit and Accounting Bureau was there on the 25th.

11 **Q. What did you observe with respect to this**
12 **school's internal control environment at the time of**
13 **the site visit?**

14 A. Well, the issues with the internal control
15 environment were many, plentiful, and scary.

16 The required documentation was absent for
17 purchases. The purchase process that they described
18 to me consisted of buying goods or services,
19 submitting receipts to themselves, signing checks to
20 themselves, and then destroying the receipts, all of
21 which is in violation of Generally Accepted
22 Accounting Principles or the procurement code.

23 That's just one example of the testimony
24 that we heard today that I feel is outlined and much
25 more eloquently presented in that site visit report

1 and out of that position is far greater than what we
2 would like to see in a high performing charter
3 school or school district.

4 **Q. And I have to ask. Are the Exhibits Nos.**
5 **5 and 6, the affidavits, are those the only evidence**
6 **PED has today of violations?**

7 A. Oh, no. So that was what we felt --
8 again, I'm really glad we went and got the sworn
9 statements, since there's an issue with even that
10 process. But usually, if I've got an issue like
11 that reported to me, it would be enough to go and
12 take a look at a school district, and there would be
13 no issue.

14 I would say that we have the site visit
15 report that Molly's put together. I've got all
16 sorts of issues with this school. The School has
17 failed to submit membership projections, timely
18 failed to submit T&E, timely failed to submit
19 required quarterly reports in a timely fashion, is
20 still outstanding on its monthly reports currently,
21 all of which is a violation of law.

22 **Q. I'm going to stop you there for the**
23 **timeline here.**

24 **Well, for the record, is your answer that**
25 **no, the affidavits do not constitute all of the**

1 by those auditors.

2 But the internal control environment was
3 lacking in every respect. There's no control
4 activities; there's missing reports to governing
5 council entities, an environment that was, in part,
6 fractured between being located in Albuquerque and
7 at the school site.

8 And although that's not required that they
9 be located, it directly contributed to a lack of
10 understanding in the larger framework, because there
11 was no communication. There's no information
12 presented to management to oversee the Albuquerque
13 function.

14 There's missing information in the general
15 ledger, the accounting information system. General
16 ledger information couldn't be rolled over because
17 the general ledger was on three different systems in
18 one fiscal year.

19 There was a lack of oversight entities, or
20 business officials, regarding the activities and
21 functions of the business office. So there was
22 nobody overseeing the business or lacked
23 qualifications thereby to do it; a failure to
24 monitor financial activities by the management
25 because they're directly engaged in it.

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1 Yeah. I mean, the internal control
 2 environment wasn't just weak; it was just
 3 nonexistent.
 4 **Q. Did you find there to be a Licensed Head
 5 Administrator on site?**
 6 A. There was. There was a -- there was a
 7 Licensed Head Administrator; although, they were
 8 .25 FTE. And they were very clear to me that they
 9 did whatever the School Leader, Prestene Garnenez,
 10 said to do. So you have a de facto Head
 11 Administrator. And they were very open about that.
 12 **Q. Did -- did you find that unlicensed
 13 individuals had signature authority?**
 14 A. Yes. And that was one of the biggest
 15 concerns we had. And it's a big reason why the
 16 Director of the School Budget and Finance Analysis
 17 Bureau was out there, in addition to the Audit and
 18 Accounting team, because having a -- I mean, we say
 19 "unlicensed Head Administrator" like that's a term
 20 of art or something.
 21 But, I mean, from the perspective of the
 22 School Budget and Finance Analysis Bureau, you just
 23 have a random school employee who shouldn't even be
 24 a school employee in direct control of a bank
 25 account with taxpayer funds.

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1 So, yes; and that was a big concern, and
 2 we had them removed.
 3 **Q. Okay. Did -- was there a Licensed
 4 Business Manager on site at the time?**
 5 A. No.
 6 **Q. Why is it important that a charter school
 7 have a Licensed Business Manager?**
 8 A. Well, Licensed Business Managers, these
 9 are the people that have the in-depth and breadth of
 10 understanding of all of the financial requirements
 11 of an education entity. They are required to take
 12 training, often through the New Mexico Association
 13 of School Business Officials, regarding the
 14 requirements for federal grant reporting, proper
 15 accounting and fund accounting, all of the required
 16 reporting for quarterly and required reporting for
 17 my bureau in the development of operating budgets.
 18 Not having a Licensed School Business
 19 Official for any breadth of time is going to result
 20 in transactions that may or may not match up with
 21 requirements for, you know, Generally Accepted
 22 Accounting Principles, state or federal law.
 23 **Q. And did you find that to be a problem?
 24 Did you find -- the specific question is,
 25 did you find issues with procurement violations?**

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1 A. I -- I -- I would defer to the Audit and
 2 Accounting Bureau on that, Mr. McMillan; because
 3 they were the ones that ultimately did the
 4 field-testing to determine that those were. But
 5 based upon the information that I saw, I have a
 6 strong suspicion that there were multiple issues
 7 with procurement code violations.
 8 You could not have a procurement process
 9 like that that I described earlier and be in
 10 adherence with the procurement code of the State of
 11 New Mexico.
 12 **Q. Sure. Did you find problems with
 13 reconciliations and verifications of the general
 14 ledger?**
 15 A. Well, that, we know existed; because it
 16 came out as part of the quarterly reporting. And I
 17 believe that you'll probably hear testimony from the
 18 current business official that there were large
 19 issues of trying to reconcile, by fund, the amount
 20 of revenues that came into that school.
 21 I know that that was an issue because of
 22 the Technical Operating Budget Review. We had many
 23 issues with them recognizing that there were many
 24 receipts of revenues for which they had not
 25 budgeted, yes.

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1 **Q. Were there -- that's the short answer.
 2 Did you -- can you -- are there any other
 3 record-keeping issues that you identified on site in
 4 April of 2017?**
 5 A. Sure. So one of the things that we --
 6 that we saw in the short time I was there --
 7 because, remember, the school leader, Prestene,
 8 indicated that some records were not kept at the
 9 school site and were, instead, kept at Albuquerque.
 10 So once we did our initial interview, our
 11 management interviews, and determined that was the
 12 case, I left Dan and Diego, the team from the Audit
 13 and Accounting Bureau, performing their work that
 14 they could do at the school site, and I went to the
 15 location where those other files were located and
 16 indicated that they needed to be secured with Kay
 17 Girdner.
 18 So while I was there, I know that they
 19 were unable to recognize there were missing vendor
 20 files, as well as missing documentations for the
 21 purchasing cycle, which is to be expected, because
 22 they had no documents that would have matched the
 23 requirements of the procurement code.
 24 I mean, we're working with a school that
 25 was going out and spending cash without developing

1 purchase requisitions, purchase orders or any of
2 that. They had no understanding of any of that
3 purchasing transaction cycle that we would expect.

4 **Q. Is this the only time you've ever been on
5 a site visit at a school?**

6 A. Oh, no. It's not even the first time this
7 week.

8 **Q. Naive question. Can you estimate for us
9 how many site visits you've done?**

10 A. In the last year and eight months?

11 **Q. Sure.**

12 A. No.

13 **Q. No? Not enough fingers?**

14 A. No. It's in the high double-digits or low
15 triple-digits.

16 **Q. Okay. Given that experience, on a scale
17 of 1-to-10, 10 being the worst, how bad would you
18 say the issues were that you saw at DEAP compared to
19 other schools you've taken a look at?**

20 A. A difficult question, Mr. McMillan,
21 because the information was so lacking that it's
22 difficult to understand the depth and the scope of
23 the issue. Possibly 3 -- 1 being the worst, you
24 said?

25 **Q. We'll go with 10 as the worst.**

1 on monthly; so they're working to get that in.

2 We continue to monitor them for budget
3 adjustments; because we know that that operating
4 budget was developed with the general ledger that
5 probably does not accurately reflect the kind of
6 expenditures or revenues that they have.

7 **Q. Okay. Also, in terms of continued
8 monitoring, can we take a look behind Tab 11,
9 please?**

10 A. (Witness complies.)

11 **Q. Do you recognize this as a May 5th, 2017,
12 e-mail that you sent to Prestene and to others at
13 the School?**

14 A. Sure.

15 **Q. And do you recognize this as a request
16 that the School submit proof that all persons
17 without an administrative license have been removed
18 as a signatory authority?**

19 A. Yeah. This is, like, second notice for
20 that.

21 **Q. Did you ever receive a response to this
22 e-mail?**

23 A. I did. Prestene e-mailed me and indicated
24 that they had approved, in the form of a Governing
25 Council document -- which I would have rather seen

1 A. 10? Okay. Probably 8 or 9.

2 **Q. Okay.**

3 A. We did not have evidence that they were --
4 that we did not have direct evidence of fraud,
5 waste, and abuse, which is why I wouldn't put it at
6 a 10; but the internal control environment was the
7 worst that I've ever seen.

8 **Q. Okay. Were your specific observations and
9 findings reported ultimately by PED in the June 9th
10 site visit report?**

11 A. I would say that they were informed by my
12 observations. I met with Don -- the people -- the
13 authors of that report. We debriefed. They asked
14 me questions. And they took those, and that was
15 used to inform that report.

16 **Q. Okay. Did you continue to monitor the
17 school after the site visit?**

18 A. Yes. I mean, we had -- again, that goes
19 to the duties of the office that I outlined before.
20 We're required to have oversight and -- of all
21 quarterly -- and in this case, when they -- in July
22 1, they were put on monthly, on monthly reports.
23 Today, we haven't gotten those.

24 I followed up with Sean Fry, the business
25 office official currently. He was unaware they were

1 the signatories, signature cards, being changed or
2 something of that nature. However because they
3 stepped up to actually respond, I said, "Okay, I'm
4 going to have to work with them."

5 The Board of Finance suspension that we
6 were considering -- and I'll get to that in a
7 minute -- was contingent upon them -- us not taking
8 that step was contingent upon proof of this; so...

9 MR. McMILLAN: Can I just ask, is that --
10 30 seconds for --

11 MS. LAUREL PIERCE: For an hour.

12 MR. McMILLAN: For an hour? My goodness.

13 **Q. (By Mr. McMillan) Did you conduct a June
14 17, 2017, Technical Budget Review?**

15 A. Yes.

16 MR. McMILLAN: Goodness, gracious.

17 **Q. Let's take a look at Exhibit 18 -- or --**

18 MR. McMILLAN: Did I move the admission of
19 11? Because that matters.

20 And thus concludes our case.

21 Madam Chair, I have a question about the
22 allocation of time.

23 THE CHAIR: I do, too. So we're going to
24 take a two-minute break.

25 MR. McMILLAN: Fantastic.

1 (Recess taken, 2:50 p.m. to 3:09 p.m.)
 2 (A discussion was held off the record.)
 3 MR. McMILLAN: And then may I also put on
 4 the record that the parties have agreed to a
 5 stipulation we hope will save some time? Neither
 6 party is going to object to each other's exhibits,
 7 which is to say that DEAP will not object to the
 8 admission of the exhibits in our hearing binder that
 9 we presented today, and we will not object to the
 10 attachments to what was submitted last night to
 11 Madam Chair and has subsequently been circulated to
 12 the entire Commission.

13 So that'll save us the time of having to
 14 move admission of all of the exhibits.

15 Second thing. For the record, my
 16 statement that, "Thus concludes our case" at the end
 17 of the 60 minutes was in jest. We, therefore, shall
 18 continue our case here.

19 Are we ready?

20 THE CHAIR: Yes.

21 MR. McMILLAN: Okay. Great.

22 **Q. (By Mr. McMillan) Mr. Craig, back to the**
 23 **Technical Budget Review, did that take place**
 24 **June 2nd, 2017, to your recollection?**

25 A. On or thereabouts.

1 **Exhibit 12. Does this appear to be the -- a**
 2 **2016-2017 operating budget for DEAP?**

3 A. No, this is their actuals, actually. This
 4 is actual revenue submitted. So there should be an
 5 expenditures report, as well. And the delta is what
 6 we look at to monitor how their finances go.

7 **Q. Okay. So to be clear, this is a submitted**
 8 **operating budget, as opposed to an approved?**

9 A. This would be actual; so this informs the
 10 development of the operating budget.

11 **Q. Okay. Now, did you generate this document**
 12 **from a computer system? Or was this submitted by**
 13 **the School?**

14 A. State statute requires them to be
 15 submitted in a form prescribed and directed by the
 16 Department. And we use the Operating Budget
 17 Management System, which is an information
 18 technology information system by which you submit
 19 these reports.

20 **Q. Okay. When did you first review this**
 21 **particular document; do you recall? I note it --**
 22 **perhaps to help refresh, I note the print date at**
 23 **the bottom of 6/2/2017.**

24 A. Correct. They generally are reviewed by
 25 the Executive Budget Analyst. And they're only

1 **Q. What was the purpose of a Technical Budget**
 2 **Review here?**

3 A. Technical Budget Reviews are assigned to
 4 school districts and charter schools that we want to
 5 have a closer discussion about the elements of the
 6 technical nature about their operating budget
 7 submittal.

8 **Q. Okay. Who was in attendance, to the best**
 9 **of your recollection?**

10 A. Would have been -- I'm going to try and do
 11 last names. Prestene Garnenez; Kayla Begay;
 12 Dr. Jennie Jimenez; Dr. Pelayo, Dr. Icela Pelayo;
 13 Hipolito "Paul" Aguilar, the Deputy Secretary of
 14 Operations; myself; the Executive Budget Analyst,
 15 Veronica Chavez; Director of Charter Schools
 16 Division, Katie Poulos; Director of Accounting and
 17 Auditing Bureau, Amelia "Molly" Saiz; then members
 18 of her team, Dan and Diego.

19 **Q. This is a large and important meeting;**
 20 **correct?**

21 A. Fairly significant, given that we had just
 22 completed the site visit. We know there were many
 23 issues with their operating budget because of the
 24 disstate [verbatim] of the general ledger.

25 **Q. Let's take a look behind Tab 12,**

1 brought to me if we have issues related to
 2 over-expenditure of budget line items or
 3 encumbrances that are out of whack with what their
 4 operating budget is.

5 **Q. And did you have any particular concerns**
 6 **with these numbers?**

7 A. Other than they show many line items that
 8 for which they were not developing operating budget
 9 amounts; and so that's why we used this as part of
 10 our Technical Budget Review.

11 We said, "Look, you reported to us that
 12 you had these revenues? Why aren't you budgeting
 13 them?"

14 **Q. Okay. At the time of this meeting, had**
 15 **DEAP submitted a fourth-quarter -- anything for the**
 16 **fourth quarter?**

17 A. Well, no. But that's to be expected,
 18 because fourth quarter closes in June 30th, and they
 19 have until September to do so. So we have to use
 20 the most recent information we have available, which
 21 was this.

22 **Q. Right.**

23 **Let's see. And was the purpose of the**
 24 **meeting to discuss DEAP's 2017-2018 budget?**

25 A. That's correct.

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1 **Q. Okay. At the time of the meeting, had**
 2 **DEAP done so? Had they submitted anything with**
 3 **respect to their 2017-2018 budget?**
 4 A. They had. But we were also having
 5 troubles verifying the third-quarter revenues and
 6 expenditures and cash report by amounts, because
 7 none of the supporting documentation tied to amounts
 8 in the bank account. And the general ledger was not
 9 reflective of amounts that they were trying to
 10 budget.
 11 They were using -- they were making a lot
 12 of assumptions, because their general ledger was in
 13 such a state of disarray; hence, the tense nature of
 14 that Technical Operating Budget Review process.
 15 **Q. Timeline-wise, when would DEAP's 2017-2018**
 16 **budget have been due?**
 17 A. Well, they're staggered between April 13th
 18 and June 30th. The statute requires them to be
 19 submitted, but allows the flexibility for the
 20 Secretary to determine the date. We ask them to
 21 submit sometime earlier in April or May, and we
 22 didn't get a budget submitted until middle of June.
 23 **Q. Okay. At the time of that submission, was**
 24 **it your understanding that DEAP had the appropriate**
 25 **licensed official to sign off on a budget?**

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1 A. Yes, because at that time, they had
 2 Charlotte Archuleta, who was a Licensed School
 3 Business Official. So it was our hope that she
 4 would continue in perpetuity.
 5 **Q. Did she?**
 6 A. No. She resigned when we -- after the --
 7 shortly after the Technical Budget Review, when we
 8 indicated that the amounts that were reflected on
 9 their operating budget should have tied to the
 10 general ledger, and we told her that she was going
 11 to have to reconstruct the general ledger to
 12 determine the revenue and expenditures from the
 13 previous year to determine the beginning cash
 14 balance and fund balance by fund.
 15 **Q. That's a specific requirement of law?**
 16 A. That's a specific requirement of Generally
 17 Accepted Accounting Principles. It's a requirement
 18 of the approval of the Public School Accounting
 19 Budget Manual for operating budget approval. It's a
 20 requirement of all manner of State law and federal
 21 laws.
 22 **Q. To be clear, at the time, June 2nd, 2017,**
 23 **or thereabouts, this hasn't been done correctly;**
 24 **correct?**
 25 A. No. To my knowledge, they had not

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1 reconstructed the general ledger. It's my
 2 understanding that Sean has done his best at the
 3 current moment.
 4 **Q. Okay. In your experience and/or opinion,**
 5 **how does one reconstruct a general ledger without**
 6 **having the appropriate documentation?**
 7 A. It's extremely difficult, Mr. McMillan,
 8 counselors. They would have to make some
 9 assumptions. Basically, all expenditures for which
 10 there is missing documentation would have to be
 11 coded to the operational fund, or if they couldn't
 12 track it by revenue, find it by fund account. There
 13 would have to be some assumptions made.
 14 MR. McMILLAN: Okay. A quick thank-you to
 15 the individual who turned on the air conditioning.
 16 That's wonderful.
 17 **Q. (By Mr. McMillan) Let's see. Can we take**
 18 **a look behind Tab 14? At Exhibit 14, this -- does**
 19 **this appear to be a 2017-2018 budget analysis?**
 20 A. Yes. This is the budget analysis from
 21 which we develop each -- for every operating budget
 22 in the State.
 23 **Q. Your Department developed this?**
 24 A. That's correct.
 25 **Q. Does this document tell you anything -- or**

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1 **can you tell us what you see in this document that**
 2 **might have been problematic or concerning about**
 3 **DEAP's budget?**
 4 A. Sure.
 5 Membership is extremely low. Units are
 6 decreasing. Your year-over-year program cost is
 7 decreasing. All of that leads to -- and then mostly
 8 on Page 2, if you see under B, Cash Balance Trend,
 9 where it says Actual Cash Balance is \$7,379 on hand,
 10 and they're projecting to end FY '18 with zero
 11 dollars, that's extremely concerning to me. I don't
 12 know how you open the doors and pay for things like
 13 turning the lights and heat on in the summer months
 14 and to start what they call "opening the doors cost"
 15 without some amount of cash budgeted.
 16 And it was a big problem with this budget.
 17 That's a direct result of over-expending the
 18 revenues that they received.
 19 **Q. Is it generally accounting -- Generally**
 20 **Accepted Accounting Principles to over -- overspend?**
 21 A. Well, no, it's -- it's not a violation of
 22 Generally Accepted Accounting Principles; but it is
 23 a violation of the Constitution of the State of New
 24 Mexico, which school districts have very strict
 25 requirements of debt. You're not allowed to

1 overspend all of the revenues for which you have,
2 because the operational fund, if that's
3 over-expanded, pushes you into other revenue fund
4 sources, like federal funds or grant requirements or
5 SB-9/House Bill 33, the Public School Buildings Act
6 and the Public School Capital Improvements Act.

7 All of those have strict requirements on
8 their use, and you can't use those for operational
9 funds. So if you run red in the operational fund,
10 you're, by definition, breaking other sections of
11 law.

12 **Q. Let's turn to Exhibit No. 15.**

13 A. Okay, sure.

14 **Q. Do you recognize this document?**

15 A. I do.

16 **Q. Who would have developed this document?**

17 A. This document would have been developed by
18 the School.

19 **Q. Okay.**

20 A. School Business Official.

21 **Q. By a School Business Official? Can you
22 explain to us what your concerns might have been
23 about this document?**

24 A. This document is pretty self-explanatory.
25 It outlines revenues and expenditures, as well as

1 the ending cash balance. Since this is developed
2 prior to the school year end, I said, "You are not
3 going to go red into Operational. Please resubmit."

4 **Q. And is that exactly what they were
5 intending to do there with the parentheses around
6 the number "\$2,510"?**

7 A. That's correct.

8 **Q. Is it your understanding, is this a
9 violation of statute or anything else?**

10 A. Well, it would have been a violation of
11 the statute -- or the grant requirements that are
12 outlining the use of other funds, had they gone into
13 the red in operational fund.

14 Again, as you said -- as you saw earlier
15 on the analysis document, after I rejected this and
16 said this is unacceptable, they submitted a document
17 that said they were going to close with \$7,000 in
18 the black.

19 **Q. And how -- how did that come about?**

20 A. Probably through reclassification of
21 encumbrances, probably deciding to spend less money
22 after I told them that you can't go into the red.

23 **Q. Got you.**

24 A. But all of that is conjecture, Counselor,
25 because, again, review and verification does not get

1 down to the general-ledger-detail level. Operating
2 budgets are submitted with the school site's
3 responsibility to adhere to State law, as they made
4 conjectures that they know how to do.

5 **Q. Okay. And to be clear, was Exhibit 15 a
6 document that you would have had on hand around the
7 time of the June 2nd, 2017, technical review?**

8 A. Yes, that's right. That was -- that was
9 the state of the -- of the operating budget at the
10 June 2nd review.

11 **Q. Right. And can you approve a budget with
12 this as the expected cash balance?**

13 A. Can I? Yes. Would I? No.

14 **Q. And why not?**

15 A. Because it is indicating that you're in
16 violation of other sections of law. And so I would
17 set a budget for you if you refused to change it.

18 **Q. Okay. But it was changed?**

19 A. Yes.

20 **Q. Okay. As we just discussed.**

21 **Let's take a look at Exhibit 16.**

22 A. (Witness complies.)

23 **Q. At the top we read that this is a
24 2017-2018 Technical Operating Budget Review
25 Questionnaire.**

1 **Is this something that you also would have
2 had on hand at the -- around or about the June 2nd
3 technical review?**

4 A. That's correct.

5 **Q. Tell us what this document is.**

6 A. It's a -- a document that I developed for
7 this operating budget cycle for all technical review
8 entities in order to get information to inform
9 additional questions and discussions around the
10 operating budget development for FY '18.

11 **Q. Did you draft the questions, 1, 2, 3, 4,
12 et cetera?**

13 A. I did.

14 **Q. Who, to your understanding, would have
15 filled in the answers?**

16 A. The school is required to fill in the
17 answers; the School Business Official, in concert
18 with the school management.

19 **Q. Okay. Let's take a look at the second
20 page of this document and the Question No. 11.**

21 **The question is posed, "Did your budget
22 submission include all revenues for which you showed
23 actual FY17 revenues? If not, why not?"**

24 **The answer -- we can read -- is "Yes."**

25 **Did you find this answer to be**

1 **problematic?**

2 A. I did, because of all of the issues that I
3 stated earlier about the third-quarter actual
4 revenues received, as well as the fact that I --
5 under their own admission, they were receiving
6 IDEA-B funds and grants from the NACA Inspired
7 Schools Network, and neither of those funds were
8 budgeted.

9 **Q. Did you accept this answer as true at the**
10 **time, this "Yes" answer?**

11 A. No.

12 **Q. Is that your handwriting to the right?**

13 A. It is my -- my unfortunate handwriting,
14 yes. I'll try to write better in the future.

15 **Q. Okay. Based on all the information you**
16 **received from DEAP at the -- at this review, or**
17 **prior, at the site visit, did the School, at the**
18 **time, in your opinion, have a functioning, legally**
19 **compliant general ledger?**

20 A. No, no, not the general ledger.

21 **Q. Thus requiring reconstruction?**

22 A. Yes, it would have had to have required
23 some reconstruction by fund.

24 **Q. Okay. And based on all the information**
25 **you received from DEAP at the time, did the school**

1 **are the potential ramifications, should they not --**
2 **should the school not be closely monitored and**
3 **supervised with respect to its budget?**

4 A. Mostly, those will occur in their
5 Independent Public Audit. When you are not
6 establishing budget authority and spending money
7 without the ability to do so, it's an audit finding.
8 When you have issues related to the use of federal
9 grant funds, it's an audit finding. So many of
10 those will come out in that.

11 But the bigger issue is the ability of the
12 School to be financially sustainable. They're not
13 going to be able to ensure that they're not
14 over-expending the revenues that they have if
15 they're not using a budget as a document to ensure
16 that their actuals are on track.

17 **Q. Let's take a look at Exhibit 17. This is**
18 **an Operating Budget Review, apparently completed by**
19 **Vincent Vigil.**

20 **Can you tell me who Vincent Vigil is?**

21 A. Sure. He's a manager for Veronica Chavez,
22 Business -- I'm sorry -- the Executive Budget
23 Analyst for this school.

24 **Q. So he's a PED official?**

25 A. He is.

1 **have the documentation required to reconstruct a**
2 **general ledger?**

3 A. I don't know, Counsel.

4 **Q. So did the -- ultimately, did the**
5 **initial -- or the 2017-2018 operating budget**
6 **submitted to you by DEAP, did it conform to law?**

7 A. After review and verification process and
8 the -- some of the required changes, yes, it was in
9 a state by which we could actually legally approve
10 it.

11 **Q. Did you still have concerns about their**
12 **budget, even though it was -- even though it did**
13 **conform with law?**

14 A. Yes.

15 **Q. And what would those concerns have been at**
16 **the time?**

17 A. That they don't actually reflect revenues
18 that will be received in Fiscal Year 2018, that it
19 inadequately reflects expenditures, that it hasn't
20 developed a budget authority for multiple fund
21 sources, and that there are many issues related to
22 the school ending with a positive cash balance and
23 will require strict monitoring of their oversight of
24 their finances during FY '18 to ensure that they do.

25 **Q. All of the issues you just listed, what**

1 **Q. Was this a document created at or around**
2 **the June 2nd technical review?**

3 A. This would have been completed prior to
4 that; probably around May 31st.

5 **Q. Sure. Do you see at the bottom where it**
6 **says, "As you are well aware, the charter is in**
7 **disarray at the moment and a firm grasp of the**
8 **charter's finances does not appear to be there at**
9 **this point. Lots of cleaning up to do and trying to**
10 **make sense of what is reflected in the system is**
11 **currently underway by Charlotte."**

12 **Did you agree -- would you have agreed at**
13 **the time that the charter was, in fact, in disarray?**

14 A. I would.

15 **Q. Are you currently in possession of**
16 **adequate information to be certain that the charter**
17 **is not still in some degree of disarray?**

18 A. Could you please repeat the question,
19 Mr. McMillan?

20 **Q. Sure. Sure.**

21 **You said that around June 2nd, you would**
22 **have agreed that the charter was in disarray. Since**
23 **that time, have you received definitive evidence**
24 **that the charter is no longer in any disarray at**
25 **all?**

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1 A. That came from an opinion, because I don't
 2 know the required data.
 3 **Q. Okay.**
 4 A. So, I mean, I can conjecture from that;
 5 but I won't.
 6 **Q. I won't ask you to conjecture. Why is it**
 7 **you don't have the required data?**
 8 A. Because the required monthly reporting
 9 hasn't been submitted.
 10 **Q. Okay. Let's take a look at Exhibit 18.**
 11 **Does this appear to be a letter sent by**
 12 **you to the School on July 24th, 2017?**
 13 A. Correct. This is mailed to the school.
 14 **Q. I'm sorry?**
 15 A. This was mailed to the school.
 16 **Q. Great. Does it appear that the first**
 17 **paragraph summarizes your specific ongoing concerns**
 18 **with DEAP's financial situation?**
 19 A. It does.
 20 **Q. These are serious issues. Yes?**
 21 A. That's correct. This is considered due
 22 process in the School Budget and Financial Analysis
 23 Bureau.
 24 **Q. And in the second paragraph, are you**
 25 **notifying DEAP that they are now required to report**

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1 **Q. Okay. On to Exhibit 19. And we are**
 2 **mercifully almost done.**
 3 **Do you recognize Exhibit 19 now? I'll**
 4 **represent to you that it's actually a compilation of**
 5 **materials you might take a moment to look through**
 6 **and tell us what it is**
 7 A. No, Mr. McMillan. I'm very aware of what
 8 this is. This is the operating budget, as it is
 9 presented in Operating Budget and Management System,
 10 for DEAP.
 11 **Q. Is this a final operating budget?**
 12 A. This is the operating budget when it was
 13 approved. It's been, probably since, had
 14 adjustments made to it.
 15 **Q. And I believe you've already testified to**
 16 **your ongoing concerns with the School's budget. And**
 17 **that's already a matter of record.**
 18 **Exhibit 20. Let's turn there. Do you**
 19 **recognize this document?**
 20 A. I do.
 21 **Q. And does this document cause you any**
 22 **particular concern?**
 23 A. This document shows that cash is a little
 24 bit lower than what I was hoping that it would be.
 25 So, again, always with this, the cash

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1 **their financial situation on a monthly basis?**
 2 A. Yes.
 3 **Q. And does it specify which reports DEAP is**
 4 **required to submit?**
 5 A. That's correct.
 6 **Q. And since the date of this letter, has the**
 7 **School complied with their monthly reporting**
 8 **requirement?**
 9 A. Not for the prior two.
 10 **Q. So they've missed two reports?**
 11 A. Yes.
 12 **Q. And those would be the July and August**
 13 **reports; is that correct?**
 14 A. That's correct.
 15 **Q. Furthermore, is the School also required**
 16 **by law to reconcile its expenditures and revenues on**
 17 **a monthly basis?**
 18 A. It is.
 19 **Q. Having failed to meet its reporting**
 20 **requirements, has DEAP -- well, strike the question.**
 21 **Has DEAP submitted anything to you since**
 22 **they were required to go on monthly reporting**
 23 **suggesting that they are, in fact, complying with**
 24 **this particular legal requirement?**
 25 A. No.

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1 report, we're monitoring the cash position. The
 2 school has gone -- but, I mean, again, we're
 3 fluctuating wildly. We've gone from negative
 4 \$2,000, to \$7,000, to \$84,000 at the end of the
 5 year. And so the ability for the School to be able
 6 to monitor its cash continues to be a concern of
 7 mine.
 8 **Q. Okay. Finally, Mr. Craig, do I understand**
 9 **correctly that it's within your legal authority to**
 10 **essentially take over a school's Board of Finance if**
 11 **serious problems exist?**
 12 A. I'm so glad you asked that question.
 13 That's actually not correct.
 14 **Q. Okay.**
 15 A. It is only the Secretary of Education that
 16 has the ability to suspend a Board of Finance. That
 17 is done under a recommendation from the School
 18 Budget and Finance Analysis Bureau, in consult with
 19 the Secretary and the Deputy Secretary of Finance
 20 and Administration.
 21 So even if I were to make a
 22 recommendation, there's no magic wand to make sure
 23 that the Board of Finance is done without the
 24 Secretary's approval.
 25 **Q. Thank you for that clarification. Have**

1 **you made such a recommendation yet?**

2 A. I have not.

3 **Q. And is there a reason for that?**

4 A. Sure. We have to go through due process
5 requirements, one of which is being placed on
6 monthly reporting. I would never go and make the
7 jump of a Board of Finance.

8 There's a couple of other reasons, though,
9 too, is that we've been trying to work in concert
10 with the Public Education Commission and work with
11 their oversight on some of these charter schools.

12 There were a couple of times when they
13 came very close. The issue of having somebody who
14 is a -- an unlicensed person as a signatory on the
15 authority, that came very close. We almost
16 suspended the Board of Finance. I entered into
17 conversations with the Deputy Secretary on what was
18 the best approach.

19 I said, "Hey, let's give them a chance to
20 remove that individual from there, and maybe they
21 can keep their Board of Finance." So then I said,
22 "I need quick response. I need you guys to remove
23 it."

24 Actually, it should be the Governing
25 Council that's the signatory authorities on the bank

1 THE WITNESS: Okay. That was it?

2 MR. McMILLAN: That was it. Well, from
3 me.

4 THE CHAIR: Oh, no. You're not done yet.

5 THE WITNESS: I'm sure Mr. Solimon will
6 ask some.

7 CROSS-EXAMINATION

8 BY MR. SOLIMON:

9 **Q. (By Mr. Solimon) Mr. Craig, could you turn
10 to the letter that's in Exhibit 18, please?**

11 A. Yes. Yes, the monthly reporting.

12 **Q. So this was the first time you've sent a
13 letter to DEAP requesting or requiring monthly
14 reporting; is that correct?**

15 A. Correct.

16 **Q. And your testimony was that DEAP failed to
17 report on the first month as well as its second
18 month?**

19 A. That's correct. We mailed this to the
20 School. I since got feedback from Sean that they
21 didn't receive it. And so I sent it electronically
22 earlier this week.

23 **Q. And the school has -- or Sean -- has
24 informed you that they do not believe they received
25 this letter.**

1 account. We could not identify the Governing
2 Council at that time. So we ensured that it was the
3 School's responsibility to determine who the Board
4 President and the Treasurer was, remove Prestene
5 Garnenez and put in place Dr. Jennie Jimenez and
6 Charlotte Archuleta at the time.

7 And so when they did that, I said,
8 "They're being responsive to my corrective action
9 requirements; and so let's suspend the Board of
10 Finance."

11 And the other thing, Counselor, is that
12 the Board of Finance works independent of any
13 revocation hearing. I still might revoke this Board
14 of Finance if they're not able to get their act
15 together.

16 That should be remaining separate. It
17 works in concert with this process when it does; but
18 at some times, we have to remain more nimble. If I
19 feel that their taxpayer dollars have been placed at
20 risk; I get evidence of fraud, waste, or abuse, I
21 will make a recommendation to the Deputy Secretary
22 and the Secretary that we should probably suspend
23 the Board of Finance.

24 MR. McMILLAN: You anticipated my final
25 question. I'll pass the witness.

1 A. Yeah. I mean, again, I -- shame on me for
2 not sending it certified mail, Counselor.

3 **Q. And after you failed -- or after DEAP
4 failed to provide its first monthly report, what, if
5 anything, did you do to follow up with DEAP?**

6 A. Well, the Executive Budget Analyst would
7 have sent an e-mail to the Business Official; so it
8 would have been to Sean.

9 **Q. Do you know if it happened?**

10 A. I don't.

11 **Q. The second month would have been the same
12 response? They missed it?**

13 A. That's correct. That's correct.
14 Mr. Solimon, I can review it and get back to you.

15 **Q. My understanding is they have complied
16 with the monthly report on one -- for the September
17 monthly report; is that right?**

18 A. Again, I would have to review the
19 document. As of the time that I was developing my
20 testimony today, they had not.

21 **Q. Oh, okay. I misunderstood you. I thought
22 that you said they had submitted a report.**

23 A. No, no.

24 **Q. Okay. And your exchange with them
25 regarding this letter and their non-receipt of this**

1 **letter, their claiming non-receipt of this letter,**
2 **that happened earlier this week; is that correct?**

3 A. Correct. It would have been with the
4 Licensed School Business Official; so to the extent
5 they represent the school, yes.

6 **Q. Okay. And could you turn to Exhibit 16?**

7 A. (Witness complies.) I've got 15 -- 16,
8 yes.

9 **Q. It's the 2017-2018 Technical Operating**
10 **Budget Review Questionnaire.**

11 A. Yes.

12 **Q. I believe your testimony was you developed**
13 **this document?**

14 A. I developed the questions.

15 **Q. Okay.**

16 A. So the responses are sent to all of the
17 schools that we do Technical Operating Budget
18 Reviews, and then they respond.

19 **Q. Okay. And this was the first year that**
20 **these questions were presented to the schools?**

21 A. That's correct.

22 **Q. Okay. And in response to your -- your**
23 **comment on their answer to Question No. 11 -- and**
24 **again, this would have been their first time**
25 **answering that question; is that correct?**

1 **the sort of upper right corner, the original -- I'll**
2 **just state, it says, "Orig submission"; is that**
3 **right?**

4 A. That's correct.

5 **Q. Is that your handwriting?**

6 A. That's very good.

7 **Q. You testified earlier that you rejected**
8 **it, and this was resubmitted?**

9 A. Actually, I didn't reject it. This
10 Executive Budget Analyst would have.

11 **Q. Okay.**

12 A. Okay? Based on -- my office did.

13 **Q. But based on a recommendation from you?**

14 A. That's correct.

15 **Q. Okay. And they resubmitted it?**

16 A. That's correct.

17 **Q. And are you aware if it was again rejected**
18 **or otherwise not accepted?**

19 A. No, it was approved. Counselor, that
20 would have been the one that showed the \$7,000 on
21 the analysis on the other exhibit.

22 **Q. I'm a little confused. If you don't mind**
23 **turning to Exhibit 11?**

24 A. Sure.

25 **Q. And this is your e-mail requiring them to**

1 A. Yes.

2 **Q. Okay. And did you provide a -- your notes**
3 **or otherwise indicate that you had an objection to**
4 **that question to DEAP?**

5 A. That would have been at the June 2nd
6 Technical Budget Review, Mr. Solimon.

7 **Q. And were they able to understand or**
8 **otherwise resolve this answer to that question?**

9 A. No, sir.

10 **Q. Okay. And what would they need to do in**
11 **order to do that?**

12 A. They would have to open up the operating
13 budget authority for those line items and submit
14 revenues for those line items.

15 **Q. And they still have the ability to do**
16 **that.**

17 A. Well, that's true. But they would have to
18 do it through what we call -- through a budget
19 adjustment request process. So certainly, they have
20 the ability to do that. But if they had
21 expenditures without doing that to their operating
22 budget, it's likely they'll have an audit finding.

23 **Q. Could you turn to Exhibit 15, please?**

24 A. Sure. Yes.

25 **Q. Okay. There is a -- some handwriting in**

1 **submit proof that all persons without an**
2 **administrative license be removed?**

3 A. Yes.

4 **Q. I'm unclear. Have they submitted proof?**

5 A. Yes.

6 **Q. Okay. Could you turn to Exhibit No. 7?**

7 A. (Witness complies.)

8 **Q. And, again, I apologize if I'm repeating**
9 **points that have already been made; but I'm still a**
10 **little bit confused with what the two first pages of**
11 **this document is.**

12 A. Uh-huh. This is the -- according to Donna
13 Overson, this is the interface for AmeriCorps grant
14 time-and-labor reporting that you have. And the
15 other two documents are the supporting
16 documentations for this upload.

17 This is the documentation by which the
18 grant administration at the federal level distribute
19 revenues to the school site.

20 **Q. And your concern -- or I believe your**
21 **testimony earlier -- was that you believe that -- or**
22 **you have discovered -- that certain of the**
23 **information in the supporting documents were revised**
24 **or modified or altered and then became part of the**
25 **upload; is that correct?**

1 A. To be clear, the Licensed School Business
2 Official identified that, and upon review and
3 verification of the supporting documentation, I
4 would concur, yeah.

5 **Q. Okay. You would concur that they were
6 uploaded?**

7 A. That the upload represents something that
8 was -- and the supporting documentation thereby was
9 something that was altered, yes.

10 **Q. Okay. And I want to ask you again. It
11 looks like, from what I recall, that the suspect
12 entries occurred on what was originally March 23rd
13 and March 24th.**

14 A. To clarify, all of the highlighted
15 information is information that does not support the
16 upload. The school's administrator was unable to
17 understand that feedback from the Licensed School
18 Business Official, and further changed and made more
19 suspect entries on the 23rd and the 22nd, on the
20 second pages, and then what is reflected as
21 different dates that they altered on the fourth
22 page.

23 **Q. If you look again at the uploaded -- I'm
24 going to call them the uploaded documents?**

25 A. Sure, the interface, the general user

1 **they modified the time sheet.**

2 A. Sure.

3 **Q. Okay. Who is "they"?**

4 A. It would have been the school
5 administration.

6 **Q. And how do you know that?**

7 A. By testimony from Donna Overson.

8 **Q. Okay. And did you ever inquire or have
9 discussions with the school administrator as to
10 whether that was true or not?**

11 A. No, I did not.

12 **Q. Okay. So you're relying on Donna
13 Overson's statement or concern that the school
14 administrator herself altered those records.**

15 A. Correct. A couple of things I want to
16 unpack there, Counselor, if I may. One is that to
17 me, she's a more credible witness, because she's a
18 Licensed School Business Official, and the official
19 in charge is not. The second is is that we work
20 very closely with the Licensed School Business
21 Officials, and the fact pattern she described was
22 verified through subsequent site visits.

23 So that's how I came to that conclusion,
24 thank you.

25 **Q. So you were able to verify in subsequent**

1 interface.

2 **Q. Yeah. I can't find those dates as being
3 dates that were submitted.**

4 A. Well, no; nor would you, because the --
5 the documentation that was handed back to the
6 Licensed School Business Official highlighted the
7 dates that were 3/2, 3/3, 3/10. There was never any
8 issue with the dates with the 23rd or the 24th,
9 because those were being clarified.

10 What she was trying to explain to them is
11 that you don't have those included in your upload.
12 And they -- instead of saying, "Okay. Well, we need
13 to change the upload to reflect those and take out
14 the dates for which he wasn't working on
15 AmeriCorps," they changed the dates that she asked
16 for them to include in the general user interface,
17 and they whited that out and put in other
18 time-and-labor reporting.

19 **Q. And is it your understanding that DEAP
20 itself does -- uploads the interface?**

21 A. No. This would have been Donna Overson.

22 **Q. Donna Overson. And at the time, wasn't
23 Donna Overson the business manager of DEAP?**

24 A. That's correct, sir.

25 **Q. You also made the comment earlier that**

1 **site visits that this time sheet was modified or
2 altered by a school administrator.**

3 A. That's correct.

4 **Q. How was that done?**

5 A. I believe that it was asked as a question
6 at that site visit. We said, "Are you responsible
7 for submitting time-and-labor reporting sheets under
8 federal grants?"

9 **Q. But you did not ask her if she'd altered
10 it?**

11 A. That's correct.

12 **Q. So it may not be true that she altered it?**

13 A. Correct.

14 **Q. And you may or may not be able to give me
15 an estimate as to this issue. But how many Local
16 Education Agencies have procurement violations that
17 are found during an audit?**

18 A. I can't, Mr. Solimon. But it is -- it is
19 common. I would say -- if you had me ballpark it,
20 we've got 187 entities; probably about 40 or 50.

21 **Q. Okay. Would you agree that it's the most
22 common audit finding?**

23 A. Which one? Procurement code violations?

24 **Q. Yes.**

25 A. Procurement code violations is a very

1 common -- it is not -- I can't conjecture on if it's
2 the most common.

3 **Q. Okay. And, Mr. Craig, are you aware --**
4 **and I believe you've confirmed this -- that Sean Fry**
5 **of the Vigil Group is now serving as the Licensed**
6 **Business Manager of DEAP?**

7 A. I am aware.

8 **Q. Okay. And are you aware that he's been**
9 **asked -- and part of his job as the Licensed**
10 **Business Manager -- was to perform a reconciliation**
11 **of the school's bank account and general ledger for**
12 **Fiscal Year 2017?**

13 A. Yeah, we touched base this week. I found
14 that out.

15 **Q. Are you aware that he completed that**
16 **reconciliation?**

17 A. My understanding was there's still some
18 outstanding issues related to that, but that the
19 bulk of the work has been done.

20 **Q. Does that encourage you that that's been**
21 **done?**

22 A. Yes. I mean, it's always nice to see.
23 But, I mean, it's, like, you should have been doing
24 that all along; so -- yes.

25 **Q. But they're doing it now.**

1 A. Okay.

2 **Q. In his affidavit, he concluded -- and this**
3 **is a quote -- "DEAP's financial records were**
4 **appropriately reconciled and did not have the**
5 **variances that were reported by the Public Education**
6 **Department."**

7 **He also made the conclusion -- and this**
8 **will be another quote -- that, "The finances of the**
9 **school are in an exceptional place."**

10 **My question, first, do you find those**
11 **statements encouraging, based on your prior**
12 **conclusions or findings and concerns about the**
13 **School's finances?**

14 A. Well, just as a matter of tone at the
15 Public Education Department, you don't use the word
16 "exceptional" when we talk about finances. We just
17 say "In compliance" or "Not in compliance."

18 But I would want to verify a lot of that
19 work. You know, what I witnessed personally was in
20 their general ledger while we did the site visit.

21 **Q. Okay.**

22 A. So would I find it encouraging that he's
23 completed a reconciliation? Yes. Would I want to
24 see that work? Yes.

25 **Q. And to your knowledge, he's -- he has not**

1 A. Correct.

2 **Q. Okay. Now, Mr. Fry, otherwise, would be**
3 **testifying today; although, we're going to break it**
4 **up into two days. But let me just ask you this:**

5 **If -- you've worked with Mr. Fry and the**
6 **Vigil Group extensively; is that correct?**

7 A. That is correct.

8 **Q. You would generally have no reason to**
9 **doubt the truth of any statement he makes as a**
10 **result of performing a reconciliation?**

11 A. He's never given me any reason.

12 **Q. And if Mr. Fry were to testify that DEAP's**
13 **records, financial records, were appropriately**
14 **reconciled and did not have the variances that were**
15 **reported by the Public Education Department, would**
16 **that please you, or --**

17 A. Could you please repeat the question,
18 Counselor Solimon? I got lost a little there.

19 **Q. No, that's all right. Let me just ask you**
20 **a little clearer. And if I fail to do so, which I**
21 **might, I might need to show you a document.**

22 A. Okay.

23 **Q. And I'll just represent to you that**
24 **Mr. Fry has prepared an affidavit that's been**
25 **submitted as part of the response.**

1 **refused to provide you with that?**

2 A. No. And nor would -- do I expect he
3 would, Counselor.

4 **Q. And if you had any concerns or objections**
5 **to what he presented to you, you would make those**
6 **known to him; correct?**

7 A. Correct. This is part of our working
8 relationship. He would be very open to saying,
9 "Here's what I did, Dave."

10 **Q. You also testified regarding the ability**
11 **or authority of PED through the Secretary --**

12 A. Uh-huh.

13 **Q. -- to suspend the DEAP Board of Finance if**
14 **there's evidence of financial mismanagement.**

15 A. Sure.

16 **Q. You would agree with that. And we know**
17 **that PED has not done that.**

18 A. That's correct.

19 **Q. Let me ask you this, because I'm a little**
20 **unclear.**

21 **In the July -- or, sorry -- the June 2017**
22 **hearing before the Commission -- do you recall being**
23 **present at that hearing?**

24 A. That's correct.

25 **Q. You informed -- based on a question from**

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1 **Commissioner Toulouse, who asked you why you didn't**
 2 **suspend the Board of Finance, your response was --**
 3 **and I'll give you the transcript to otherwise allow**
 4 **you to object to my characterization --**
 5 A. That's fine.
 6 **Q. -- quote, "I don't have reason to take**
 7 **them over as of yet; but if we can't get corrective**
 8 **actions done, and we can't get something done this**
 9 **way, I may have to do something like that."**
 10 A. I think that's fair.
 11 **Q. And at this time, do you believe you have**
 12 **any -- any reason to think that you have a reason at**
 13 **this point to take them over?**
 14 A. Mr. Solimon, we have to have evidence that
 15 we have fraud, waste, or abuse, or gross negligence.
 16 They're extremely close on gross negligence. I do
 17 not have the evidence yet. I have to be able to
 18 support a decision and a recommendation like that.
 19 **Q. Okay. But you have -- or is it true the**
 20 **Public Education Department has supported and**
 21 **provided argument that there is grounds to revoke**
 22 **DEAP's charter?**
 23 A. Correct.
 24 **Q. But insufficient grounds to suspend their**
 25 **Board of Finance.**

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1 A. Correct. To me, those are two completely
 2 unrelated issues.
 3 **Q. Okay.**
 4 A. The ability to be able to maintain a Board
 5 of Finance is directly related to due process
 6 concerns of the School Accounting Budget Division.
 7 This school has made multiple assertions through
 8 the charter contract that they possess the
 9 wherewithal to manage the charter school's finances,
 10 to which we are presenting evidence that they are
 11 not.
 12 **Q. Would you agree with me that revoking a**
 13 **school's charter is more severe than suspending its**
 14 **Board of Finance?**
 15 A. I would; but I would argue that suspending
 16 a Board of Finance is not exactly a walk in the
 17 park, either, Mr. Solimon.
 18 **Q. Is it true that you have suspended Boards**
 19 **of Finance for charter schools, and, in their stead,**
 20 **hired the Vigil Group to provide those services?**
 21 A. Yes. And would do so in the future.
 22 **Q. Mr. Craig, did you retain copies of the**
 23 **original affidavit that you drafted for either**
 24 **Ms. Overson or Ms. Girdner?**
 25 A. We should have that available, if you need

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1 it. Yeah.
 2 MR. SOLIMON: Thank you. I have no
 3 further questions.
 4 THE CHAIR: Thank you.
 5 MS. LUCK: Good afternoon, Commissioners,
 6 Madam Chair. Again, I'm Kaitlyn Luck with
 7 Montgomery and Andrews.
 8 **Q. (By Ms. Luck) Will you say your name for**
 9 **the record?**
 10 (A discussion was held off the record.)
 11 **AMELIA FRANCESCA SAIZ,**
 12 **after having been first duly sworn under oath,**
 13 **was questioned and testified as follows:**
 14 **DIRECT EXAMINATION**
 15 BY MS. LUCK:
 16 **Q. Okay. Would you please state your name**
 17 **for the record?**
 18 A. My name is Amelia Francesca Saiz. I also
 19 go by "Molly" Saiz.
 20 **Q. Thank you. And what is your education,**
 21 **briefly?**
 22 A. I obtained a Bachelor's with an emphasis
 23 in Accounting from the New Mexico Highlands
 24 University.
 25 **Q. Okay. And what is your current position?**

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1 A. I'm the Audit and Accounting Bureau Chief
 2 for the Department.
 3 **Q. Okay. And how long have you been in that**
 4 **position?**
 5 A. I've worked for the Department for a
 6 little over three years.
 7 **Q. And what is your background prior to that?**
 8 A. Prior to that, I worked for Santa Fe
 9 County. I was the Accounting and Financial
 10 Reporting Manager. Before that, I worked for Moss
 11 Adams, a CPA firm, for ten years.
 12 **Q. Great. Thank you. And what are your**
 13 **general duties as the Chief here?**
 14 A. I oversee the Audit Section of the Bureau.
 15 And what they do is, they do compliance audits for
 16 the districts around the State of New Mexico, as
 17 well as for charter schools that are local, as well
 18 as State-chartered charter schools.
 19 **Q. Thank you. So we've heard the testimony**
 20 **of David Craig. So I'd like for you to turn to**
 21 **Exhibit 21 in the white binder. And he talks about**
 22 **the site visit that happened in this case.**
 23 A. Okay.
 24 **Q. And so do you recognize this document?**
 25 A. Yes.

1 **Q. And is it -- what is this?**
 2 A. This document is the report that was
 3 submitted to me by my staff who attended the site
 4 visit.
 5 **Q. Okay. So did you prepare this document?**
 6 **Or was it someone on your behalf?**
 7 A. I developed this document, alongside with
 8 the help of my staff, who were there at the site
 9 visit.
 10 **Q. And so this is a site visit that happened**
 11 **in April of 2017.**
 12 A. Correct.
 13 **Q. Okay. And so from what you heard from**
 14 **Mr. Craig's testimony, that's consistent with your**
 15 **finding in this report?**
 16 A. Yes.
 17 **Q. Okay. And just kind of briefly going**
 18 **through the first page. It talks about the purpose.**
 19 **And that is just what David Craig testified to as to**
 20 **how the PED got involved; is that correct?**
 21 A. Correct.
 22 **Q. Okay. And on Page 2, it looks at the**
 23 **validation approach. And this just shows that the**
 24 **proper procedures were followed in generating the**
 25 **report after visiting the school; is that correct?**

1 A. Correct.
 2 **Q. And it shows that the auditors reviewed**
 3 **the necessary documents.**
 4 A. That were available, yes.
 5 **Q. Okay. And were you present at the School**
 6 **for the site visit?**
 7 A. No.
 8 **Q. And your report is a compilation of those**
 9 **two people on your staff.**
 10 A. Correct.
 11 **Q. Thank you. So if you'd turn to Page 3,**
 12 **the report is a compilation of this information**
 13 **that's listed at the top; is that correct?**
 14 A. Correct.
 15 **Q. So did you -- turning to Page 4, did you**
 16 **identify these major concerns needing attention?**
 17 A. These concerns were identified after the
 18 visit -- or during the visit.
 19 **Q. Okay. And why are these important? Why**
 20 **are these major?**
 21 A. They're major, because it is a reflection
 22 of how their school is operating. At the time, they
 23 didn't have a Licensed Business -- a Licensed
 24 Administrator. And at the time, they were in limbo
 25 with their Business Licensed Manager. [Verbatim.]

1 **Q. Okay. So essentially, what you're**
 2 **saying -- what I'm understanding you to say -- is**
 3 **that these are serious violations?**
 4 A. Correct.
 5 **Q. Okay. And so that's -- it's part of what**
 6 **David Craig already testified to?**
 7 A. Yes.
 8 **Q. Okay. So turning to Page 5, looking at**
 9 **the staff at the School, the report says that, "DEAP**
 10 **staff does not have the required licensure to**
 11 **perform the duties as Business Manager"; is that**
 12 **correct?**
 13 A. Yes.
 14 **Q. And so that was at the time of the site**
 15 **visit in April.**
 16 A. Correct.
 17 **Q. And it says that, "Dr. Jimenez..." -- at**
 18 **the bottom -- "...is not fully engaged in the**
 19 **operations and does what the Director of Operations**
 20 **directs her to do"; is that correct?**
 21 A. Yes.
 22 **Q. Okay. So turning to the next page, David**
 23 **Craig testified briefly about the procurement**
 24 **violations. Could you explain to us what these**
 25 **numbers represent in this first paragraph?**

1 A. The first paragraph is a listing of
 2 expenditures that occurred where there was no
 3 documentation, where there was no documentation as
 4 far as an invoice or record of a requisition in
 5 place or a purchase order.
 6 **Q. Okay. And so turning to Exhibit No. 22,**
 7 **is that a reflection of "See Work Paper Binder,**
 8 **Section I," that contains an Excel spreadsheet**
 9 **listing the vendor files that make up the**
 10 **expenditures for the two years at the school?**
 11 A. Yes.
 12 **Q. Okay. And so essentially what this**
 13 **document shows, Exhibit No. 22, is that there was no**
 14 **documentation to support the donated amounts or the**
 15 **food purchases complied with the USDA guidelines?**
 16 A. Correct.
 17 **Q. Further down the page -- sorry -- back on**
 18 **Exhibit 21 on Page 6, it talks about reimbursements**
 19 **for food purchases. And it lists that there is**
 20 **\$27,818.26 for food and other items, and there's no**
 21 **documentation to show proof that the school obtained**
 22 **those.**
 23 A. Correct.
 24 **Q. Okay. Thank you.**
 25 **We'll move on to Page No. 7, "Financial**

1 **Reports with noted issues."**

2 **So if you could just explain to us what**
3 **this first paragraph means, that there's a lack of**
4 **documentation as to software?**

5 A. At the time of the site visit, the School
6 was converting from one accounting software to
7 another. And there was no documentation to show
8 what their assets or what their liabilities were to
9 get from what was in their old system into their new
10 system.

11 And so at the time, the School was unaware
12 to report to us what their assets were and what
13 their cash was, or if they had any money that they
14 were receiving, or what their accounts payable were
15 at that time, or what their payroll liabilities
16 could have been or would have been at that time.

17 **Q. Okay. And then further down the page, it**
18 **says "Unresolved Audit Findings."**

19 **And so if we turn to Exhibit No. 23,**
20 **you'll see the Axiom document. And is that what**
21 **this is referring to?**

22 A. This is -- this is their findings that
23 they got for the 2016 audit. And so what we
24 referred to on Page 7 of the report was that these
25 findings that they received, they did not submit any

1 **it's -- it's titled "Attachment 1" at the top. What**
2 **is this?**

3 A. This is the Corrective Action Plan that
4 was submitted to the Audit Department from DEAP.

5 **Q. Okay. And is there any follow-up to**
6 **determine whether or not these things are done, the**
7 **steps to resolve the findings?**

8 A. Yes. The Department follows up and
9 requests additional documentation to prove that
10 these actions that we submitted are actually in
11 place in order to help findings for the future and
12 lessen the amount of findings that the charter
13 schools receive.

14 And so a letter was sent to DEAP to
15 request additional documentation; and, to date, we
16 have not received any response to that letter.

17 **Q. Okay. So if you turn to Exhibit No. 25,**
18 **is that that letter?**

19 A. Yes.

20 **Q. Okay. And it indicates that letter was**
21 **sent on June 12th, 2017?**

22 A. Yes.

23 **Q. And it lists those four findings?**

24 A. It lists the four findings, as well as the
25 information that we're requesting to prove that

1 kind of corrective action for these findings.

2 **Q. Okay. And so were they given an**
3 **opportunity to do that?**

4 A. It's part of the audit rule that at the
5 time that the findings are issued, that as part of
6 their management response, they're required to
7 submit a corrective action, which was not done on
8 the response at the time they received the findings.

9 And additionally, as part of our
10 oversight, the PED requests Corrective Action Plans
11 to be submitted to us for all findings of all
12 State-chartered charter schools. And they did
13 submit a Corrective Action Plan to us; however,
14 whenever we tried to follow up with them, they had
15 not -- there was no proof that those Corrective
16 Action Plans had been implemented.

17 **Q. Okay. And so just looking at**
18 **Exhibit No. 23, there's four findings.**

19 **The first one is "Procurement." The**
20 **second one is "Excess of Expenditures over Budget."**
21 **The third one is "Internal controls [sic] and**
22 **Accounts Payable." And the fourth one is the "Audit**
23 **Committee Structure"; is that correct?**

24 A. Correct.

25 **Q. Okay. So turning to Exhibit No. 24,**

1 these corrective actions that they attested to in
2 their Corrective Action Plan is working, or they're
3 working towards resolving these findings.

4 **Q. Okay. So if you turn to Exhibit No. 26,**
5 **it appears to be an e-mail from Mr. Fry at the Vigil**
6 **Group. You were cc'd on it.**

7 **Does this look familiar?**

8 A. Yes.

9 **Q. So the last line says -- and I'm quoting**
10 **from Mr. Fry's e-mail. It says, "I am currently**
11 **reviewing the schools [sic] FY16 audit and the**
12 **letter from your office dated June 12 and preparing**
13 **the responses. I will have these to you by tomorrow**
14 **at the latest."**

15 **This was sent on July 18th, 2017. Did you**
16 **receive anything anytime after that from Mr. Fry at**
17 **the Vigil Group?**

18 A. I did not.

19 **Q. Okay. So turning to Exhibit No. 27,**
20 **there's another letter dated October 11th, 2017.**
21 **And could you tell us what this letter is?**

22 A. This is a follow-up letter explaining to
23 them that we have still yet to receive responses of
24 our letter dated June -- oh -- when was the
25 letter? -- June 12th, saying that we are still

1 expecting the additional documentation to -- for
2 their Corrective Action Plan.

3 **Q. Okay. And sorry to flip back and forth.**
4 **If you would just go back to Exhibit 21 briefly.**
5 **You touch on two other topics on Page 7 and 8. The**
6 **first one is "NACA Support Network to DEAP"?**

7 A. Yes.

8 **Q. Okay. And then, finally, on Page 8, you**
9 **say that, "DEAP continues to operate without a**
10 **Business Manager."**

11 A. Correct. At that time, they still did not
12 have a Business Manager in place.

13 **Q. Okay. And so this was during the time**
14 **that Mr. Craig testified to in April when he was not**
15 **able to locate a Business Manager?**

16 A. Yes.

17 **Q. And so essentially, your report says --**
18 **and I'm going to quote you from Page 8. It says,**
19 **"The absence of a Business Manager does not provide**
20 **assurance that the financial reporting, to include**
21 **appropriate processing of documentation for**
22 **purchases, are in compliance with the state**
23 **procurement code, state statutes and PSAB**
24 **requirements"; is that correct?**

25 A. Yes.

1 **Q. And so then, finally, you make some**
2 **recommendations on the last page, on Page 9. And --**
3 **I'm sorry. Are these recommendations in light of**
4 **the fact that those violations are serious?**

5 A. Yes.

6 **Q. Okay. And have you seen any of these**
7 **recommendations been [verbatim] implemented at this**
8 **point?**

9 A. I -- from what I understand, there is a
10 Business Manager in place. I have not seen any
11 reconciliations; but I've been told that there are
12 some.

13 I believe that they reconverted back to
14 the old software that they had; and so I'm -- in
15 order to do that, I'm in the assumption that the new
16 Business Manager has created the appropriate journal
17 entries.

18 It appears that they still need to analyze
19 their budget. I still have no proof that they've
20 hired a CPO, a Chief Procurement Officer. And the
21 independent auditors are contracted to perform an
22 audit for DEAP's financial operation at this time.

23 **Q. Okay. And so would it have been your role**
24 **in the site visit to recommend revocation?**

25 A. No. Our role is to bring to light the

1 concerns that we have, and we make these concerns
2 and our recommendations to management. And at that
3 point, they make the decision as what the next steps
4 need to be.

5 **Q. Okay. So throughout your review of DEAP's**
6 **financial matters, did it appear that they were**
7 **consistently noncompliant?**

8 A. Yes.

9 **Q. Okay.**

10 MS. LUCK: I think that's all the
11 questions I have for you.

12 THE WITNESS: Okay.

13 MS. LUCK: Thank you.

14 CROSS-EXAMINATION

15 BY MR. SOLIMON:

16 **Q. Good afternoon.**

17 A. Hi.

18 **Q. I want to go back to the page I believe**
19 **hopefully you're still on, Page 22.**

20 **Sorry. Exhibit 21.**

21 **And there's two page numbers on there.**
22 **There's "9" and "17." It's the "Recommendations"**
23 **page.**

24 A. Yes.

25 **Q. And I think we went through all of those**

1 **but one. And let me just sort of recap.**

2 A. Okay.

3 **Q. I believe you said you'd been told, or at**
4 **least have some information, that they've hired a**
5 **Business Manager to perform a reconciliation; is**
6 **that correct?**

7 A. Correct.

8 **Q. The second bullet point: "Create and**
9 **enter the appropriate journal entries into the**
10 **accounting software."**

11 **You have information that that's been done**
12 **or may be done; is that correct?**

13 A. It may be done.

14 **Q. And I believe you stated that as to the**
15 **third element, or the third bullet point, you were**
16 **not aware, or unsure, of the status of that; is that**
17 **correct?**

18 A. Correct.

19 **Q. You don't know whether that's been done or**
20 **whether it's not been done? Or do you have an**
21 **opinion cited to that?**

22 A. Well, they are late in submitting their
23 monthly reporting and their cash report; therefore,
24 it's hard to tell what their cash position is at
25 this time.

1 **Q. And this is the monthly report that you**
2 **may have heard Mr. Craig discuss --**

3 A. Yes.

4 **Q. -- that was initiated approximately three**
5 **months ago?**

6 A. Correct.

7 **Q. And I believe you stated that you also**
8 **weren't sure, or didn't have any information to**
9 **know, whether DEAP has hired a Chief Procurement**
10 **Officer; is that correct?**

11 A. Correct.

12 **Q. Okay. You've identified that they have**
13 **obtained, or there is, an independent auditor**
14 **performing an audit of DEAP's financial operations?**

15 A. Yes.

16 **Q. Now, the last element, I don't know if**
17 **you've had the opportunity to answer that question.**

18 A. The recommendation is to, "Obtain an
19 independent assessment of DEAP's compliance and
20 implementation of its charter requirements and
21 implementation and validity of the MOUs in place
22 with the NACA network."

23 To date, we have not been able to receive
24 a signed MOU with the NACA group. And we are
25 unaware as to whether it's a valid MOU.

1 A. Not that I'm aware of.

2 **Q. Exhibit 23. I believe you have stated**
3 **that that is a schedule of audit findings?**

4 A. Yes.

5 **Q. Okay. And that was for Fiscal Year 2016;**
6 **is that correct?**

7 A. Yes.

8 **Q. And are you aware that that was the first**
9 **year that DEAP was in operation?**

10 A. Yes, that was the first year they received
11 an audit.

12 **Q. Okay. And as to Exhibit 24, I've just got**
13 **a couple of questions. It states "Attachment 1."**

14 A. Yes.

15 **Q. Do you know whether there was anything**
16 **that this was attached to?**

17 A. This -- it says "Attachment 1" because
18 this is the attachment to an e-mail, a mass e-mail
19 that was sent out to all State-chartered charter
20 schools to provide a Corrective Action Plan. So
21 this is just part --

22 **Q. This is a form.**

23 A. This is a form, a template.

24 **Q. They utilized the template.**

25 A. Yes.

1 **Q. Okay. So an MOU would address, or**
2 **otherwise be, an independent assessment of DEAP's**
3 **compliance and implementation of charter**
4 **requirements?**

5 A. NACA provides revenues to DEAP. And
6 it's -- and it's federal funding. And so because
7 it's federal funding, NACA has a responsibility to
8 ensure that DEAP is in compliance with spending and
9 procurement code and 2 Part 200, the Uniform Grant
10 Guidance.

11 **Q. But an MOU from the NACA network, or NACA,**
12 **would satisfy that; am I correct?**

13 A. An MOU will help provide guidance to DEAP
14 on what they need to do and what their requirements
15 are and what the expectations are.

16 **Q. But how would they go about getting this**
17 **independent assessment that's recommended here?**

18 A. I imagine that they would seek counsel
19 with a Head Administrator and reach out to the NACA
20 Head Administrator, or the President of NACA, to
21 ensure that there's a valid MOU in place.

22 **Q. Okay. But there's no one form that they**
23 **could do that, or one type of meeting or session or**
24 **approval that they could do to satisfy that**
25 **requirement?**

1 **Q. And, again, that was to respond to the**
2 **Fiscal Year 2016 audit.**

3 A. Yes.

4 **Q. And going, again, to Exhibit No. 27, I was**
5 **just a little unclear. You didn't author this**
6 **document; is that correct? Or did you author this**
7 **document?**

8 A. This was signed by the supervisor who
9 works in my Audit Bureau.

10 **Q. Okay. Did you participate in any way in**
11 **the development of this document?**

12 A. Yes, I review it, and I ensure that it's
13 accurate.

14 **Q. Okay. And I believe your --**

15 A. And I'm also cc'd on it, yes.

16 **Q. Yes, you are.**

17 **This was sent October 11th; is that**
18 **correct?**

19 A. Yes.

20 **Q. And so there is a deadline, if you read**
21 **below the first paragraph, for DEAP to respond by**
22 **October 18th; is that correct?**

23 A. That's correct.

24 **Q. And you would agree with me that that is**
25 **in approximately five days.**

<p style="text-align: right;">Page 130</p> <p>1 A. Yes. 2 Q. Okay. 3 MR. SOLIMON: No further questions. 4 MR. McMILLAN: I have no redirect. 5 THE CHAIR: Commissioners, do we have 6 questions to be submitted? 7 (Witness is excused.) 8 THE CHAIR: We're going to do Public 9 Comment before Commissioners' questions, because 10 Commissioners' questions can carry over to the 11 second day if we don't get them all in today. So -- 12 MS. CUYLEAR: Madam Chair, DEAP has a 13 request with regard to Day Two of the proceedings. 14 Would you like me to make that request now, or wait 15 until after the Commission's questions? 16 Madam Chair, DEAP is requesting that Day 17 Two of the proceedings be held in Navajo, 18 New Mexico, the community where DEAP School is 19 situated. 20 (The Chair consults with Commissioners.) 21 THE CHAIR: That's something for -- we're 22 going to have to take that into consideration. I 23 can't give you an answer to that at this moment in 24 time. 25 MS. CUYLEAR: Okay. Thank you,</p>	<p style="text-align: right;">Page 132</p> <p>1 I'm sorry. This is -- this is kind of 2 hard to take in right now, after hearing all this 3 stuff. 4 As a parent, it's -- it is disappointing 5 to hear that the School is actually under 6 revocation. As a parent, I'm strongly urging you to 7 make the right decision for the School for our kids. 8 I didn't make a bad choice putting my son 9 at this school. According to records, our school is 10 currently sitting at a "B" rating. There is three 11 other schools in our community that are currently at 12 "C," "D," and "F." 13 And for that reason, that's why I'm asking 14 you to -- urging you to make the right decision for 15 our -- for our kids. I sit as a vice chair on the 16 parent committee. The school has done a lot for my 17 son. They -- the native culture classes there have 18 been really influencing my son in a big way. Things 19 that I don't teach him, he learns from the school. 20 They've had different programs that my 21 son's been encountered in, anything from the Project 22 Venture group, where he has learned how to ride a 23 bike, the Anti-Couch Potato program, where he's 24 gotten himself out of the house for the summer. 25 And these are things that my son has</p>
<p style="text-align: right;">Page 131</p> <p>1 Madam Chair. 2 THE CHAIR: And we're not doing discussion 3 of that at this moment in time. We'll take it up at 4 another time. 5 There are eight people that have signed up 6 for Public Comment. So you have about 7 two-and-a-half minutes per person. 8 The first person is -- and I'm sorry. I 9 don't read well, because someone's handwriting is 10 not any good. 11 Delmadine Mussiset [ph]? 12 If the green light is on, the mic is on. 13 And if you would, please spell your name for the 14 record. 15 FROM THE FLOOR: Okay. Good afternoon. 16 My name is Delmaline Muskett, spelled 17 D-E-L-M-A-L-I-N-E; last name is "Muskett," M-U-S- 18 K-E-T-T. 19 THE CHAIR: Sorry. I thought it was an 20 "L." I apologize. 21 FROM THE FLOOR: That's okay. That's 22 okay. I've had many names. 23 Good afternoon. I'm Delmaline Muskett. 24 I'm a parent from DEAP Charter School. My son has 25 been attending school there for two years now.</p>	<p style="text-align: right;">Page 133</p> <p>1 learned. Not only that, he's come home telling me 2 that he's typing without reading the keyboard now. 3 And those are just some of the things that he's told 4 me about the school. 5 It was last year when Kayla and Prestene 6 found that my son was a little delayed in school, 7 something that McKinley County Schools did not see 8 in the five years that he was there. So they 9 identified the problem, and they were able to meet 10 with me and create an IEP program, or an IEP plan, 11 for my son, which has been helping him. 12 He's not -- a lot of the things that he's 13 done has gotten him out of his comfort zone. As a 14 single parent, it's -- it's hard. 15 THE CHAIR: I'm sorry. Your time is up. 16 FROM THE FLOOR: Okay. Thank you. 17 THE CHAIR: Thank you. 18 Next is Alray Nelson? 19 FROM THE FLOOR: Thank you, Commissioners, 20 I'll make this real quick. My name is Alray Nelson. 21 It's spelled A-L-R-A-Y, Nelson, N-E-L-S-O-N. 22 It's good to see you, Trish, Commissioner, 23 and also the Commissioner over here, Carlos, as 24 well. I'm going to read a letter here on behalf of 25 a tribal leader that's really well-respected across</p>

1 Indian Country.

2 "It is an honor to write this letter
3 sharing my whole-hearted support for the DEAP
4 Charter School in Navajo, New Mexico, located in a
5 rural part of the Navajo Nation along the Arizona
6 border.

7 "DEAP provides an opportunity for many
8 families to send their children to an institution
9 that's culturally responsive to their needs, is
10 grounded in Navajo culture and tradition and
11 emphasizes holistic wellness.

12 "This school shares a mission that I also
13 believe in to help our students develop a sense of
14 place and tradition, while focusing on their
15 well-being and preparing them for college so they
16 may return home one day to help their people.

17 "This community-based school is both
18 innovative and bold as it continues to empower and
19 impact the lives of countless Diné youth.

20 "I had the opportunity to work alongside
21 DEAP's cofounders, Kayla Dawn Begay and Prestene.
22 They are passionate activists for indigenous
23 education, both growing up in a hometown where this
24 school now stands. Mrs. Begay is also an alumna of
25 Teach for America, a national organization that has

1 And, just -- I currently work as a
2 Director of Community Partnerships. I work closely
3 with superintendents, school board members, and
4 tribal leaders all across the state. And so I'm
5 really happy to be here on behalf of Teach for
6 America.

7 Our Executive Director, Nate Morrison, is
8 in the room, as well, to show our support for this
9 charter school.

10 Thank you very much, Commissioners.

11 THE CHAIR: Thank you very much.

12 Next is Ravis Henry. Ravis Henry.

13 FROM THE FLOOR: Yá' át' ééh. Good
14 afternoon.

15 My name is Ravis Henry. It's spelled
16 R-A-V-I-S, Henry, H-E-N-R-Y.

17 And I belong to the Towering House Clan,
18 born for the Coyote Pass-Jemez Clan, and I'm the
19 eldest of eight kids. And two of my siblings,
20 Nelvin Segay and Donald K. Segay are both students
21 at the DEAP School, and I'm very happy to be here
22 with them driving out here.

23 We started our journey out here this
24 morning with prayer and thinking about who we really
25 are. We stopped at the base of Mount Taylor to

1 my support and a program that has proven time and
2 again to provide an excellent education for kids,
3 stressing sovereignty, community-led focus. All
4 these describe the DEAP Charter School.

5 "It is evident through the testimony from
6 parents and elders from this community school that
7 it is preparing its students for college and beyond,
8 even earning a 'B' grade on the most recent Public
9 Education Department report card.

10 "Their learning model is grounded in Diné
11 traditions and culture, while their education value
12 our native language and history.

13 "It's clear that my support for DEAP, or
14 any support, is an investment in our youth and in
15 the Navajo People.

16 "I urge the Navajo..." -- "I urge the
17 New Mexico Public Education Commission to invest in
18 the future and for a rural school that is
19 strengthening the sovereignty of the Navajo Nation.
20 The DEAP School has my full support, and I proudly
21 stand alongside the students, our parents, elders,
22 and community..." -- "...countless community
23 leaders.

24 "Thank you. Respectfully, Sincerely,
25 Russell Begay," the President of the Navajo Nation.

1 offer a song and a prayer on behalf of our journey
2 here, and we made an offer of corn pollen across the
3 river, the Rio Grande, before we made our way up to
4 this point.

5 I want to thank you for allowing us to be
6 here to let us speak.

7 One of the things that stuck out to me
8 this -- earlier this afternoon is the fact that
9 regardless of what's going on, the decision is going
10 to be made in the best interests of the students.

11 And I want to let that be known that I'm a
12 graduate of 2006 from Navajo Pine High School. And
13 as an alumni of Gallup-McKinley County School
14 Districts, I feel that that school was not the best
15 school for me when I graduated. If that's the only
16 other school in the location, I don't think that's
17 the best choice. If what was recommended is GMCS
18 was the best choice for our kids after this, I truly
19 disagree with that.

20 And one of the other things I want to also
21 mention is that this is a brand new school. And I
22 understand, in Western terms, we followed certain
23 timelines and certain protocols. But we are Navajo,
24 too. We're indigenous people, and we have a
25 different mindset. We do things a little bit

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1 different. You know, not every child that is born
 2 start taking a step at the very same age; some start
 3 at eight months, some are 13 months.
 4 You know, it takes time for a school, you
 5 know, like a child, to build up and get itself
 6 solidified and have a good foundation. And for us
 7 as Navajo People, we do things in a process of four.
 8 And this is only the third year in the school.
 9 And one of the things that was mentioned
 10 is that there is a long history of compliance
 11 problems. It's only three years. I can give you
 12 150 years of other problems with the Navajo Nation
 13 and other entities, as well.
 14 So I want to bring that up. And
 15 hopefully, you can take that into consideration of
 16 our children.
 17 And one thing that I want to fall back on
 18 is the Salute to our New Mexico State Flag of the
 19 Zia symbol of friendship, and how it's a
 20 representation of our shared cultures.
 21 And I truly do hope that your decisions
 22 affect our cultures, as well. You know, it's one
 23 thing that disappointed me is that I -- I respect
 24 all of you; but I don't see anyone of our people
 25 sitting amongst you guys, as well, to hear some of

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1 these issues.
 2 So I hope you make the best choice in
 3 regards to our people, our children.
 4 Thank you.
 5 THE CHAIR: Thank you. I'm sorry. I'm
 6 not sure. It -- Nelvin Segay and students?
 7 COMMISSIONER CABALLERO: Can you grab some
 8 more chairs up there?
 9 THE CHAIR: Are you all planning on
 10 speaking?
 11 MULTIPLE SPEAKERS: Yes.
 12 THE CHAIR: You've got two-and-a-half
 13 minutes total, not two-and-a-half minutes each.
 14 Because there was only one line here; so -- I just
 15 want you to be aware of that, okay?
 16 DEAP STUDENTS: Okay.
 17 THE CHAIR: So speak carefully.
 18 FROM THE FLOOR: Yá' át' ééh, members of
 19 the Public Education Commission. (Spoken Navajo
 20 language.)
 21 My name is Natisha Holana [ph], and I'm a
 22 ninth-grader at the Dzil Diti'ooi School of Action
 23 Perseverance.
 24 FROM THE FLOOR: (Spoken Navajo language.)
 25 My name is Braxton Benally, and I'm an eighth-grader

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1 at DEAP.
 2 (Reporter requests clarification.)
 3 FROM THE FLOOR: Yá' át' ééh. (Spoken
 4 Navajo language.)
 5 My name is Nelvin Segay, N-E-L-V-I-N,
 6 S-E-G-A-Y. I am a ninth-grader at DEAP.
 7 FROM THE FLOOR: Yá' át' ééh. (Spoken
 8 Navajo language.) My name is Mikkel Bia, spelled
 9 M-I-K-K-E-L and B-I-A, and I'm a ninth-grader at
 10 DEAP.
 11 FROM THE FLOOR: We are here to speak on
 12 behalf of our classmates, students, and community.
 13 FROM THE FLOOR: In order to understand
 14 the power and importance of DEAP, you must know our
 15 history. For so long, Native people have been told
 16 our culture and language prevent us from thriving.
 17 However, at DEAP, we know that our culture,
 18 language, and understanding of our history and power
 19 leads to confidence and skills.
 20 FROM THE FLOOR: DEAP was first created by
 21 two indigenous women who had dreams to change the
 22 community for the better. It is a blessing for us
 23 to attend a school that actively tries to help us
 24 connect our learning with our culture, language, and
 25 traditions to transform the world around us.

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1 FROM THE FLOOR: In fact, in a few years
 2 at DEAP, we have accomplished so much, whether it is
 3 excelling in our [inaudible] tests or learning songs
 4 in Diné. We are stronger and more resilient because
 5 of DEAP.
 6 FROM THE FLOOR: So at DEAP, we learn how
 7 to think critically and take action in improving our
 8 community. For example, we partner with our local
 9 chapter for different service projects, including
 10 our annual community cleanup, and the moccasin
 11 project, where we made moccasins for local Head
 12 Start students. At DEAP, we are empowered to be
 13 leaders and to make our community grow.
 14 FROM THE FLOOR: So many of our classmates
 15 have excelled at DEAP. Many of us strayed at school
 16 because we felt we were not learning things that
 17 gave us real skills and value. But since attending
 18 DEAP, so many of us wake up excited and ready to
 19 learn. We do a lot of hands-on activity that
 20 connect our culture to our learning.
 21 FROM THE FLOOR: While we are a small
 22 school, we are impacting the community in powerful
 23 ways. In fact, because we are small, we are like
 24 family and taking care of each other. In Diné we
 25 call this (Navajo spoken). And it is how we care

1 for each other, the land, and our surroundings.

2 THE CHAIR: We have probably about a
3 minute and a half extra with the total allotted
4 time; so I'll give it to you.

5 FROM THE FLOOR: Thank you.

6 FROM THE FLOOR: It is frustrating that
7 you are considering revoking DEAP. Why would you
8 take away our opportunity to learn our culture,
9 identity, tradition, and history? DEAP has given us
10 hope for our future to revise our culture and
11 reclaim our power as indigenous people.

12 And in the PED's opening, they suggested
13 that we students are better at the Gallup-McKinley
14 County Schools. That upsets me. I left those
15 schools because they don't care about my learning
16 and they don't care, like, about the growth of the
17 community. And also why would I leave a "B-minus"
18 school to a "D" school?

19 And I think that the PED and the PEC
20 should look at how the Gallup-McKinley County
21 Schools continue to fail our community. We chose
22 DEAP because we deserve more.

23 FROM THE FLOOR: So if you are choosing to
24 close DEAP, you are choosing to harm our future. We
25 urge you to think deeply about these decisions. If

1 people, you know, then they start trying to emulate.
2 And what they're doing now is they're trying to
3 emulate the Blacks; they're trying to emulate the
4 Mexicans. And they're not taking the good stuff
5 from these people. They're emulating what they see
6 in the media, what TV tells them what these races
7 are. So they emulate.

8 So I'm wondering how long it is before
9 they start shooting each other. This is how serious
10 it is.

11 A lot of these kids can't walk the street
12 at night because they're afraid to get jumped by
13 older guys my age. And that's just not right.

14 So these kids need a school, a safe place
15 to go, where they can be educated, and they can
16 learn who they are. This is what we need to do.
17 And shutting it down because of pure bureaucracy is
18 just not going to work.

19 So I want you guys to show your love, your
20 love for these children. Maybe they still have a
21 chance. Some of us don't; but they do.

22 So please, please take that in
23 consideration when you're making your judgment.

24 Okay. All right. Thank you.

25 THE CHAIR: Thank you very much.

1 DEAP closes, we will have to attend less rigorous
2 schools that do not honor our culture, families, and
3 traditional knowledge; and that is unacceptable.

4 THE CHAIR: Thirty seconds.

5 FROM THE FLOOR: However, we hope you will
6 make the best decision and choose to continue to
7 support Native students and communities in growing
8 and thriving.

9 DEAP STUDENTS IN UNISON: Thank you for
10 your time.

11 THE CHAIR: Thank you.
12 (Applause.)

13 I believe it's Benjamin Jimenez; but I'm
14 not -- can't really read that last name.

15 FROM THE FLOOR: My name is Raymond
16 Jimenez. And my name is spelled R-A-Y-M-O-N-D,
17 J-I-M-E-N-E-Z.

18 Okay. This really concerns me when you're
19 talking about closing my son's school. See, in our
20 community, we're -- we're really fighting for our
21 children. We're infested with gangs. We're
22 infested with alcohol, and we're infested with --
23 now, meth is really taking hold. And -- and these
24 guys, the staff here, are examples unto our kids.

25 You know, when they lose who they are as a

1 FROM THE FLOOR: Okay.
2 (Applause.)

3 THE CHAIR: Regina Bitloy.

4 FROM THE FLOOR: Madam Chair and members
5 of the Commission, greetings. Yá' át' ééh.

6 My name is Regina Bitloy, R-E-G-I-N-A,
7 B-I-T-L-O-Y, a full Diné of the Navajo Nation. I am
8 a grassroot community member of Navajo, New Mexico.
9 I am a mother, a guardian, and an active volunteer
10 with the community and a concerned citizen. I am
11 here to express my concerns with the ratification
12 [verbatim] of the local DEAP Charter School and to
13 also express my appreciation for our school.

14 Through my observation of this school, I
15 feel that it has become an outstanding and unique
16 learning institution. This one-of-a-kind school
17 allows our students to learn about their Navajo
18 culture, history, and tradition. In today's times,
19 we are -- as a community and as a tribe, feel that
20 these teachings are our utmost value.

21 The schools also provide the students with
22 a well-rounded curriculum with more current studies,
23 as well. It's to my understanding that its
24 curriculum meets State regulation, and it's, in
25 fact, doing well compared to other schools in the

<p style="text-align: right;">Page 146</p> <p>1 area.</p> <p>2 The DEAP charter school also allows for</p> <p>3 its students to gain hands-on experience within</p> <p>4 their local community. I have witnessed these</p> <p>5 students participating in our community cleanup</p> <p>6 events, and where the students would pick up trash,</p> <p>7 paint over graffitis, and make signs to encourage</p> <p>8 others to join in an effort to keep our lovely</p> <p>9 community clean.</p> <p>10 This type of community engagement is much</p> <p>11 needed, not only in our community, but nationwide,</p> <p>12 as we witness the younger generation growing away</p> <p>13 from the civic duty to be engaged within their</p> <p>14 community. It teaches them responsibility, not only</p> <p>15 for themselves, but to be -- their peers to be</p> <p>16 accountable for their actions within their</p> <p>17 community.</p> <p>18 The students have also created a community</p> <p>19 garden where they learn to be self-sufficient in</p> <p>20 their own efforts of maintaining agriculture that</p> <p>21 can give -- that can provide them, their families,</p> <p>22 and others with food. Again, this quality is a</p> <p>23 tribute to them, being well and self-sufficient as</p> <p>24 they grow to true members of our great state.</p> <p>25 These attributes of our charter school are</p>	<p style="text-align: right;">Page 148</p> <p>1 is Christina Griffith. C-H-R-I-S-T-I-N-A; Griffith,</p> <p>2 G-R-I-F-F-I-T-H.</p> <p>3 I am honored to stand in unequivocal</p> <p>4 support of DEAP's mission, community, and</p> <p>5 perseverance. In my present role as the College and</p> <p>6 Career Pathways facilitator with the NACA Inspired</p> <p>7 Schools Network, I have witnessed directly the</p> <p>8 strength, struggle, and promise of this deeply</p> <p>9 purposeful and tenaciously hopeful community, daily</p> <p>10 conscious of, but refusing to be tethered by</p> <p>11 historical inequity, when it comes to Native student</p> <p>12 access to and opportunity for success through higher</p> <p>13 education.</p> <p>14 My DEAP colleagues have frequently sought</p> <p>15 my counsel and collaboration as they pursue their</p> <p>16 goal of providing all DEAP students direct dynamic</p> <p>17 and relevant experiences that support planning</p> <p>18 toward hopeful post-secondary paths.</p> <p>19 Even as a very young school, they have</p> <p>20 already successfully launched college-and-career</p> <p>21 planning initiatives, including college visits at</p> <p>22 Northern Arizona University, IAIA, and UNM, and the</p> <p>23 creation of their first summer program, in</p> <p>24 collaboration with community partners, to ensure</p> <p>25 that students continue learning through every</p>
<p style="text-align: right;">Page 147</p> <p>1 just a few of many of our small town that's growing</p> <p>2 to appreciate since its creation. The education it</p> <p>3 provides to this young generation is positive,</p> <p>4 unique, and is character-building. I feel that the</p> <p>5 school deserves to keep its doors open to continue</p> <p>6 offering a unique and challenging education to our</p> <p>7 youth. The potential for this school is strong, and</p> <p>8 it continues to add town support as it progresses to</p> <p>9 become a pillar within our community.</p> <p>10 Again, these observations and claims are</p> <p>11 through my personal experience with the charter</p> <p>12 school. I witnessed this firsthand, as my own niece</p> <p>13 who I am guardian to, attends this school. We have</p> <p>14 nothing but great experience with this institution,</p> <p>15 its staff, and its education.</p> <p>16 My niece came from a broken home and has</p> <p>17 experienced things that no child should have</p> <p>18 endured. However, since she began attending this</p> <p>19 school, she has found a sense of belonging for this.</p> <p>20 I am a grateful parent.</p> <p>21 THE CHAIR: Thank you.</p> <p>22 FROM THE FLOOR: Uh-huh.</p> <p>23 (Applause.)</p> <p>24 THE CHAIR: Next is Christina Griffith.</p> <p>25 FROM THE FLOOR: Good afternoon. My name</p>	<p style="text-align: right;">Page 149</p> <p>1 season.</p> <p>2 I stand in support of DEAP, too, as an</p> <p>3 educator who has taught, led, and learned within</p> <p>4 secondary and higher education communities for over</p> <p>5 25 years, serving in roles ranging from Assistant</p> <p>6 Dean of Freshmen at Harvard to Assistant Principal</p> <p>7 of Gateway Charter High School in San Francisco, to</p> <p>8 Head of Upper School at Santa Fe Prep, to Principal</p> <p>9 and Director of College Engagement at Amy Biehl High</p> <p>10 School in Albuquerque.</p> <p>11 Through this lens of these experiences, I</p> <p>12 also see so clearly and honor so fully DEAP's</p> <p>13 extraordinarily intentional and essential commitment</p> <p>14 to identity, community, and the development of the</p> <p>15 strategic support structures that effectively serve</p> <p>16 their students and families.</p> <p>17 Having worked in several schools that</p> <p>18 struggled mightily during initial years before</p> <p>19 building strategic sustainable momentum, cohesion,</p> <p>20 and success, I recognize and honor also DEAP's</p> <p>21 demonstrated progress with addressing their</p> <p>22 challenges.</p> <p>23 With respect, support, and continued high</p> <p>24 expectation, this is the time to turn toward, not</p> <p>25 away from DEAP, as they continue their work on</p>

<p style="text-align: right;">Page 150</p> <p>1 behalf of their students, our students. 2 Thank you. 3 THE CHAIR: Thank you. 4 (Applause.) 5 And finally, Alan Brauer. 6 FROM THE FLOOR: Good afternoon, 7 Commissioners, Madam Chair. My name is Alan Brauer. 8 A-L-A-N, B- as in "boy" -R-A-U-E-R. And I am the 9 Fellowship Director and Education Team Lead with 10 NACA Inspired Schools Network. 11 I'm here to give my full-throated support 12 of the school, as well as the student leaders that 13 are behind us today. I think that I am in awe of 14 what was shared, and also the type of leadership 15 that was employed today of everyone from the 16 community of Navajo, New Mexico. 17 I have a few -- I have a few thoughts, a 18 few items that I think has come -- that has come up, 19 and I feel the need to respond in some ways. 20 I like that we're having a moment. I'm 21 hoping to testify when we come together. 22 One item -- I know I mentioned this the 23 last time about the MOUs with federal monies coming 24 from NISN. Although there may not have been an MOU, 25 an overarching MOU with NISN and DEAP at the time of</p>	<p style="text-align: right;">Page 152</p> <p>1 compliance, if they are not already. 2 I also want to share that -- that I -- I 3 believe that this process, without a clear 4 Corrective Action Plan, seems to be a little bit 5 capricious compared to other schools that have gone 6 through this process. I know that there have been a 7 lot of corrective actions; but I believe that there 8 should be a Corrective Action Plan that kind of can 9 be cohesive on what needs to change. 10 There have been other schools that have 11 not gone through revocation that there is evidence 12 of them committing fraud; and that fraud, the amount 13 of money that was -- that was fraudulently spent is 14 almost three times the amount of DEAP's overall 15 budget per year. 16 And so I implore that we use new process 17 and really consider a Corrective Action Plan. 18 Thank you. 19 THE CHAIR: Thank you. 20 (Applause.) 21 COMMISSIONER TOULOUSE: Madam Chair, can I 22 suggest we just maybe wait for comments until the 23 second day when we may have comments on additional 24 things? 25 THE CHAIR: Well, we've got questions.</p>
<p style="text-align: right;">Page 151</p> <p>1 a lot of the evidence that has been exhibited today, 2 there have been three distinct MOUs that were signed 3 that had anything to do with federal grant monies. 4 So I just wanted to share that as -- as a point of 5 clarification. 6 Secondly, the AmeriCorps time sheets, this 7 has come up a couple of times, as well. And -- 8 MR. McMILLAN: I'm sorry. I hate to 9 object to public comment. But this seems like 10 testimony, quite frankly. And it's not sworn. And 11 if, in fact, this gentleman is going to be 12 testifying in the future, we'd be happy to 13 accommodate that and ask him some questions and -- 14 do it that way. 15 THE CHAIR: As you stated, you're hoping 16 to testify. That's -- I'm going to ask you to 17 simply limit yourself to personal comments and not 18 addressing any testimony that's been offered today. 19 FROM THE FLOOR: Absolutely. I apologize 20 on behalf of myself for pushing that envelope. That 21 was not intended. 22 I will say -- I'll just close and say that 23 along with the support that I have for DEAP, I do 24 believe that a lot of -- a lot of -- like, we're 25 going to support them in ensuring that they are in</p>	<p style="text-align: right;">Page 153</p> <p>1 We're not doing comments. 2 COMMISSIONER TOULOUSE: Well, questions. 3 But when you ask a question, you're also commenting 4 by the question you ask. I'll put it that way. 5 THE CHAIR: I was preferring to at least 6 get one question or two questions out of the way, as 7 long as people are here. But it's -- you know -- 8 MS. KATIE POULOS: We're asking them to 9 come back, though. 10 THE CHAIR: No. Because I pulled them out 11 so that the one question I have here. You're here. 12 MS. KATIE POULOS: Very good. 13 THE CHAIR: So we figured that out; 14 because I figured by the time David would be able to 15 come back, at this point in time, we would be 16 wasting our time, okay? So you can tell him to 17 just -- it's okay. We'll deal with that on day two, 18 okay? But there is a question here for Katie. 19 Oh, I was looking over there. Sorry. 20 The question is, "When did procedures 21 change to allow PEC any input into suspending Boards 22 of Finance? And if the PED decided not to suspend, 23 we or CSD should monitor." 24 And the note is that, "David said that the 25 Secretary makes the decision to take over the</p>

1 finance."

2 So I'm going to perhaps ask whoever wrote
3 this to clarify that, because I'm a little --

4 COMMISSIONER TOULOUSE: Madam Chair, it
5 was my question; because in five years, I've never
6 known anything at all in this Commission about
7 revoking the Board of Finance until somebody comes
8 in here and tells us it has been done.

9 And yet in your testimony, you said that
10 when it wasn't done, it was left to us to kind of
11 monitor or whatever.

12 That wasn't told to us. We've had
13 absolutely no reports. So there must have been a
14 change in procedure that I wasn't aware of in five
15 years if it was up to us to follow through if --
16 because that wasn't made clear to us. I waited to
17 get other reports and got none in meetings from June
18 on. So when -- when was there a change?

19 MS. KATIE POULOS: Madam Chairwoman,
20 Commissioner Toulouse. So I would say -- I'm not
21 the one that makes decisions about that. I have no
22 authority in that area, and I'm given no opportunity
23 to weigh in; so I'm not sure that I can answer that
24 question, particularly.

25 What I can say is that when information

1 everything -- right? -- with the Schools of Concern
2 list, which we sort of don't really do anymore --
3 the back-and-forth, the lack of clarity that, "It's
4 too soon," "It's too late" that continues to happen,
5 leaves us all in a position of constantly trying to
6 figure out, "Okay, should we do it this way
7 instead?" "Should we do it that way instead?"

8 So that was what I understood was part of
9 that decision not to seize the Board of Finance
10 is -- and, again, I didn't make that decision. This
11 was -- I'm only describing my understanding -- was
12 no, let's -- let's rethink what we've been doing and
13 put it to the Commission.

14 They are the oversight entity. They are
15 ultimately the ones that make decisions about the
16 approval of new charters, the denial of charters,
17 the denial and approval of revocations -- I'm
18 sorry -- of revocations and renewal decisions.

19 So I think it is trying to figure out this
20 constant, "No, you're coming too soon"; "No, you're
21 coming too late." We've been through that this
22 spring, where I had to make a recommendation two or
23 three months in a row, because it was always too
24 early or too late.

25 So that's what, I think, we were trying to

1 comes to us through whatever channels that is, if
2 there are allegations of financial mismanagement,
3 especially -- and you've seen over the past few
4 years. We know three years ago, four years ago,
5 whenever that stuff happened with the FBI, I wasn't
6 here.

7 And no recommendation was made to revoke
8 the charter. I would have made that; I mean, my
9 team and I, my staff and I would have made that, and
10 I would have made it clear to the management who
11 ultimately makes the decision that I thought that
12 was the appropriate course of action.

13 When the information came to us first
14 through the Business Manager coming to the -- to the
15 Deputy Secretary -- and, actually, I think some of
16 the Commissioners here at the Public -- the School
17 Budget Spring Conference, and then our Budget and
18 Financial Analysis Bureau went out there and did the
19 audit with the audit team, and that came back, and
20 the information came back, the decision was made at
21 that time that we were going to make the
22 recommendation to the Commission, because we thought
23 it was the appropriate recommendation.

24 And my understanding at the time was --
25 and it's probably because, you know, with

1 figure out. And I think we probably need to sit
2 down with a subcommittee of the Commission or
3 whatever that is and figure that out.

4 COMMISSIONER TOULOUSE: But your testimony
5 was, it was up to the Commission when it was not
6 revoked.

7 MS. KATIE POULOS: That may have been a
8 misunderstanding of what I said.

9 My testimony was that my understanding was
10 that the decision was made to, instead of revoking
11 the Board of Finance, to go ahead and bring it to
12 the Commission for them to be able to operate and
13 exercise their oversight authority.

14 COMMISSIONER TOULOUSE: That wasn't your
15 wording; but whatever. That was my question.

16 But I do want to put -- to make a comment,
17 even though I'm not supposed to, on the four years
18 ago. That was a decision by Legal both at PED and
19 with what we had from our --

20 THE CHAIR: Commissioner Toulouse, it
21 really goes outside of this hearing.

22 COMMISSIONER TOULOUSE: No. She put it on
23 the record that we did not. And I want it clear
24 that there were legal reasons we were told we could
25 not, whether you were here and made the

1 recommendation or not.
 2 Thank you.
 3 THE CHAIR: Well -- and I will add that
 4 I -- I have to side with the Director. I think
 5 those were the words that she used.
 6 COMMISSIONER TOULOUSE: We'll know when we
 7 get a transcript.
 8 THE CHAIR: That's the singleton question
 9 that I had specifically for you. I've got one or
 10 two for David.
 11 And I'm also going to tell the
 12 Commissioners, there was a question that was more
 13 appropriate for DEAP. I am not editing these out.
 14 But there was a question that was more appropriate
 15 for when DEAP is -- so I will save that.
 16 And there was another question that's more
 17 appropriate for legal counsel to answer during
 18 Executive Session, not at this -- at this hearing.
 19 So at this point in time, I think we're
 20 going to end our questioning. So I appreciate
 21 absolutely everyone who made the effort and came
 22 forward and spoke, everyone that traveled the
 23 distance to show your support.
 24 I appreciate the effort that was -- that
 25 was put in, and we acknowledge your time and effort

1 BEFORE THE PUBLIC EDUCATION COMMISSION
 2 STATE OF NEW MEXICO
 3
 4
 5 IN RE: NOTICE OF INTENT TO REVOKE THE CHARTER OF
 6 DZIL DITL'OOÍ SCHOOL OF EMPOWERMENT, ACTION AND
 7 PERSEVERANCE
 8
 9
 10 REPORTER'S CERTIFICATE
 11 I, Cynthia C. Chapman, RMR, CCR #219, Certified
 12 Court Reporter in the State of New Mexico, do hereby
 13 certify that the foregoing pages constitute a true
 14 transcript of proceedings had before the said New
 15 Mexico Public Education Commission, held in the State
 16 of New Mexico, County of Santa Fe, in the matter
 17 therein stated.
 18 In testimony whereof, I have hereunto set my
 19 hand on October 23, 2017.
 20
 21
 22 _____
 23 Cynthia C. Chapman, RMR-CRR, NM CCR #219
 24 BEAN & ASSOCIATES, INC.
 25 201 Third Street, NW, Suite 1630
 Albuquerque, New Mexico 87102
 Job No.: 7857L
 Proofed By: KW

1 for this.
 2 And we'll have to have a discussion on day
 3 two. So thank you very much. Safe travels home.
 4 THE CHAIR: Commissioners, can I have a
 5 motion to adjourn?
 6 COMMISSIONER JOHNSTON: So move.
 7 COMMISSIONER RUIZ: Second.
 8 THE CHAIR: Motion by Commissioner
 9 Johnston, a second by Commissioner Ruiz.
 10 All in favor.
 11 (Commissioners so indicate.)
 12 THE CHAIR: No opposed.
 13 (Proceedings in recess at 4:52 p.m.)
 14
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1 RECEIPT
 2 JOB NUMBER: 7857L CC Date: 10/13/17
 3 PROCEEDINGS: PUBLIC HEARING, VOL. 1
 4 CASE CAPTION: IN RE: REVOCATION OF THE CHARTER OF
 5 DEAP CHARTER SCHOOL
 6 *****
 7 ATTORNEY: MS. BEVERLY FRIEDMAN
 8 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 9 DATE DELIVERED: _____ DEL'D BY: _____
 10 REC'D BY: _____ TIME: _____
 11 *****
 12 ATTORNEY:
 13 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 14 DATE DELIVERED: _____ DEL'D BY: _____
 15 REC'D BY: _____ TIME: _____
 16 *****
 17 ATTORNEY:
 18 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 19 DATE DELIVERED: _____ DEL'D BY: _____
 20 REC'D BY: _____ TIME: _____
 21 *****
 22 ATTORNEY:
 23 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 24 DATE DELIVERED: _____ DEL'D BY: _____
 25 REC'D BY: _____ TIME: _____

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