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BEFORE THE PUBLIC EDUCATION COMMISSION  
STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS  
SPECIAL MEETING  
May 22, 2015  
2:00 p.m.  
New Mexico State Capitol - Room 309  
Santa Fe, New Mexico

REPORTED BY: Cynthia C. Chapman, RMR-CRR, NM CCR #219  
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A P P E A R A N C E S

COMMISSIONERS:

MS. CAROLYN SHEARMAN, Chair, Telephonically  
MR. VINCE BERGMAN, Vice Chair  
MR. GILBERT PERALTA, Secretary, Telephonically  
MS. KARYL ANN ARMBRUSTER  
MR. JEFF CARR  
MS. ELEANOR CHAVEZ  
MR. JAMES CONYERS  
MS. PATRICIA GIPSON  
MS. MILLIE POGNA  
MS. CARMIE TOULOUSE, Telephonically

STAFF:

MS. KATIE POULOS, Director, Charter School Division  
MR. JOSHUA GRANATA, Assistant Attorney General,  
Counsel to the PEC  
MS. BEVERLY FRIEDMAN, Custodian of Records and  
PED Liaison to the PEC  
MS. JULIA BARNES, Contract Attorney to the PEC,  
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1 THE CHAIR: Commissioners, by my clock,  
2 it's 2:00. Is everyone ready?

3 COMMISSIONER PERALTA: Yes.

4 THE CHAIR: Then I call to order this  
5 Special Meeting of the New Mexico Public Education  
6 Commission.

7 And I would remind everyone, since some  
8 are attending this meeting by phone, that when you  
9 speak, please be sure you're recognized by the Chair  
10 first and that you identify yourself.

11 The next order of business is roll call.

12 Secretary Peralta, can you hear well  
13 enough to call roll?

14 COMMISSIONER PERALTA: Madam Chair, I can.

15 THE CHAIR: Okay. Please go ahead. And  
16 please ask each respondent to say whether or not  
17 they're at the meeting in person or by phone,  
18 please.

19 COMMISSIONER PERALTA: Okay.

20 Commissioners, you heard the request by  
21 Chair -- Chairwoman Shearman. So as I call your  
22 name, if you would say "in person" or "by phone."

23 Commissioner Pogna?

24 (No response.)

25 Commissioner Carr?

1 MS. FRIEDMAN: Wait a second.  
2 Commissioner Pogna is here.  
3 COMMISSIONER PERALTA: Is she in person?  
4 COMMISSIONER GIPSON: Yes.  
5 COMMISSIONER PERALTA: Thank you.  
6 Commissioner Carr?  
7 COMMISSIONER CARR: Here, in person.  
8 COMMISSIONER PERALTA: Thank you.  
9 Commissioner Conyers?  
10 COMMISSIONER CONYERS: In person.  
11 COMMISSIONER PERALTA: Thank you.  
12 Commissioner Toulouse?  
13 COMMISSIONER TOULOUSE: Present by phone.  
14 COMMISSIONER PERALTA: Thank you.  
15 Commissioner Armbruster?  
16 COMMISSIONER ARMBRUSTER: Here, in person.  
17 COMMISSIONER PERALTA: Thank you.  
18 Commissioner Chavez?  
19 COMMISSIONER CHAVEZ: Here, in person.  
20 COMMISSIONER PERALTA: Thank you.  
21 Commissioner Gipson?  
22 COMMISSIONER GIPSON: Here, in person.  
23 COMMISSIONER PERALTA: Commissioner  
24 Peralta is by phone.  
25 Commissioner Bergman?

1 COMMISSIONER BERGMAN: Here, in person.

2 COMMISSIONER PERALTA: And Commissioner  
3 Shearman?

4 THE CHAIR: By phone.

5 COMMISSIONER PERALTA: Madam Chair, that  
6 is -- all members of the Commission are present.  
7 You have a quorum.

8 THE CHAIR: Thank you, Mr. Secretary. I  
9 do declare that we have a quorum to do business,  
10 with all ten Commissioners present -- in person,  
11 three by phone.

12 Commissioners, if this meets with your  
13 approval, at this point, I'd like to ask  
14 Commissioner-and-Vice Chair Bergman to take over  
15 chairing the meeting. I feel it will be much more  
16 efficient to have the Chair in person for the  
17 meeting.

18 Mr. Bergman, if you would please take  
19 over. Thank you.

20 COMMISSIONER BERGMAN: Thank you,  
21 Madam Chair. We've already gone through the roll  
22 call and the call to order. I would ask -- before I  
23 do that, I would ask that everyone turn off their  
24 cell phone and any other electronic devices that  
25 might disrupt this meeting. Keep them off until

1 we're finished here.

2 All right. Everyone will please stand for  
3 the Pledge of Allegiance. I would ask Commissioner  
4 Gipson to lead that. And the Salute to the  
5 New Mexico Flag, I'd ask Commissioner Armbruster to  
6 lead that.

7 (Pledge of Allegiance and Salute to  
8 the New Mexico Flag.)

9 COMMISSIONER BERGMAN: Thank you. Move to  
10 Item 2 on our agenda, and that would be the Approval  
11 of the Agenda.

12 Does anybody wish to make any changes?  
13 It's actually, at least in items, a fairly short  
14 agenda.

15 Any changes?

16 I would entertain a motion for the  
17 approval of the agenda.

18 COMMISSIONER ARMBRUSTER: I move the  
19 agenda be approved, as presented.

20 COMMISSIONER CARR: I'll second it; but  
21 then I want to ask a question.

22 COMMISSIONER BERGMAN: A motion has been  
23 made and seconded.

24 Mr. Carr?

25 COMMISSIONER CARR: On Item No. 4, it

1 says -- oh, no. It says "Possible Action" on it.

2 Never mind. I'm good. I'm good.

3 COMMISSIONER BERGMAN: All right. Thank  
4 you, Mr. Carr.

5 We have a motion and a second. I believe  
6 I'll do a voice vote on this. All in favor, say  
7 "Aye."

8 (Commissioners so indicate.)

9 COMMISSIONER BERGMAN: That motion carries  
10 unanimously.

11 Turning to Item No. 3 -- and I'm going to  
12 read this as it says on our executive summary.

13 We're now going to go to a Discussion and  
14 Possible Action on the Health Sciences Academy  
15 Revocation Hearing.

16 I will note in your binder that there was  
17 a letter, a memorandum from Mr. Pahl, that started  
18 this process. And also in your binder is a copy of  
19 the Notice of Appeal that Health Sciences Academy  
20 has already filed with the Secretary.

21 I have asked legal counsel whether we can  
22 even do anything, because this appeal has already  
23 been filed; and I have been told that we can.

24 And I will note, for the information of  
25 the Commissioners who may not be aware of it, PED



1 has already approved and assigned Julia Barnes to  
2 serve as our counsel on this appeal. Mr. Granata  
3 will not be working on the actual appeal.

4 And so I would ask Ms. Barnes -- are you  
5 still here?

6 MS. BARNES: I'm over here.

7 COMMISSIONER BERGMAN: Would it be easier  
8 to work from there? I guess you have all your stuff  
9 there.

10 I would ask you to explain to the  
11 Commission and the audience why we are here today  
12 and what your recommendation is.

13 MS. BARNES: Is it easier for me to move  
14 down there?

15 COMMISSIONER BERGMAN: If that's easier  
16 for you. Can everybody hear her --

17 COMMISSIONER CARR: Oh, yeah.

18 COMMISSIONER BERGMAN: -- if she stays  
19 there? On the phone, can you hear?

20 COMMISSIONER TOULOUSE: Can people speak  
21 up?

22 COMMISSIONER CARR: She didn't have her  
23 mic on yet.

24 MS. BARNES: Can you all hear me now, on  
25 the phone?

1 MS. FRIEDMAN: Can you hear Julia on the  
2 phone?

3 THE CHAIR: No, I cannot.

4 COMMISSIONER TOULOUSE: I can barely hear.  
5 This is Carmie. I can barely hear. I can also  
6 barely hear Commissioner Bergman.

7 COMMISSIONER CARR: She'd be really good  
8 right there, because it's right next to the --

9 COMMISSIONER BERGMAN: Beverly, she's  
10 going to set up shop right next to you.

11 MS. FRIEDMAN: Oh, all right.

12 MS. BARNES: Okay. Can you guys hear me  
13 now?

14 THE CHAIR: Yes. This is Carolyn. I can  
15 hear you very well. Thank you.

16 MS. BARNES: Commissioner Peralta?

17 COMMISSIONER PERALTA: I am good. Thank  
18 you.

19 MS. BARNES: Okay. So on this action  
20 item, I am interested in asking the Commission to  
21 reconsider your previous decision on Health Sciences  
22 Academy, and, instead, withdraw that decision and  
23 issue a Notice of Intent to Revoke the Charter.

24 The Notice of Intent to Revoke the  
25 Charter -- I actually have a proposed draft for you,

1 which I might go ahead and pass out. I think  
2 Commissioner Peralta and Commissioner Shearman  
3 already have it. And, actually, I'll go over it for  
4 Commissioner Toulouse.

5 But let me back up for just a moment. The  
6 appeal by the Health Sciences Academy has already  
7 been filed, and much of the information in the  
8 appeal addresses the desire to have a response, to  
9 be able to provide a response to what was presented  
10 to you at your April 17th meeting.

11 At that hearing, there was conversation  
12 about having a hearing. My review of the law, and  
13 also of the contract, is that you will have the  
14 strongest possible appeal if you determine to revoke  
15 after a hearing. I know that that is additional  
16 work; but I want to tell you that my experience  
17 overall, and my recent experience, is that the  
18 district courts and the Secretary want to the make  
19 sure that you have had a sound process that provided  
20 due process for the school.

21 And it appears strong enough to me that I  
22 think that it's important to have a hearing. And  
23 I -- I know that you've talked about it; but I still  
24 want to let you know that it -- I think it's  
25 important.

1           This would mean that you would temporarily  
2 withdraw the revocation; but you would immediately  
3 indicate your intent to revoke the school.

4           This is something that we would issue  
5 immediately; in fact, it's already drafted for Vice  
6 Chair Bergman's signature, since I knew that  
7 Commissioner Shearman would not be here.

8           We've looked at some tentative dates, if  
9 you decide to do that. And I think that it could be  
10 done in a very strong way.

11           I am interested, I think, as all of you  
12 are, in having your decisions be done appropriately,  
13 properly, and also be very strong.

14           So for that reason, I'm asking you all to  
15 consider that. It would be a two-step process. The  
16 first step would be to reconsider the revocation  
17 decision. If you decided to reconsider it, then you  
18 would, I guess, remove it or revoke it, or I don't  
19 know what verb we would use to do that; but to  
20 temporarily remove it.

21           And I think it should be immediately  
22 followed by a motion to issue an intent -- a Notice  
23 of Intent to Revoke the Charter, which would  
24 establish a hearing.

25           I'm going to say one more thing that's

1 just about if you were to hold a hearing. One of  
2 the possible days is the day before your next June  
3 meeting; or else at the end of the day after your  
4 June meeting, you might have to move some things to  
5 the day before.

6 I'm certainly available to answer  
7 questions. We did use this process when TL- -- The  
8 Learning Community was revoked. I was the appeals  
9 attorney on that decision; and I tell you it was  
10 strong and supportable and complied with due  
11 process.

12 Everybody, including, I know, every single  
13 one of you, takes it very seriously when you revoke  
14 a charter. And those are the types of situations  
15 where due process matters a lot.

16 COMMISSIONER BERGMAN: Thank you, Julia.

17 Commissioner Carr?

18 COMMISSIONER CARR: So I just want to  
19 strongly concur with Ms. Barnes that we follow --  
20 actually follow her suggestions to the letter. And  
21 due process is extremely important. We may or  
22 may -- we may or may not come up with the exact same  
23 decision. But, you know, we know that after we've  
24 heard people testify, this Commission has changed  
25 their mind sometimes, you know, when we've heard

1 everything.

2 So it's -- and I -- it's just -- it's  
3 extremely important to me that -- that people feel  
4 like they've received due process and that  
5 everybody's been heard. And I -- and I want to hear  
6 everybody, too.

7 So thank you.

8 COMMISSIONER BERGMAN: Thank you. I will  
9 note that our next meeting is June the 19th. It'll  
10 be a fairly robust meeting. I believe we have at  
11 least eleven additional contracts to go over, and  
12 there might be one or two others by that date that  
13 would be added to that list.

14 The date that Julia has proposed would be  
15 the afternoon of the 18th to hold the hearing. And  
16 I am presuming if we do have that hearing, that that  
17 would also provide HSA the opportunity to perhaps  
18 explain any changes they have made since we did take  
19 our vote; so that would be perhaps an appropriate  
20 venue for that.

21 I think I will start with the folks on the  
22 phone first.

23 Commissioner Shearman, what are your  
24 thoughts?

25 THE CHAIR: Thank you, Commissioner

1 Bergman. This is Commissioner Shearman. I do agree  
2 with the recommendation. I agree with what  
3 Commissioner Carr said. I think certainly we want  
4 to follow not just the spirit of the law, but the  
5 letter of the law. And we certainly don't want to  
6 get overturned on appeal because we missed a step.

7 So if the step is that we hold the  
8 hearing, and we need to go back and rescind our vote  
9 and issue the Notice of Revocation of a charter,  
10 then I agree that's exactly what we need to do.

11 As far as the date, certainly whatever the  
12 majority of the Commissioners choose to do is fine  
13 with me. I think either have it first thing on the  
14 morning of the 18th, or in the afternoon of the 18th  
15 and then allow us all day on the 19th. Or we can  
16 flop it.

17 I understand that the school's attorney,  
18 Mr. Ivey-Soto, is not available on the 18th; but he  
19 has offered to hire another attorney to represent  
20 the school that day. So I think whatever is the  
21 pleasure of the majority of the Commission, I'm  
22 amenable to whatever we choose to do.

23 Or one other option that we have done in  
24 the past is we, say, have started our meeting on the  
25 afternoon of, say, the 18th, have the hearing on the

1 morning of the 19th, because it will be timed -- so  
2 it will be a limited amount of time -- and then  
3 finish any agenda items that we didn't get to on the  
4 18th, finish those on the 19th.

5 So whatever the majority of the  
6 Commissioners wants to do, I'm perfectly agreeable.

7 Thank you.

8 COMMISSIONER BERGMAN: Thank you  
9 Commissioner Shearman.

10 Commissioner Peralta?

11 COMMISSIONER PERALTA: Yes. Thank you,  
12 Acting Chair/Commissioner Bergman. You know, I did  
13 sit on the -- the hearing for the TLC when that was  
14 done, and I strongly feel that we need to be fair in  
15 the process for all schools when it comes to  
16 revocation.

17 I also agree with Commissioner Shearman,  
18 and also the recommendation of Counsel Barnes, that  
19 we should reconsider revocation and move to a Notice  
20 of Intent in order to give the school adequate and  
21 due process before a decision is made.

22 I would suggest -- my feeling would be to  
23 be the afternoon of June 18th to have this hearing  
24 done.

25 Thank you, Commissioner Bergman.



1 COMMISSIONER BERGMAN: Thank you,  
2 Commissioner Peralta.

3 Commissioner Toulouse?

4 COMMISSIONER TOULOUSE: Thank you,  
5 Mr. Chair. This is Carmie Toulouse. I will defer  
6 to the recommendation of our counsel. I don't care  
7 which way we do the appeal; although I would want to  
8 caution that by the time we do it, and then they can  
9 go -- or -- the hearing, they can go for additional  
10 appeal processes, and we're basically allowing the  
11 school to open.

12 COMMISSIONER BERGMAN: Thank you,  
13 Commissioner Toulouse, for that perspective.

14 I guess I'll just start here in the room  
15 and start to my right. Commissioner Gipson?

16 COMMISSIONER GIPSON: I'm in concurrence.  
17 I think in the light of fairness, it's the right  
18 thing to do.

19 COMMISSIONER BERGMAN: Thank you.  
20 Commissioner Conyers?

21 COMMISSIONER CONYERS: I agree.

22 COMMISSIONER BERGMAN: Thank you.  
23 Commissioner Pogna?

24 COMMISSIONER POGNA: (No verbal response.)

25 COMMISSIONER BERGMAN: Commissioner

1 Armbruster?

2 COMMISSIONER ARMBRUSTER: I'm in  
3 agreement, too. I think -- we might just chat  
4 before -- Commissioner Shearman, can you hear me?  
5 You probably can't. Now, can you hear me?

6 MS. BARNES: I can tell her, if you --

7 COMMISSIONER ARMBRUSTER: I just think we  
8 should see how many can come on the 19th, which was  
9 already planned, as opposed to the 18th, so that as  
10 many people as possible are here.

11 MS. BARNES: So just for the people on the  
12 phone, Commissioner Armbruster was just saying that  
13 she would like to have the Commission discuss how  
14 many people can come on the 18th or the 19th is her  
15 concern.

16 COMMISSIONER ARMBRUSTER: But I concur  
17 with the rest.

18 MS. BARNES: But she concurs otherwise.

19 COMMISSIONER BERGMAN: Commissioner  
20 Chavez?

21 COMMISSIONER CHAVEZ: I also concur with  
22 the recommendation. I cannot be here on the 18th.

23 MS. BARNES: Commissioner Chavez just  
24 stated she concurs, but she cannot be here on the  
25 18th.

1 COMMISSIONER BERGMAN: I believe we would  
2 need a quorum, would we not, for a hearing? It's  
3 not mandatory that we all be present; is that  
4 correct?

5 MS. BARNES: Correct.

6 COMMISSIONER BERGMAN: Thank you. And  
7 I'll offer my thoughts.

8 Yes, I agree with the -- that sometimes we  
9 may need to go back and rethink a decision. And now  
10 I believe if -- since everyone seems to have  
11 concurred, let's reserve talking about the dates  
12 till we actually have a process.

13 Now, Commissioner -- or Counselor Barnes,  
14 now you've got to guide us through the process.  
15 What is the first step we have to take?

16 MS. BARNES: I think you need a motion to  
17 reconsider the previous decision to revoke the  
18 charter of the Health Sciences Academy, and instead,  
19 to issue a Notice of Intent, I guess, to rescind the  
20 previous decision.

21 After that vote has been taken, I think  
22 you need to take a vote to issue a Notice of Intent  
23 to Revoke the Charter. And if you have discussion  
24 on that, I can talk about that a little bit.

25 COMMISSIONER BERGMAN: Thank you for that.

1 I think the correct word would be "rescind." So  
2 that needs to be in the motion. Am I correct on  
3 that?

4 MR. GRANATA: (Indicates.)

5 COMMISSIONER BERGMAN: Thank you. Are we  
6 proposed to go forward, then, with a motion, folks  
7 on the phone?

8 COMMISSIONER PERALTA: Yes, go ahead.

9 THE CHAIR: This is Commissioner Shearman.  
10 Yes, I'm ready. As a matter of fact, I would like  
11 to make the motion, unless someone there wants to.

12 COMMISSIONER BERGMAN: Thank you,  
13 Mr. Carr.

14 Commissioner Shearman, if you want to make  
15 the motion, then go ahead, please.

16 THE CHAIR: Thank you very much. I move  
17 that the Public Education Commission rescind its  
18 vote regarding Health Sciences Academy that was  
19 taken during the April PEC meeting.

20 Can I -- let me just ask Julia. Can I  
21 make this a combined motion, where we also talk  
22 about issuing the Notice of Rev- -- the Notice of  
23 Intent to Revoke?

24 MS. BARNES: Let's just do it in two  
25 motions.

1 THE CHAIR: All right. Then my motion  
2 states that we rescind the Commission's vote on the  
3 Health Sciences Academy that was taken during the  
4 April 2015 meeting.

5 COMMISSIONER BERGMAN: Thank you,  
6 Commissioner Shearman.

7 Is that motion adequate the way it was  
8 worded, do you believe?

9 Both attorneys are shaking their heads  
10 "yes." That doesn't record well; but they're  
11 shaking their heads "yes."

12 Do we have a second?

13 COMMISSIONER CARR: Second.

14 COMMISSIONER BERGMAN: Commissioner Carr  
15 has seconded.

16 We have a motion before the Commission  
17 from Commissioner Shearman to rescind the revocation  
18 of HSA, the vote that was taken previously. We have  
19 a second by Commissioner Carr.

20 Is there any further discussion?

21 Commissioner Peralta, then I would ask for  
22 a roll-call vote, please. And everyone speak up as  
23 you vote, please.

24 COMMISSIONER PERALTA: Commissioner  
25 Gipson?

1 COMMISSIONER GIPSON: Yes.

2 COMMISSIONER PERALTA: Commissioner

3 Chavez?

4 COMMISSIONER CHAVEZ: Yes.

5 COMMISSIONER PERALTA: Commissioner

6 Armbruster?

7 COMMISSIONER ARMBRUSTER: Yes.

8 COMMISSIONER PERALTA: Commissioner

9 Toulouse?

10 COMMISSIONER TOULOUSE: Yes.

11 COMMISSIONER PERALTA: Commissioner

12 Conyers?

13 COMMISSIONER CONYERS: Yes.

14 COMMISSIONER PERALTA: Commissioner Carr?

15 COMMISSIONER CARR: Yes.

16 COMMISSIONER PERALTA: Commissioner Pogna?

17 COMMISSIONER POGNA: Yes.

18 COMMISSIONER PERALTA: Commissioner

19 Peralta votes "Yes."

20 Commissioner Shearman?

21 THE CHAIR: Yes.

22 COMMISSIONER PERALTA: And Commissioner

23 Bergman?

24 COMMISSIONER BERGMAN: Yes.

25 COMMISSIONER PERALTA: Mr. Chair, that is

1 a 10-to-0 vote in favor of the motion.

2 COMMISSIONER BERGMAN: Thank you,  
3 Mr. Peralta. That is a 10-to-0 vote in favor of  
4 that motion. We therefore have rescinded our  
5 previous action.

6 Now, according to our counsel, I believe  
7 we need a second motion. Would you kind of word  
8 that for us, Julia?

9 MS. BARNES: Yes. I think you need a  
10 motion to issue a Notice of Intent to Revoke the  
11 Charter, and to set the date -- and to hold a  
12 hearing in the matter.

13 COMMISSIONER BERGMAN: Thank you.

14 COMMISSIONER CARR: Question, then.

15 COMMISSIONER BERGMAN: Question, Mr. Carr?

16 COMMISSIONER CARR: Is -- should we not  
17 also officially give them notice that we've changed  
18 our vote?

19 MS. BARNES: Yes. And the -- actually, I  
20 can discuss the Notice of Intent to Revoke the  
21 Charter and what's in it right now, or if you want  
22 me to do that right now.

23 COMMISSIONER BERGMAN: Actually, why don't  
24 we do that? Actually, why don't we take just a  
25 couple of minutes. I don't know if the folks on the

1 phone have a copy. Has everyone -- let's take just  
2 a moment and read this Notice of Intent, if you  
3 don't mind, Commissioners.

4 MS. BARNES: And then Commissioner  
5 Toulouse is the only one who doesn't have a copy; so  
6 I'm going to go over it in some detail so she  
7 understands that.

8 Katie, is it possible -- are you online?

9 MS. POULOS: I am.

10 MS. BARNES: Is it possible -- I don't  
11 think you have this yet.

12 MS. POULOS: I don't have this.

13 MS. BARNES: I didn't send this to you  
14 because you're a party is the reason I didn't send  
15 it to CSD. You're going to have it. I'm going to  
16 talk about CSD in a minute.

17 Commissioner Toulouse, I'm just going to  
18 go over it in detail with you. Is that acceptable  
19 to you?

20 COMMISSIONER TOULOUSE: Mr. Chair, this is  
21 Commissioner Toulouse. I don't think I need it in  
22 detail, if you'll just e-mail it to me later. I  
23 understand what those kinds of notices need to say.

24 MS. BARNES: Okay. Thank you. I didn't  
25 realize you were going to be on the phone.



1                   COMMISSIONER BERGMAN: That's fine. Thank  
2 you.

3                   Thank you, Commissioner Toulouse.

4                   Just a couple of minutes for us to read  
5 it, and we'll be right back with you.

6                   While everyone is finishing up, I might  
7 note that it's a fairly standard legal document. It  
8 does allow for testimony from HSA and their counsel  
9 and their staff to answer any questions they may  
10 wish to answer. It also notes that the public will  
11 be allowed to make a statement at the hearing, and  
12 that will be limited to no more than five minutes  
13 per person.

14                  Other than that, I believe it's a fairly  
15 standard document. It does note, at the end, that  
16 the PEC intends to issue a verbal decision on the  
17 date of the hearing, which will be confirmed by a  
18 written decision immediately thereafter.

19                  So whatever date we select, we will make  
20 our initial decision on that date after hearing all  
21 the testimony from interested parties. And, of  
22 course, this decision will also be subject to the  
23 right of appeal for HSA, if they don't like what  
24 they hear that day.

25                  MS. BARNES: If I can explain a few

1 points?

2 COMMISSIONER BERGMAN: Go ahead.

3 MS. BARNES: So this -- you actually could  
4 change it. So the first paragraph does just set out  
5 what you've -- the procedural history up to now. It  
6 is my understanding, if this Notice of Intent does  
7 issue and there is a hearing, that the counsel for  
8 HSA and I will stay the appeal, I think, and see  
9 what happens after that.

10 Actually, he may remove that appeal and  
11 then file another appeal after the hearing is what  
12 we might do. I think he's nodding "yes."

13 I want to talk a little bit about the  
14 scope. And actually, CSD, I do want to -- Katie  
15 Poulos, I would like to specifically identify this  
16 for you.

17 I think it's important to know what the  
18 scope of the hearing is. The scope of the hearing  
19 at present is going to be set by those minutes of  
20 your April 17th hearing, those issues that were  
21 raised, particularly and in specifically in that  
22 memo from Matt Pahl, which was also read into the  
23 transcript; so that transcript is complete. It  
24 does -- the violations that are listed here were the  
25 ones that were presented to you that day.

1           And we've just noted the legal authority  
2 for that information you received that day to have  
3 warranted immediate revocation, and that it's at  
4 least possible to me that there may -- it may give  
5 rise to other violations of the law. So just put  
6 that sentence in here.

7           But I did want to give -- and this does  
8 give -- again, it's in draft -- it does give the  
9 New Mexico Public Education Department, through any  
10 division, the ability to identify any other issues  
11 for revocation that they may choose to present.

12           You have, Katie, until May 27th. If you  
13 do that, if you have other issues -- it's 3B on the  
14 document -- if you have other issues that you would  
15 like to add or that any other division from PED  
16 would like to add, you need to present those in  
17 writing.

18           If we receive more issues, they will be  
19 added to the scope of the hearing. If we do not  
20 receive any more issues, then we're going -- then  
21 the hearing will be limited to the scope of what was  
22 presented to you on April 17th, and the school will  
23 have an opportunity to respond to what was presented  
24 on April 17th. And if any other additional issues  
25 are added by anyone at PED by next -- I think it's

1 next Wednesday.

2 We will identify the time limit -- the  
3 time for the presentation. We'd initially talked  
4 about setting possibly a two-hour hearing. I think  
5 that Mr. Ivey-Soto would like to request that it's a  
6 little bit longer. So I would like to discuss that  
7 with him and probably the executive committee and  
8 then issue that.

9 But I'm thinking three is still plenty.  
10 There is an opportunity for the public, which is  
11 very -- it's consistent with what happened at the  
12 TLC hearing. And that will be limited to five  
13 minutes per person. We will stick to that. I don't  
14 know how many people would like to present, you  
15 know, public information that day; but I think that  
16 it's important to have a short opportunity for  
17 people to do that.

18 And then it is not required that you issue  
19 a verbal decision that day. You did that in the TLC  
20 hearing, and I thought that was a very efficient way  
21 to do it; but it's a proposal that you could change.

22 So that's just what I wanted to explain.

23 COMMISSIONER CARR: In your talk, you  
24 brought up a question. It sounds like you were  
25 alluding to discovery, as in the court process, for

1 the PED to present anything new. Do we not also  
2 want to ask for anything -- any new evidence that's  
3 going to be brought forward by the other side to be  
4 brought forth by the 27th so that we can look at it?

5 MS. BARNES: Typically, you -- you are  
6 just presented with the testimony and the witnesses  
7 at the date of the hearing. So typically, there  
8 hasn't been information that's been presented to you  
9 beforehand; so the hearing is the time.

10 I'm more interested in -- and I don't  
11 really want to put Katie on the spot. I did want to  
12 give her some time to think about if there were  
13 other issues.

14 There -- if you're going to revoke, in my  
15 view, if there are more things -- items of concern,  
16 you should hear those then, as well. I actually  
17 don't think there's much. But I'm not -- I'm still  
18 going to give her that opportunity to present that.

19 And what we need to do is give notice to  
20 Mr. Ivey-Soto and his client, so they can be ready  
21 to respond to anything. So I'm more trying to set  
22 the scope of the hearing.

23 COMMISSIONER CARR: Okay. So I have a  
24 follow-up question to that, then, is if -- if  
25 something new comes to light that is of significant

1 bearing on this hearing that comes up a week before,  
2 or even the day before, is that something we won't  
3 be able to hear?

4 MS. BARNES: I think the purpose of  
5 establishing the scope of the hearing is fairness to  
6 the party.

7 COMMISSIONER CARR: Right.

8 MS. BARNES: So if something does come up,  
9 and it's very serious, I think we're going to have  
10 to talk to the school and say, "This has come up.  
11 What are we going to do about it?"

12 That, to me, would mean maybe pushing it  
13 past that date of the 18th or something.

14 Please don't have any more issues.

15 COMMISSIONER CARR: He's an attorney; he's  
16 going to have issues.

17 MS. BARNES: So I think if something very  
18 serious came up and it was important for this  
19 Commission to hear, then I think we would have to  
20 address it, and I think we would probably address it  
21 with adequate time.

22 COMMISSIONER BERGMAN: Thank you.  
23 Commissioners I would just like to say, please, if  
24 you wish to make some comments, please indicate to  
25 the Chair that you'd like to make the comments, and

1 I will acknowledge you at that time.

2 Commissioner Armbruster?

3 COMMISSIONER ARMBRUSTER: Thank you. I  
4 just had a question regarding time. And I'm not  
5 trying to limit it; I'm just trying to understand  
6 it.

7 So you're saying it's about three hours  
8 for -- is this from beginning to end here, on the  
9 bottom paragraph, on Page 2, about giving testimony  
10 and evidence and public comment?

11 MS. BARNES: Yes. In addition-- -- I  
12 initially established each side having about  
13 10 minutes to do an opening statement; so that's 20  
14 minutes. 40 minutes for each side to present what  
15 they needed to present. And 10 minutes for closing.  
16 That made a two-hour hearing.

17 Mr. Ivey-Soto indicated to me he thought  
18 that he might want a little bit more time; so we  
19 would expand it, but have it be very set. My  
20 initial conversations with Charter Schools Division  
21 is that two hours maybe was enough; but, you know,  
22 we don't need -- I don't think we need an all-day  
23 hearing.

24 COMMISSIONER ARMBRUSTER: Well, that was  
25 my concern. I think it's touching and moving, and

1 if I were in the school, I would want to make a  
2 comment. But it's not always helpful to us, because  
3 we've had several who have already expressed, with  
4 deep concern and very heartwarming comments, about  
5 their feeling about the school. But I don't want to  
6 hear 50 more.

7 MS. BARNES: Right; so...

8 COMMISSIONER ARMBRUSTER: So that's why I  
9 was asking about that time.

10 MS. BARNES: I'm sorry.

11 COMMISSIONER BERGMAN: For the benefit of  
12 Commissioner Armbruster and the other new  
13 Commissioners, we do limit the comments. If there's  
14 a large group of people present, we ask that they  
15 select a spokesperson if they're all going to say  
16 the same thing. So, yes, we agree that it would be  
17 time-consuming to have 50 or 100 people all up to a  
18 microphone and speak and say the same thing.

19 COMMISSIONER ARMBRUSTER: Yes.

20 COMMISSIONER BERGMAN: So, yes, that  
21 announcement will certainly be made before we get to  
22 those public comments. That has always been our  
23 procedure. Julia?

24 MS. BARNES: And the parties are limited  
25 to the scope of the hearing; so whatever is relevant



1 to that.

2 COMMISSIONER BERGMAN: Anyone else wish to  
3 comment or ask a question?

4 All right, then, I guess we're ready --  
5 are we ready to proceed? Seems to be a consensus --  
6 am I correct? -- that we now are ready to issue this  
7 Notice of Intent? Julia?

8 MS. BARNES: So I would think there's two  
9 things. One is, do you want to issue the Notice of  
10 Intent to Revoke the Charter, and then does anyone  
11 have any changes to the draft that I have proposed?

12 COMMISSIONER BERGMAN: Here, again, I'll  
13 start with the folks on the phone.

14 Commissioner Shearman?

15 THE CHAIR: Certainly, I agree with the  
16 issue that's being discussed. I think it needs to  
17 be -- the notice needs to be issued, and the hearing  
18 needs to be set; but I will defer to someone else to  
19 make that motion.

20 COMMISSIONER BERGMAN: Commissioner  
21 Peralta?

22 COMMISSIONER PERALTA: Same here,  
23 Mr. Chair. The Notice of Intent that Julia had  
24 forwarded to me looks very -- very well put; so I'm  
25 okay with that.

1 COMMISSIONER BERGMAN: Thank you.

2 Commissioner Toulouse?

3 COMMISSIONER TOULOUSE: Mr. Chair, I'm  
4 really comfortable with what's been discussed, and I  
5 support and approve the notice, as Julia is  
6 recommending.

7 COMMISSIONER BERGMAN: Thank you,  
8 Commissioner Toulouse.

9 Everyone here that's present in the  
10 building, are you in agreement with going forward  
11 with the Notice of Intent? Do any of you wish to  
12 change the document that Julia has put forward?

13 I see no one that wants to change your  
14 documents, or -- your document looks fine. Then I  
15 guess we need a motion to issue the -- I want to  
16 word it -- the Notice of Intent to Revoke the  
17 Charter for the Health Sciences Academy and to hold  
18 a public hearing. So who would --

19 MS. BARNES: The one blank in the form is  
20 the date of the hearing. So you might want --

21 COMMISSIONER BERGMAN: Do we need to do  
22 the date first, so we can put it in the motion?

23 MS. BARNES: I would. And then the  
24 document is finished.

25 COMMISSIONER BERGMAN: All right. Well,

1 we've discussed having the hearing on the 18th.

2 We initially discussed having it on the  
3 afternoon of the 18th. And if there is a three-hour  
4 time limit, then that -- having it on the afternoon  
5 of the 18th should be sufficient. That would allow  
6 the out-of-town Commissioners the morning to drive  
7 up and save PED and DFA, and everybody else, one  
8 hotel night.

9 So I -- as an out-of-towner myself, I  
10 would kind of lean towards that one. But any  
11 thoughts on that? Are -- is everyone on the  
12 Commission comfortable with a hearing on the  
13 afternoon of the 18th?

14 COMMISSIONER CHAVEZ: I can't be here.

15 COMMISSIONER BERGMAN: I understand  
16 Commissioner Chavez cannot be here on that.

17 Can everyone else be here on the afternoon  
18 of the 18th?

19 COMMISSIONER GIPSON: We did have a work  
20 session scheduled for that afternoon.

21 COMMISSIONER BERGMAN: If we did, we will  
22 cancel it then.

23 COMMISSIONER GIPSON: Yeah.

24 COMMISSIONER BERGMAN: Because  
25 Commissioner Shearman and I didn't remember that,

1       apparently, yeah.

2                   So then that would be -- then that would  
3       be my suggestion, that we have the hearing on the  
4       afternoon of the 18th. I know that will  
5       inconvenience Mr. Ivey-Soto a little bit; but -- and  
6       that we schedule it for 1:00 p.m.

7                   And I assume Julia will work with CSD to  
8       put us in a proper room to hold such a hearing, with  
9       adequate facilities for the public to attend and  
10      everything else.

11                   Is that satisfactory to everybody on the  
12      phone?

13                   THE CHAIR: Yes.

14                   COMMISSIONER PERALTA: That's good by me,  
15      Mr. Chair. This is Commissioner Peralta.

16                   COMMISSIONER BERGMAN: Thank you. All  
17      right.

18                   Who would like to word such a motion?

19                   COMMISSIONER CARR: I'll make the motion.

20                   COMMISSIONER BERGMAN: Commissioner Carr  
21      will make the motion. Thank you.

22                   COMMISSIONER CARR: Since I'm  
23      volunteering, don't be too hard on me if I mess up.

24                   I make a motion that we send out a Notice  
25      of Intent to Revoke the Charter for Health Sciences

1 Academy, and hold a hearing on said revocation on  
2 June 18th from 1:00 p.m. to 4:00 p.m., adding a  
3 location to be determined later.

4 COMMISSIONER POGNA: I second.

5 COMMISSIONER BERGMAN: A motion from  
6 Commissioner Carr. Most of you probably did not  
7 hear it on the phone; but I have a second from  
8 Commissioner Pogna.

9 Is there any further discussion?

10 THE CHAIR: Mr. Chairman, this is  
11 Commissioner Shearman. Would you repeat the motion  
12 so we can all be absolutely sure what was said?

13 (The record was read as requested.)

14 THE CHAIR: This is Commissioner Shearman.  
15 Again, what if the meeting goes long? Will we  
16 violate our own motion? Because if the Commission  
17 decides, as we did at the TLC hearing, to then have  
18 an open meeting with discussion and vote on whether  
19 or not to revoke after the hearing is over, and the  
20 motion is set from 1:00 to 4:00, if we need to go  
21 longer than that, will we be able to?

22 COMMISSIONER BERGMAN: Commissioner  
23 Shearman, thank for you that question. I believe it  
24 was our counsel, Julia Barnes, that said it would be  
25 a limited time thing. But I would certainly be

1 amenable to leave off the 4:00 part and leave us  
2 time to go over.

3 Would everyone be in agreement with that?

4 COMMISSIONER CARR: I'll amend my motion  
5 to start the hearing at 1:00 p.m., with no ending  
6 time.

7 MS. BARNES: Beverly has just indicated  
8 she thinks Mabry Hall is available.

9 COMMISSIONER BERGMAN: Outstanding.  
10 Commissioner Pogna, will you also agree to that  
11 amendment, as seconder?

12 COMMISSIONER POGNA: Yes, I would.

13 COMMISSIONER BERGMAN: Commissioner Pogna  
14 has re-seconded that change in the original motion.  
15 Any further discussion?

16 Then I believe we are ready for a vote.

17 Commissioner Peralta, please.

18 COMMISSIONER PERALTA: Thank you,  
19 Mr. Chair.

20 Okay. Commissioner Chavez?

21 COMMISSIONER CHAVEZ: Yes.

22 COMMISSIONER PERALTA: Commissioner  
23 Armbruster?

24 COMMISSIONER ARMBRUSTER: Yes.

25 COMMISSIONER PERALTA: Commissioner Pogna?

1 COMMISSIONER POGNA: Yes.

2 COMMISSIONER PERALTA: Commissioner Carr?

3 COMMISSIONER CARR: Yes.

4 COMMISSIONER PERALTA: Commissioner

5 Conyers?

6 COMMISSIONER CONYERS: Yes.

7 COMMISSIONER PERALTA: Commissioner

8 Toulouse?

9 COMMISSIONER TOULOUSE: Yes.

10 COMMISSIONER PERALTA: Commissioner

11 Gipson?

12 COMMISSIONER GIPSON: Yes.

13 COMMISSIONER PERALTA: Commissioner

14 Shearman?

15 THE CHAIR: Yes.

16 COMMISSIONER PERALTA: Commissioner

17 Bergman?

18 COMMISSIONER BERGMAN: Yes.

19 COMMISSIONER PERALTA: And Commissioner

20 Peralta votes "Yes."

21 Mr. Chair, that is a 10-to-0 vote in favor

22 of the motion.

23 COMMISSIONER BERGMAN: Thank you,

24 Commissioner Peralta. That is a -- the motion is

25 affirmed by a 10-to-0 vote. This Commission has

1 rescinded its original revocation process and has  
2 now voted to issue a Notice of Intent to Revoke the  
3 Charter of HSA, and we have scheduled a hearing on  
4 that revocation for the afternoon of June the 18th;  
5 and that hearing will begin at 1:00 p.m., and, at  
6 least tentatively, is scheduled to be held in Mabry  
7 Hall in the Education Building.

8           Should that not prove to be possible, then  
9 everyone will, of course, be informed of where the  
10 new hearing might be. I hope it's in Mabry Hall.

11           Any further discussion? Are you -- are we  
12 finished, Julia?

13           MS. BARNES: Yes. I was actually going to  
14 have you sign them right now, and I'll hand them to  
15 Mr. Ivey-Soto and to Katie Poulos.

16           COMMISSIONER BERGMAN: Why don't we take a  
17 very brief, five-minute comfort break, then?

18           (Recess taken, 2:43 p.m. to 2:48 p.m.)

19           COMMISSIONER BERGMAN: I'll call this  
20 special meeting of the New Mexico Public Education  
21 Commission back into session. We just took a short  
22 break.

23           The next item in our agenda is Item 4.  
24 And I am going to go ahead and approach this in the  
25 order in which they're listed on the agenda.



1           So the first school is La Promesa Early  
2 Learning Center. If a couple of you would come to  
3 the table, please?

4           COMMISSIONER TOULOUSE: Mr. Chair, this  
5 is -- Mr. Chair, this is Commissioner Toulouse. And  
6 I'm going to recuse myself from this item.

7           COMMISSIONER BERGMAN: Thank you,  
8 Commissioner Toulouse. So noted.

9           Just for a quick refresher for everyone  
10 that may not remember -- it's been an entire week  
11 now. One week ago today, this Commission, in split  
12 votes, voted not to accept the performance  
13 framework, as originally negotiated, between the  
14 Public Education Commission and La Promesa Early  
15 Learning Center.

16           I believe that vote was 4 to 3, if my  
17 memory serves me correctly. We have two  
18 Commissioners here today who were not here then,  
19 Commissioner Carr and Commissioner Pogna. They are  
20 here today.

21           Commissioner Toulouse, as you've heard,  
22 has recused herself again. She recused herself a  
23 week ago.

24           It was brought to our attention very  
25 shortly after that meeting that both schools, at

1 that point, had chosen not to go forward with their  
2 allowed appeal and asked -- I'm not sure who they  
3 asked. I don't know if they approached the Charter  
4 School Division, or if they approached --

5 MS. BARNES: (Indicates.)

6 COMMISSIONER BERGMAN: And I believe the  
7 question was, "What can we do to perhaps change  
8 this?"

9 And I was not a party to those  
10 discussions. It's my understanding that it was  
11 suggested to the schools that perhaps their course  
12 of action would be that they go back to their  
13 governing councils and see if their governing  
14 council wanted to change the academic performance  
15 indicators in their performance frameworks; because  
16 I believe, without talking to my fellow  
17 Commissioners, that seemed to be the concern,  
18 especially of those four Commissioners who voted  
19 against it, were that the numbers that we negotiated  
20 were too low.

21 Now, it's my understanding that La Promesa  
22 has not chosen to do that. But I will now turn it  
23 over to La Promesa to tell us what they would like  
24 to do.

25 Please identify yourselves for the

1 recorder, and then go ahead.

2 MS. MATTHEWS: Good afternoon, members of  
3 the Commission and Mr. Chair. My name is Patricia  
4 Matthews. I'm of the firm Matthews Fox, and I'm  
5 here on behalf of La Promesa.

6 THE CHAIR: This is Commissioner Shearman.  
7 I cannot hear.

8 MS. MATTHEWS: I'm speaking pretty loudly.  
9 Are the microphones not working?

10 COMMISSIONER BERGMAN: We're doing "New  
11 Frontier" items. We've never done a session with  
12 people on the phone before; so as with a lot of  
13 things, we're learning as we go.

14 MS. MATTHEWS: Can you tell hear me now,  
15 Mrs. Shearman?

16 THE CHAIR: Yes, I can. Thank you.

17 MS. MATTHEWS: I can hear you, as well.

18 Again, my name is Patricia Matthews;  
19 again, I'm the attorney for La Promesa from the  
20 Matthews Fox Law Firm.

21 I want to get some clarification. I don't  
22 know if we know why we're here today or what the  
23 intent of the Commission is. I would like to  
24 clarify, for the Commissioners' benefit, that, in  
25 fact, the charter school did not waive the right to

1 appeal, and we filed an appeal, as of Wednesday,  
2 asking the Secretary, under the provisions of  
3 22-8B-9A, to finalize the contract.

4 And our request in our appeal was that she  
5 finalize the contract with the performance  
6 frameworks, as finally negotiated with the  
7 subcommittee of the charter school -- of the Public  
8 Education Commission.

9 So that is pending before the Secretary;  
10 so I don't know if that changes, Mr. Bergman, what  
11 you would like to hear from us today or not.

12 COMMISSIONER BERGMAN: Thank you for  
13 telling me that, because I, of course, did not know  
14 that. Mr. Granata, does that take care of it? Are  
15 we through with -- if --

16 MR. GRANATA: Well, it's really up to the  
17 Commission, if they decide they want to -- well, I  
18 guess, Ms. Matthews, the school doesn't have  
19 anything further to offer, other than what was  
20 negotiated with the subcommittee; is that correct?

21 MS. MATTHEWS: Mr. Granata, members of the  
22 Commission, the problem -- and I think that  
23 La Promesa and South Valley are effectively two  
24 different questions here. When I -- I did get a  
25 copy of the transcript. Thank you, Mrs. Chapman,

1 for getting that prepared very quickly for me to  
2 review that.

3 When I did -- because, unfortunately, I  
4 was not here, did not anticipate -- and, certainly,  
5 my client did not anticipate -- that the  
6 subcommittee's recommendation would be rejected. So  
7 when it was rejected, what I was looking for in the  
8 record was some sort of proposal or counterproposal  
9 by the Commission. And I think this is where the  
10 process has broken down.

11 If you will recall, in the statute, what  
12 it says is that the Commission negotiates the  
13 contract; not a subcommittee of the Commission.

14 Now, I understand logistically the  
15 problems with that. But either the Commission comes  
16 to a decision that they're going to delegate the  
17 authority to bind itself as to the goals that are  
18 presented to the Commission, or the Commission has  
19 to then either take it as a recommendation and then  
20 further negotiate.

21 If you look at the transcript of those  
22 proceedings, very clearly, Mrs. Shearman states on  
23 the record, "We will not further negotiate."

24 So what it did was leave the school with  
25 goals that were agreed to by it and the subcommittee

1 with no counterproposal.

2 So when they took it back -- they did meet  
3 with their governing body to discuss what had  
4 happened. But when they took it back, the governing  
5 body was at a loss. They had no indication from the  
6 Commissioners, as a whole, as to what they were  
7 supposed to do, or what -- what any expectations for  
8 a counterproposal would look like.

9 So it was sort of an act of futility to go  
10 back and say, "Well, let's just guess what we might  
11 propose to the Commission."

12 And so, Mr. Bergman and Ms. Armbruster, we  
13 negotiated very long and hard that morning. And I  
14 do want to make a point to the Commission, and as a  
15 whole, this charter was approved with goals and with  
16 measures for -- that were acceptable for  
17 accomplishing those goals. It was approved that  
18 way, and for -- the subcommittee took that to heart.  
19 The goals were negotiated -- or negotiated with  
20 data, based on data the school presented.

21 In fact, the application itself says that  
22 if you're a renewing charter, that what you are  
23 supposed to do is present goals and measures for  
24 those goals based on prior history and data of the  
25 school, which is exactly what La Promesa did and

1 what the Commission approved back in December.

2 So what we were negotiating were tweaking  
3 those goals, getting them into numbers that you all  
4 would agree to measure -- or you agreed to, at least  
5 with some rigorousness that you felt comfortable  
6 with. But now we're at a loss at this point as to  
7 what the Commission, as a whole, is willing to  
8 accept.

9 And so it's not as if we -- back to  
10 Mr. Granata's point, we didn't intend to come here  
11 and say we weren't willing to further negotiate; but  
12 the concern is we didn't know what to negotiate.

13 And I would like to include Mrs. Poulos on  
14 this, because I think she has some suggestions as  
15 far as how to proceed with recommending goals going  
16 forward, or not; is that correct?

17 MS. POULOS: You know, I think --

18 COMMISSIONER BERGMAN: I don't believe  
19 this is the forum to have that discussion.

20 MS. MATTHEWS: I'm sorry, Mr. Bergman.  
21 I'll just stop the comments there.

22 COMMISSIONER BERGMAN: First, I'll say  
23 thank you for your comments. I respectfully  
24 disagree with some of your comments, of course. You  
25 and I have actually had that discussion. The group

1 that shows up to negotiate these contracts does not  
2 have any power to bind any other Commissioners on  
3 accepting those negotiations.

4 It is a face-to-face, good-faith effort to  
5 arrive at something that will then be presented to  
6 the whole Commission, and they will then decide; and  
7 so there's no guarantee that the Commission will go  
8 forward.

9 I was involved in that negotiation. And I  
10 told you at the time that those goals were low. I  
11 told you that it would be a very difficult job to  
12 sell the Commission on -- you may certainly remember  
13 that -- and that I would do my very best, which is  
14 what I did.

15 And -- however, the Commissioners that  
16 were present that day chose -- at least four of  
17 them -- chose not to follow my recommendation. And  
18 you're right. You are -- this was the first one  
19 that had been rejected, and there's been another one  
20 since, of course.

21 I'm not sure -- I kind of agree with you  
22 on that. Since you filed your appeal, I believe we  
23 probably have reached a point where you need to just  
24 go forward with your appeal.

25 I -- and you're right. No process is



1 perfect, Ms. Matthews. No law coming out of the  
2 Legislature is perfect. There's always unintended  
3 side effects and everything. But I stand by the  
4 efforts that I've made on these negotiations. And I  
5 believe they were -- they were in good faith.

6 And as you said, we must have spent two  
7 hours working on those indicators all by themselves  
8 trying to arrive --

9 MS. MATTHEWS: With all due respect,  
10 Mr. Bergman, I did not mean, at all, criticism to  
11 you or to Ms. Armbruster at the meeting. My point  
12 is that you make the recommendation; but from those  
13 recommendations, if the Commission decided, as a  
14 whole, to reject them, then it is incumbent on the  
15 Commission, as a whole, to continue to negotiate or  
16 at least make a counterproposal; otherwise, the law  
17 hasn't been complied with.

18 The law says the Commission negotiates.  
19 If you don't have the authority delegated, then the  
20 Commission must negotiate. And that is my point.  
21 It has no disrespect on you or any of the  
22 Commissioners that voted that day. But my concern  
23 is that the law contemplates the body negotiating;  
24 and either the recommendations are put to the side  
25 and then you have further discussions with the

1 school about what is acceptable, and then if we  
2 can't meet them, we have an impasse -- got it.

3 But what happened that day was, "We reject  
4 the recommendations of the subcommittee; we're not  
5 talking further."

6 And that's the concern.

7 COMMISSIONER BERGMAN: Okay. Thank you  
8 for those comments. Mr. Granata, did you have  
9 something to say?

10 MR. GRANATA: Yes, Commissioner Bergman  
11 and Commissioners. I want to point out that the  
12 Charter School Act does not require the PEC --

13 THE CHAIR: I'm sorry. I cannot hear.

14 COMMISSIONER CARR: Move the microphone is  
15 closer to you.

16 MR. GRANATA: Can you hear me, Chairman --  
17 or Chairwoman? Can you hear me now?

18 THE CHAIR: Yes, I can. Thank you.

19 MR. GRANATA: Okay. I just want to point  
20 out that the Charter School Act doesn't require the  
21 PEC to negotiate. It requires that -- Section  
22 22-8B-9 states that, "The chartering authority shall  
23 enter into a contract with the governing body of the  
24 applicant charter school."

25 And so it doesn't require negotiations.

1 Obviously, it contemplates negotiations; but I  
2 differ with Ms. Matthews' interpretation of the law.

3 MS. MATTHEWS: Mr. Granata, I refer you to  
4 5.3. It very clearly states that the Commission is  
5 required to negotiate in good faith.

6 MS. BARNES: You're going to have to  
7 repeat that on the phone.

8 MS. MATTHEWS: If you look at Subsection  
9 8, "Chartering authority shall negotiate and  
10 execute, in good faith, charter contracts that meet  
11 the requirements of the Charter Schools Act with  
12 each approved charter."

13 MR. GRANATA: Okay. So there are two  
14 sections of the law which kind of differ; but,  
15 Ms. Matthews is correct, in that 5.3 does require  
16 the PEC to negotiate; so there we are.

17 COMMISSIONER BERGMAN: But even that says  
18 "negotiate and execute." There's an "and" in there  
19 between those two words. I'm not sure -- I guess if  
20 there -- if I have a question, even though you filed  
21 your appeal, I'm not saying we would renegotiate.

22 Do you have -- and what would be the  
23 purpose of renegotiation? You were very firm that  
24 you weren't going to raise the indicators any  
25 higher. And to me, if we were to renegotiate, that

1 would be the only function that we would be  
2 renegotiating about would be raising the indicators  
3 to satisfy the Commissioners that thought they were  
4 too low.

5 Your thoughts on that, Ms. Matthews?

6 MS. MATTHEWS: Mr. Bergman, I'm going to  
7 let Dr. Maestas respond, because I think it's up to  
8 her to make a decision about whether or not they can  
9 accept higher measures.

10 THE CHAIR: I'm sorry. I cannot hear.  
11 Something is squealing.

12 DR. MAESTAS: This is Analee Maestas. And  
13 I -- Commissioner Bergman and members of the  
14 Commission, when we came to negotiate, we did look  
15 at our data. We looked at all of the information  
16 from all of the assessments that we had. We did  
17 come to you in good faith, based on both the  
18 approved Program Improvement Plan, which indicated  
19 that's exactly what we would do; we would take all  
20 of our data and design our goals based around  
21 those -- that information.

22 We did negotiate with you. We did feel  
23 that that was a pretty rigorous goal that -- that  
24 you had recommended to us.

25 What I would say is that we would be

1 willing to negotiate over a period of time, and in  
2 my conversation prior to the Commission meeting with  
3 Katie, that that might be a possibility in terms of  
4 how we move forward.

5 I don't think that we could meet those  
6 goals in one year, based on the population that we  
7 do serve.

8 As I indicated before, we do need the  
9 AMOA 1 and 2, which means that they do gain English  
10 Language Proficiency and basic intercommunication  
11 skills. But academic language takes much longer.  
12 And so if we were able to negotiate over a period of  
13 time, then reaching those goals, I would say, yes,  
14 we would be able to do that. And we would be  
15 willing to look at that on a yearly basis.

16 But I do feel, based on the population  
17 that we serve, we have to give them sufficient time  
18 to learn that academic language in order for them to  
19 perform at that last academic level.

20 COMMISSIONER BERGMAN: Thank you for that.

21 Comments?

22 Commissioner Carr?

23 COMMISSIONER CARR: Chair, members of the  
24 Commission, I wasn't -- unfortunately, I was very  
25 ill last Friday and could not attend.

1 MS. BARNES: Commissioners, can you hear  
2 Commissioner Carr?

3 THE CHAIR: No, I can't.

4 COMMISSIONER CARR: I can speak much  
5 louder. The -- and I've been frantically trying to  
6 get as much information as I could on exactly what  
7 happened with the negotiations.

8 I have my own philosophy -- you know,  
9 coming out of the negotiation here. I hate -- first  
10 of all, I'd like to say that I hate to see we're  
11 just going to shut this thing off, and we're just  
12 going to go to appeal; because that's not what  
13 negotiations are all about.

14 We're simply here at an impasse. And I  
15 think that -- and it sounds like you're willing to  
16 give, in the aspect that you're willing to relook at  
17 this maybe three months down the road, six months  
18 down the road, like we've done with many other  
19 schools.

20 I don't like low goals. I don't think  
21 anybody here likes low goals. My view on these  
22 negotiations is we already voted to approve you.  
23 The fact that unless you bring something up that's  
24 horrible -- I know probably, in the minds of at  
25 least -- what? -- four Commissioners who voted "no,"

1 that they thought the goals were too low. There  
2 must -- you know, and -- and, you know, maybe -- I  
3 tend -- maybe I tend to agree.

4 But like Commissioner Bergman said, he  
5 didn't think the goals were big enough; but he was  
6 willing to live with it and continue to look at it.  
7 And so am I.

8 I -- you know, unless you bring something  
9 up here, like in a negotiation, that's just totally  
10 crazy, illegal or, you know -- then -- 'cause then  
11 I'm going to go with it; because this is something  
12 you decide -- this is your school; this is something  
13 you're putting together.

14 I want you to do well. Everybody wants  
15 you to do well. And it doesn't mean six months down  
16 the road, that we can't take another look at this  
17 and say, "Hey, you know, your school is falling  
18 apart; we're going to have to do something here," or  
19 a year down the road.

20 Those things are not set in stone in that  
21 way. We don't have to wait five years to look at  
22 your school; right?

23 So I'd probably like to see the goals a  
24 little higher, too. But I think I'm with  
25 Commissioner Bergman, in that I'm willing -- I'm

1 looking at that, as you're giving -- even though we  
2 didn't ask you for something; apparently, it sounds  
3 like you're giving us something. And it sounds like  
4 you're giving us this, that -- that you're willing  
5 to take a look at this down the road and -- and look  
6 at your numbers and Short Cycle Assessments and  
7 things like that, and maybe adjust them, you know,  
8 as we go. And that sounds like you're willing --  
9 willing to compromise a little.

10 I -- when we're dealing with negotiations,  
11 you know, people have to -- you know, there has to  
12 be a little give both ways, you know. But this is a  
13 little bit of different -- you know, all  
14 negotiations are a little bit different.

15 I want -- I would like for us to have  
16 another vote today is what I would like. And -- and  
17 if we still say "no," then I would like to see us go  
18 back into negotiations, and -- instead of going, you  
19 know, to a hearing.

20 That's my wish, for whatever that's worth.  
21 And I believe that's all I wanted to say.

22 COMMISSIONER BERGMAN: Thank you,  
23 Commissioner Carr.

24 Let me note for the record that these  
25 performance frameworks are one-year documents. We



1 will be talking to every school a year from now, as  
2 we then talk about their next year's performance  
3 framework. So that's -- they're promising that.  
4 They're promising what they're already going to do,  
5 anyway. We're going to revisit it a year from now.  
6 All these -- all these schools will be revisited.

7 I'm not sure I agree with renegotiating at  
8 this stage if they're not going to raise their  
9 indicators at this time, even though I supported  
10 them. But I think I need to ask -- I'm just  
11 curious. I think I will ask the Commissioners that  
12 voted against it at the last meeting, are any of  
13 you -- those four Commissioners -- because my  
14 suggestion would be if there was to be any  
15 renegotiation, that the four Commissioners that  
16 voted against it be the ones that renegotiate it,  
17 and that then we'll know whether they're satisfied  
18 or not with the indicators, because they will have  
19 negotiated them.

20 So, Commissioner Gipson?

21 COMMISSIONER GIPSON: Well, I just have a  
22 question. Because there has been an appeal filed, I  
23 don't -- you know, I don't know whether we can have  
24 this discussion at this point in time to now agree  
25 to renegotiate.

1 I have no problem sitting on the  
2 renegotiation committee, you know. I have no  
3 problem with that, except there's been an appeal  
4 filed.

5 So I don't -- you know --

6 COMMISSIONER BERGMAN: Let's ask.

7 COMMISSIONER GIPSON: I'm unwilling at  
8 this point in time to revote today, because there's  
9 been nothing put forward; so my vote absolutely  
10 would not change.

11 COMMISSIONER BERGMAN: Mr. Granata, should  
12 we just cut it off right now, or just go -- you  
13 would think with 21st Century technology that we  
14 would have come a little further than this.

15 MR. GRANATA: Commissioner Bergman,  
16 Commissioners, whenever there is an appeal filed,  
17 the Secretary encourages the parties to try to work  
18 things out. Even though the appeal has been filed,  
19 negotiations would be proper.

20 COMMISSIONER GIPSON: Okay.

21 MS. MATTHEWS: Mr. Granata, also --

22 THE CHAIR: Mr. Chair, I have a question,  
23 please.

24 COMMISSIONER BERGMAN: Hold on just a  
25 second, Commissioner Shearman. Attorney Matthews

1 was speaking.

2 MS. MATTHEWS: Thank you, Mr. Chair, and  
3 members of the Commission. I just -- I think  
4 it's -- and maybe for the benefit of the newer  
5 Commissioners, and maybe overall, an understanding  
6 of what happened by voting against these two  
7 frameworks. By that vote, you closed the school.  
8 And I'm not sure that that -- that the -- the  
9 severity or -- that that came across. That is  
10 exactly what happened.

11 COMMISSIONER GIPSON: I understand what  
12 went on.

13 MS. MATTHEWS: And then, therefore, the --  
14 there has been no due process to close this school.  
15 The school was entitled to full due process.

16 If you recall, the State says these  
17 negotiations are supposed to happen within 30 days  
18 of the date you vote. That would have been by  
19 roughly the end -- middle of January.

20 Now, I understand that the charters signed  
21 an extension; but that was sort of, "Take it or  
22 leave it." And we've always had the understanding  
23 that, you know, the appeal process would continue.

24 But we are so late into the game that this  
25 school is going to close. In fact, this school has

1 already suffered a loss of teachers because of the  
2 decision by this Commission last week.

3 And so I'm very concerned of the violation  
4 of due process that's been created by extending the  
5 negotiations out. And I'm happy that Commissioner  
6 Gipson was fully aware that she voted to close the  
7 school. And I hope that the other Commissioners  
8 understood the full weight of what they did that  
9 day.

10 But it's not -- it wasn't -- it seems to  
11 me to be a very Draconian result for two performance  
12 measures that you weren't satisfied with that you  
13 didn't provide a counter-proposal to.

14 So that's where the school is coming from.  
15 You know, it was extremely shocking and a surprise;  
16 although, we negotiated, and you cautioned the  
17 school about the strength of the goals. As I think  
18 we've articulated at the end of every negotiation,  
19 everybody was on the same page. And so there wasn't  
20 an indication that -- that these would be rejected.

21 And so I just -- I want -- I think it's  
22 fair for the Commissioners to hear where the school  
23 is coming from and their perspective on what's  
24 happened; because it was an absolute surprise for  
25 the Commission to do what it did that day.

1                   COMMISSIONER BERGMAN: Thank you,  
2 Counselor Matthews, for those comments. Now, I  
3 am -- upon what do you base the assertion that we  
4 closed the school? My understanding is we declared  
5 an impasse, and that automatically is appealed to  
6 the Secretary. And then the Secretary rules, and  
7 she either sides with us, and then we would -- tell  
8 us to renegotiate, or she would side with the  
9 school.

10                   I'm -- I'm not aware -- what provision are  
11 you basing on the fact that we closed the school?  
12 Because I certainly didn't know I was closing the  
13 school.

14                   MS. MATTHEWS: I'm happy to clarify,  
15 Mr. Bergman. Members of the Commission, if you look  
16 at 22-8B-9, and it says, "Failure to enter into a  
17 charter or appeal to the Secretary, pursuant to this  
18 section," precludes the chartering authority from  
19 chartering the school.

20                   So hypothetically, if the Secretary were  
21 not to finalize the contract in time -- and  
22 remember, we're at May 22nd, and there is no time  
23 line in this statute, unfortunately. As Mr. Granata  
24 can tell you, there's no time line by which she has  
25 to rule; so we're in a position of as of July 1,

1 this school could close.

2 And so it's not perfect, as you already  
3 articulated. This statute is far from perfect. But  
4 you have -- we have a conundrum here. The school  
5 will have to close if we have no decision by the  
6 Secretary. And the decision of this Commission  
7 stands as of your decision on the 15th, come July.

8 COMMISSIONER BERGMAN: Thank you for that,  
9 also. You simply mentioned that 30-day thing. We  
10 have asked the Legislature to change that. There is  
11 absolutely no way on this earth that this Commission  
12 could have negotiated 25 contracts over the  
13 Christmas and New Year's holidays and done a  
14 credible job. So, yes, we ask schools to waive  
15 that.

16 We've asked the Legislature to change it,  
17 and you notice they have not changed it. We live  
18 with what the Legislature gives us, and then we live  
19 with what the real world gives us, and that's that  
20 we have to extend these out over a period of four  
21 months.

22 And I can tell you right now, I'm  
23 exhausted. I just finished the process yesterday.  
24 I go to all of them, or just about all of them. And  
25 frankly, I'm exhausted.

1 MS. MATTHEWS: Mr. Bergman, I wholly  
2 appreciate what you've done.

3 COMMISSIONER BERGMAN: I understand you're  
4 not attacking me, personally. We do the very best  
5 we can with what the Legislature and the Charter  
6 School Act has given us.

7 Now, there's something else been thrown  
8 into the mix. We apparently have closed a school  
9 that we didn't think we were closing -- or two  
10 schools. So now, I really have to ask legal  
11 counsel -- in that case, I tend to agree with  
12 Commissioner Carr, that even though -- but I don't  
13 know what we can talk about, because they're not  
14 willing to raise the numbers.

15 So, here again, I'm going to ask those  
16 that voted against it.

17 COMMISSIONER CARR: Carolyn wants to say  
18 something.

19 COMMISSIONER BERGMAN: Just a second,  
20 Mr. Granata.

21 MR. GRANATA: Okay. So I just wanted  
22 to -- Commissioner Bergman, Commissioners, I want to  
23 address just a few issues to hopefully try to  
24 clarify some points of law and procedure in this  
25 matter.

1 I agree with Ms. Matthews that this  
2 section of the statute could definitely need some  
3 help. And I understand the school's perspective  
4 regarding the time lines.

5 I believe that the statute allows for due  
6 process to occur once the school has filed their  
7 appeal. And obviously, Ms. Matthews has concerns  
8 with the time lines. I think she can file motions  
9 in the district court, like she has in the past, in  
10 order to expedite that process, if the Department  
11 isn't acting quickly enough.

12 I think one possible resolution for today  
13 is for the PEC to look at the contract itself and  
14 approve the contract and just leave the performance  
15 framework for future negotiations.

16 As the law currently stands -- this is  
17 until the new law takes effect -- the performance  
18 framework currently is not a material term; and as  
19 such, 22-8B-9.1 states -- Subsection B -- "Annual  
20 performance targets shall be set by each chartering  
21 authority in consultations with charter schools."

22 And to me, that's different than a  
23 negotiation. That's the PEC's determining what  
24 those performance targets are. Obviously,  
25 Ms. Matthews might differ; but I think the



1 resolution would be to approve the contract itself  
2 today and leave those performance frameworks for  
3 future negotiations.

4 COMMISSIONER BERGMAN: Mr. Granata, thank  
5 you for that. Let me ask you this question: Since  
6 I don't believe the organizational part of the  
7 framework and the financial part of the framework  
8 are in question, would we want to leave them in  
9 there? Because those provide certain safeguards.  
10 And then just leave the academic performance  
11 framework part of it out for future -- however you'd  
12 want to word it?

13 Or would you want us to leave all of those  
14 frameworks?

15 Remember, there's three different  
16 frameworks.

17 MR. GRANATA: Commissioner Bergman,  
18 Commissioners, I would suggest approving everything  
19 that the parties have agreed to; so the parts that  
20 are not agreed to, this academic component would be  
21 left out of the agreement.

22 COMMISSIONER BERGMAN: Thank you for that.

23 Commissioner Shearman, I know you've been  
24 patiently waiting to speak. Go ahead, please. And  
25 where do you stand on this? And would you be

1 willing to sit down with this school, if a  
2 convenient time could be found in the very near  
3 future, hopefully, to again look at those academic  
4 parts?

5 THE CHAIR: Thank you, Commissioner  
6 Bergman. Without a doubt, of course, I'd be willing  
7 to sit down with the school and come up with those  
8 academic indicators. I just -- before I ask my  
9 question, which may have already been answered, it  
10 is my recollection that during the meeting, what we  
11 asked the school to do was to go back to its  
12 governing council and work with the governing  
13 council to bring those numbers up on its indicators.

14 And certainly, my intention was, I thought  
15 those numbers allowed way too many students to be in  
16 the failing range and the school fail to meet  
17 standards.

18 But that was just my concern. And I  
19 thought we were clear enough when we said, "Go back  
20 to your governance council and bring us what -- a  
21 counter-proposal," and I thought that's what  
22 negotiations did.

23 So if I was mistaken in my knowledge of --  
24 of negotiations, then I apologize. But I thought  
25 counter-proposals, in negotiations, were perfectly

1 acceptable, and everybody knew what that meant.

2 At the time we are now, the question I  
3 want to ask -- I heard one of the representatives  
4 from the school, and I'm not exactly sure which one  
5 it was -- say, "over time, develop new indicators or  
6 new numbers for those indicators."

7 Whoever said that, could you please  
8 clarify for me what you mean by "over" --

9 COMMISSIONER BERGMAN: Please identify  
10 yourself for Commissioner Shearman, and then --

11 DR. MAESTAS: Absolutely. This is Analee  
12 Maestas. I'm the executive director of the school.  
13 And my comment was about the goals over the  
14 five-year period of time, that we would continue to  
15 look at performance every year and improve -- and  
16 increase the goals, as we increase the proficiency  
17 levels of our students.

18 And that was my statement. And it was  
19 based on a conversation, prior to our meeting, with  
20 Katie that that might be a possibility.

21 I would also like to just take a few  
22 minutes, if the Commission would allow me, to show  
23 you the type of student that we do serve; because I  
24 think that would give you a clearer picture of what  
25 we're talking about. If you would allow me about

1 five minutes?

2 COMMISSIONER BERGMAN: If you would please  
3 be brief, but, yes, go ahead.

4 DR. MAESTAS: Thank you. I know it's  
5 sometimes difficult to imagine the type of student  
6 that we are serving. And I think this would be very  
7 useful to you.

8 COMMISSIONER GIPSON: Hold on. That  
9 screen should drop down.

10 THE CHAIR: Mr. Chair, if I might, while  
11 Dr. Maestas is getting ready for a presentation, I  
12 would just ask, is the Commission considering  
13 renegotiation with the school in the very near  
14 future? Or is Dr. Maestas' comment, "over five  
15 years" -- is the school proposing to put off these  
16 negotiations for quite a length of time, or are we  
17 talking about renegotiation -- a complete contract  
18 for this coming school year?

19 MS. MATTHEWS: Mr. Bergman, members of the  
20 Commission, I think Mr. Granata had a terrific  
21 suggestion. And Mrs. Shearman -- or Commissioner  
22 Shearman -- I think what we probably could do today  
23 is vote to approve the contract, the organizational  
24 and financial frameworks, and then set a deadline  
25 for finalizing the academic performance framework,

1 if that makes sense.

2 COMMISSIONER BERGMAN: That's an excellent  
3 suggestion. I know you want us to understand the  
4 school; but I think we're getting to the same point  
5 here, if you'll just let me proceed.

6 Let me ask the other Commissioners that  
7 voted against it, because I think I'm going to put  
8 your feet to the fire, like I say. I want you to be  
9 the ones, when it does happen, whenever it happens,  
10 that you are the guys that need to sit down with  
11 this school.

12 So, Commissioner Peralta, I believe you  
13 voted against it. What are your thoughts?

14 COMMISSIONER PERALTA: Well, I think the  
15 school and legal counsel has made their decision to  
16 go with the appeal. And so my feelings are is let  
17 the appeal take its course, and I'm willing to hear  
18 what the Secretary of Education has to say about it.

19 COMMISSIONER BERGMAN: Okay, thank you.

20 Commissioner Gipson, do I remember you  
21 voting against it?

22 COMMISSIONER GIPSON: But I've already  
23 stated that I'm more than willing to sit down and  
24 negotiate; so that's fine by me.

25 COMMISSIONER BERGMAN: There's two, so

1 far.

2 Commissioner Chavez, I believe you were  
3 the fourth who voted against it? Are you willing to  
4 go --

5 COMMISSIONER CHAVEZ: I have a concern.  
6 You know, basically, I don't have a sense that --  
7 you know, I don't have a sense that the school is  
8 willing to change what was presented and what was  
9 negotiated in the subcommittee; so unless I have a  
10 commitment that that's going to be the case, then I  
11 am -- you know, I'm with Commissioner Peralta.

12 COMMISSIONER BERGMAN: Thank you for that.  
13 We've heard -- two of those Commissioners would be  
14 willing to sit down, and that could be done. We've  
15 had sessions with only two. I have to say I was not  
16 aware --

17 COMMISSIONER GIPSON: You've got  
18 Commissioner Shearman.

19 COMMISSIONER PERALTA: Mr. Chair?

20 COMMISSIONER GIPSON: Carolyn also voted  
21 "No."

22 COMMISSIONER BERGMAN: She already said  
23 she'd be willing to sit down. Is that Commissioner  
24 Peralta? Go ahead.

25 COMMISSIONER PERALTA: Right. I believe

1 you had the count wrong. I am not willing to  
2 negotiate. I'm willing for the appeal -- I'm  
3 willing for the appeal to take its course.

4 COMMISSIONER BERGMAN: Okay. But if there  
5 was a negotiation, would you be in favor of sitting  
6 in on it?

7 COMMISSIONER PERALTA: No. I concur with  
8 Commissioner Chavez.

9 COMMISSIONER BERGMAN: Okay. All right.  
10 Well, I don't believe it was the intent of this  
11 Commission, when that vote was taken, was to shut  
12 the school down; it certainly wasn't my intent. So  
13 I am totally surprised by that aspect.

14 I actually concur with Mr. Granata's  
15 advice and Ms. Matthews' advice. I believe this  
16 Commission needs to, at this point, vote -- have a  
17 revote on the contract. And the -- and the  
18 framework has three parts. I don't believe there's  
19 any dispute on the financial part of it. I see  
20 Counselor Matthews shaking her head "no."

21 MS. MATTHEWS: Just for the record, that's  
22 correct, Mr. Bergman.

23 COMMISSIONER BERGMAN: And I don't believe  
24 the school had a problem with the organizational  
25 part of the framework.

1 MS. MATTHEWS: That's correct,  
2 Mr. Bergman. There were two conditions on this  
3 charter, and I believe they've already complied with  
4 the improvement plan and prepared one; so that would  
5 be part of the organizational framework, which we  
6 concur would be acceptable.

7 COMMISSIONER BERGMAN: If we included  
8 those two parts in the contract and just left the  
9 academic part out for future discussion, would that  
10 be amenable to the school?

11 DR. MAESTAS: Yes, absolutely.

12 COMMISSIONER BERGMAN: Is that amenable to  
13 all the Commissioners that can hear me?  
14 Commissioner Chavez?

15 COMMISSIONER CHAVEZ: Yeah. I have a  
16 question. I'll wait till you --

17 COMMISSIONER BERGMAN: You didn't know you  
18 were going to get a workout today, did you?

19 COMMISSIONER CHAVEZ: So my question is,  
20 if we were to vote on the -- on the rest of the  
21 contract, what guarantee do we have that we're going  
22 to come to an agreement in terms of the performance?  
23 Are we going to continue to just beat around the  
24 bush on this one? What, basically -- what,  
25 basically, would, you know, move the parties to an



1 agreement?

2 COMMISSIONER BERGMAN: That's an excellent  
3 question. Before I ask Mr. Granata that question --  
4 well, I -- there is no guarantee, one,  
5 unfortunately. But I lost my train of thought  
6 there.

7 So, Mr. Granata, what do you think about  
8 that question?

9 MR. GRANATA: Commissioner Bergman,  
10 Commissioners, under the Charter School Act, it  
11 requires the parties to negotiate in good faith. So  
12 I'm assuming that the parties would agree to  
13 negotiate in good faith. And I think that  
14 Ms. Matthews' suggestion of putting a deadline on  
15 this negotiation for that one component of the  
16 framework would kind of make sure that if there is  
17 an impasse, then that one particular part can be  
18 appealed to the Secretary for finality.

19 COMMISSIONER BERGMAN: Is that how you  
20 would see it, then? Either -- if they don't agree,  
21 and we don't agree, the group that meets with them,  
22 then we are essentially saying that they would then  
23 appeal that to the Secretary, and it would be up to  
24 the Secretary to tell either them or us that we've  
25 got to do something further?

1 MR. GRANATA: Commissioner Bergman, that  
2 is correct. And perhaps if the Commission  
3 ultimately decides to take this course that I've  
4 suggested, then maybe Ms. Matthews could simply just  
5 amend her Notice of Appeal to kind of reflect  
6 today's decision. I'm not sure if that would be  
7 proper, or --

8 MS. MATTHEWS: I'd be more than happy to  
9 withdraw the appeal. I think that it's not going to  
10 be ripe for appeal if we approve the contract, the  
11 two frameworks, and then set a deadline to finally  
12 negotiate the academic performance framework.

13 Then I agree with Mr. Granata. Then if we  
14 reach an impasse on that one particular performance  
15 framework, that then it goes to the Secretary. And  
16 I feel much more comfortable about the time frame  
17 and the situation the school will be in at that  
18 point in time.

19 So I think that is the correct way to  
20 proceed.

21 COMMISSIONER BERGMAN: Thank you for those  
22 comments. And I would appreciate that, because I'm  
23 just speaking for myself now, not anybody else on  
24 the Commission. As a good-faith effort on you guys'  
25 part, I would like to see you, perhaps, if we did a

1 revote, go ahead and -- so that appeal is not  
2 hanging over our head while we're renegotiating.

3 MS. MATTHEWS: Mr. Chair Bergman --  
4 Chairperson Bergman and members of the Commission,  
5 absolutely. We would -- we would -- if we had a  
6 vote today to approve the contract, then the school  
7 is moving forward. They can open. There's no  
8 hiccup here.

9 And then -- and absolutely, we would agree  
10 to withdraw the appeal, and then let this process  
11 take its -- take its course.

12 COMMISSIONER BERGMAN: Thank you for that.  
13 Now I'm back to I'm going to ask the folks on the  
14 phone first.

15 Commissioner Shearman, are you in favor of  
16 what we have discussed? What I'm contemplating  
17 would be a motion that would approve the contract  
18 and the organizational and financial frameworks for  
19 the 2015 and 2016 school year, with the provision  
20 that then the school and the PEC would then enter  
21 into a renegotiation on the academic part of the  
22 performance framework, to be concluded within a  
23 reasonable amount of time, not drawn out over some  
24 huge amount of time, that if it doesn't -- probably,  
25 hopefully, fairly quickly, would be my suggestion.

1           Would you be agreeable to that,  
2 Commissioner Shearman?

3           THE CHAIR: Thank you, Mr. Chair Bergman.  
4 I would be agreeable to that, as long as the date  
5 for the parameters for renegotiation would be part  
6 of the motion to establish the renegotiation. I  
7 want that to be very clear that we're going to do  
8 that soon, and make sure that all parties are in  
9 agreement to that, that stipulated part of the  
10 agreement.

11           COMMISSIONER BERGMAN: Then I believe we  
12 have to establish a date at this moment. And you  
13 and Commissioner Gipson have agreed to be a part of  
14 this renegotiation. Throw a date out, and let's see  
15 if the school can comply with that date.

16           THE CHAIR: Mr. Chair, how about the  
17 morning of June 18th?

18           COMMISSIONER BERGMAN: Okay. We're  
19 already meeting on another matter, as you well know;  
20 you were sitting in the audience. How about the  
21 morning of June the 18th? Would that be amenable to  
22 the school?

23           DR. MAESTAS: That's fine.

24           COMMISSIONER BERGMAN: The school said  
25 they are amenable to that date. Is that the date

1 you propose? Would it be 8:30 in the morning on  
2 June the 18th?

3 THE CHAIR: Would you please check with  
4 Commissioner Gipson and see if that would work with  
5 her?

6 COMMISSIONER GIPSON: That's fine.

7 THE CHAIR: Commissioner Gipson says,  
8 "That's fine."

9 COMMISSIONER BERGMAN: Would you check,  
10 please, with anyone else that would like to be part  
11 of that negotiation?

12 Anyone that voted for that contract, if  
13 you would like to sit in on that negotiation?

14 COMMISSIONER CHAVEZ: We haven't voted.

15 COMMISSIONER BERGMAN: Would you like to  
16 sit in, Commissioner Armbruster?

17 COMMISSIONER ARMBRUSTER: (Indicates.)

18 COMMISSIONER BERGMAN: Commissioner  
19 Armbruster has indicated she would like to sit in on  
20 that negotiation.

21 Are there any other Commissioners that  
22 would like to sit in?

23 COMMISSIONER CARR: I would like to sit  
24 in.

25 COMMISSIONER BERGMAN: Commissioner Carr

1 has indicated he would like to sit in.

2 That is four. We have always stood by  
3 four is the maximum number for us to be present. We  
4 don't want to overwhelm the process. So there are  
5 now four Commissioners committed to that;  
6 Commissioner Shearman, Commissioner Gipson,  
7 Commissioner Carr, and Commissioner Armbruster.

8 Now we will deal with that. Now we need a  
9 motion, and I will be happy to make the motion  
10 myself, and I will need a second. Is there any  
11 other --

12 COMMISSIONER CARR: He's making up a  
13 motion for us.

14 COMMISSIONER BERGMAN: Mr. Granata is  
15 making up a motion. As soon as he's done with that,  
16 I will make a motion, because I'll repeat it for the  
17 record again. It was certainly not my intent to  
18 shut any of these schools down. That's called  
19 "revocation." That's not what we were voting on.

20 MS. MATTHEWS: Mr. Bergman -- if I may,  
21 and members of the -- Mr. Chair? Mr. Chair --  
22 sorry -- members of the Commission, I just want to  
23 clarify. When you were articulating for  
24 Ms. Shearman what we were suggesting, you said a  
25 one-year contract. I think you meant one-year

1 annual performance; because it's a five-year  
2 contract.

3 COMMISSIONER BERGMAN: Yeah, the contract  
4 is for five years; it's the frameworks that have  
5 the -- we'll have to get that wording down precise.  
6 We all understand, whether that's what I said or  
7 not. The contract is a five-year document; the  
8 performance framework is our annual document for  
9 each school year.

10 Pardon me while I read this. Just a  
11 second, please.

12 THE CHAIR: Commissioner Bergman?

13 COMMISSIONER BERGMAN: Yes.

14 THE CHAIR: This is Commissioner Shearman.  
15 I think perhaps we should ask if Julia  
16 Barnes is available on the morning of June the 18th  
17 as our facilitator.

18 COMMISSIONER BERGMAN: Are you available?

19 MS. BARNES: (Indicates.)

20 COMMISSIONER BERGMAN: Is CSD -- will you  
21 have someone at that meeting on the morning of June  
22 the 18th?

23 MS. POULOS: We will have somebody there.

24 COMMISSIONER BERGMAN: Thank you. So CSD  
25 is all in; Julia is all in. I think we're all

1 all-in right now.

2 All right. I have a motion here. It  
3 sounds pretty good to me. I'm going to -- it  
4 doesn't mention the contract. We need a sentence  
5 about the contract, about it being a -- that the  
6 contract is for the term of the charter, and then  
7 the frameworks are for up to one year.

8 (Vice Chair consults with PEC counsel.)

9 COMMISSIONER BERGMAN: He left blank the  
10 date of the renegotiation. Since you're going to  
11 renegotiate on the 18th, would June the 19th be an  
12 appropriate date to all parties?

13 THE CHAIR: I'm sorry?

14 COMMISSIONER GIPSON: I'm lost there.

15 COMMISSIONER BERGMAN: We're going to put  
16 a date on the limitation on the renegotiation,  
17 Commissioner Shearman. Would June the 19th, which  
18 is the day after your negotiation -- that will allow  
19 for a really long-winded negotiation, if that's what  
20 comes down to.

21 COMMISSIONER CARR: We're meeting on the  
22 19th.

23 COMMISSIONER BERGMAN: That's when the  
24 time limit ends --

25 COMMISSIONER GIPSON: So we have to be



1 done.

2 COMMISSIONER BERGMAN: -- for our June the  
3 19th meeting.

4 MS. MATTHEWS: Mr. Chair, members of the  
5 Commission, just because we've done this sort of  
6 uniformly with other schools, is it the intent of  
7 the Commission to vote on -- at your meeting on the  
8 19th? Because this charter then needs to be taken  
9 back to their counsel. So I'm just trying to view  
10 logistically. I mean --

11 COMMISSIONER BERGMAN: To accommodate  
12 everything, if it's done on the 18th and get  
13 everybody on board in 24 hours, with all the  
14 signatures and --

15 MS. MATTHEWS: I think -- if I may,  
16 Chair, members of the Commission, since you're  
17 voting to approve the contract, and we're not going  
18 to have a hiccup as far as opening the school, we  
19 could -- the vote on the annual performance  
20 framework for the academic piece could be in your  
21 July or August meeting. We will have reached an  
22 agreement by then.

23 Then the school can go back, have its  
24 board meeting and then bring you back a finalized.  
25 And then it won't be such a crunch, and I know you

1 have a very busy schedule.

2 COMMISSIONER BERGMAN: Is there any legal  
3 objection? July, of course, is in a new fiscal  
4 year. We don't work on fiscal years; but the -- do  
5 you see any reason why we couldn't approve it in  
6 July?

7 MR. GRANATA: No.

8 COMMISSIONER BERGMAN: There's no legal --  
9 all right, then. Yeah, we wouldn't have to  
10 necessarily do in June then. We could do it -- so  
11 are we all in agreement at this point that the  
12 deadline -- for some reason, you all seem to have  
13 trouble with the June 19th. So should I set  
14 June 18th as the deadline?

15 COMMISSIONER GIPSON: No, because we have  
16 to be done by the 18th, and we're not doing it until  
17 the 18th.

18 COMMISSIONER BERGMAN: That's why I said  
19 the 19th. That seemed to confuse everybody. So  
20 June 19th, then. Is everyone amenable to having the  
21 deadline be June 19th? I'm not hearing any voices  
22 on the phone.

23 MS. BARNES: I think Ms. Matthews was  
24 talking about extending it out to July.

25 MS. MATTHEWS: No, I think we're --

1 we're -- it's acceptable to have the negotiation  
2 completed by the 19th, but that the vote by the  
3 Commission on the academic performance framework  
4 will not occur until your next board meeting.

5 COMMISSIONER BERGMAN: I believe that's  
6 what we all understand, yes.

7 MS. MATTHEWS: That's not what --

8 MS. BARNES: I was mixed up.

9 COMMISSIONER BERGMAN: Once again, I'll  
10 ask the folks on the phone. Commissioner Shearman,  
11 are you agreeable to that?

12 THE CHAIR: Let me be sure I understood  
13 it. I believe what I heard Ms. Matthews say is that  
14 the negotiations would take place on June the 18th.  
15 Then the deadline for the Commission to approve  
16 it -- or the Commission would have it on its agenda  
17 for the August meeting, or --

18 COMMISSIONER BERGMAN: July.

19 THE CHAIR: (Inaudible); is that correct?

20 COMMISSIONER BERGMAN: July.

21 THE CHAIR: Okay. So we do the  
22 renegotiation on June the 18th. Then the item is on  
23 the agenda for the June meeting; is that correct,  
24 which is June the 19th.

25 COMMISSIONER BERGMAN: Not on June the

1 19th. We can't have all the signatures. The vote  
2 would take place on -- we do have a meeting in July.  
3 I don't know what the date is right now. But it  
4 would be at the July meeting when the actual vote  
5 would take place.

6 THE CHAIR: All right. So it's the July  
7 meeting; and I believe that's July the 17th, also.

8 COMMISSIONER BERGMAN: Whatever that is,  
9 yeah.

10 THE CHAIR: Okay.

11 COMMISSIONER BERGMAN: So are you on board  
12 with that?

13 THE CHAIR: Pardon me?

14 COMMISSIONER BERGMAN: Commissioner  
15 Shearman, are you agreeable to that?

16 THE CHAIR: Yes, I am.

17 COMMISSIONER BERGMAN: Commissioner  
18 Peralta, are you agreeable to that? I know where  
19 you stand, but...

20 COMMISSIONER PERALTA: No, I agree.

21 COMMISSIONER BERGMAN: Commissioner  
22 Toulouse?

23 COMMISSIONER TOULOUSE: Mr. Chair, since  
24 after this evening, I no longer have to recuse  
25 myself on this school, I'm just fine with that, with

1 the --

2 COMMISSIONER BERGMAN: I keep forgetting  
3 you're recusing.

4 COMMISSIONER TOULOUSE: I'm recused from  
5 this vote after tonight. So in July, I can vote on  
6 it.

7 COMMISSIONER BERGMAN: Like I say,  
8 Commissioner Toulouse has relatives in about half  
9 the charter schools in this state, it seems like. I  
10 say that in jest, Commissioner Toulouse.

11 COMMISSIONER TOULOUSE: Mr. Chair, it may  
12 be true. I haven't counted.

13 COMMISSIONER BERGMAN: Thank you. I know  
14 we're not voting yet. Are we pretty much on board  
15 with where we're going to go from this point  
16 forward?

17 I just want to be sure. I don't want  
18 another surprise. And surprises are sometimes fun,  
19 and sometimes they're not. This one turned out to  
20 be not.

21 All right.

22 COMMISSIONER CARR: I call the question,  
23 sir.

24 COMMISSIONER BERGMAN: All right. Fine.  
25 I am going to read a motion here. It has been

1 proposed by our counsel, Mr. Granata.

2 I, Vince Bergman, move that the Public  
3 Education Commission approve the performance  
4 contract for a five-year term, and also approve, at  
5 this time, the financial and organizational  
6 performance frameworks, which are for a one-year  
7 term, at -- for the La Promesa Early Learning  
8 Center, as presented at the regular May PEC meeting,  
9 with the understanding that the parties will, in  
10 good faith, negotiate on the academic component of  
11 the performance framework. The renegotiation will  
12 conclude by the end of June the 18th, with an  
13 understanding that if the parties cannot come to an  
14 agreement during negotiations, the school, or the  
15 Public Education Commission, may appeal to the  
16 Secretary, pursuant to Section 22-8B-9.

17 That's -- I'll stop there. But  
18 Mr. Granata is writing furiously; so I want to see  
19 what he's writing. No? That's okay?

20 COMMISSIONER CARR: I'll second it.

21 COMMISSIONER BERGMAN: All right. I have  
22 made a motion that you just heard. The motion has  
23 been seconded by Commissioner Carr.

24 Is there any further discussion?

25 On the phone, is there any further

1 discussion?

2 THE CHAIR: Commissioner Shearman, no.

3 COMMISSIONER PERALTA: Commissioner

4 Peralta, no.

5 COMMISSIONER BERGMAN: And I believe

6 Commissioner Toulouse is "no."

7 All right. We have a motion before this  
8 Commission; we have a second. We have -- I believe  
9 we're at the point where we can take a vote.

10 Commissioner Peralta, would you have a  
11 roll-call vote, please?

12 COMMISSIONER PERALTA: Okay. Commissioner  
13 Toulouse abstains.

14 Commissioner Armbruster?

15 COMMISSIONER ARMBRUSTER: Yes.

16 COMMISSIONER PERALTA: Commissioner Pogna?

17 COMMISSIONER POGNA: Yes.

18 THE CHAIR: What was the vote, please?

19 COMMISSIONER BERGMAN: Commissioner Pogna  
20 voted "Yes."

21 THE CHAIR: Thank you.

22 COMMISSIONER PERALTA: Commissioner

23 Gipson?

24 COMMISSIONER GIPSON: Yes.

25 COMMISSIONER PERALTA: Commissioner

1 Shearman?

2 THE CHAIR: Yes.

3 COMMISSIONER PERALTA: Commissioner Carr?

4 COMMISSIONER CARR: Yes.

5 COMMISSIONER PERALTA: Commissioner

6 Peralta votes "Yes."

7 Commissioner Conyers?

8 COMMISSIONER CONYERS: Yes.

9 COMMISSIONER PERALTA: Commissioner

10 Chavez?

11 COMMISSIONER CHAVEZ: Yes.

12 COMMISSIONER PERALTA: Commissioner

13 Bergman?

14 COMMISSIONER BERGMAN: Commissioner

15 Bergman votes "Yes."

16 COMMISSIONER PERALTA: Mr. Chair, that is

17 a 9-to-0 vote in favor, one abstention, that is in  
18 favor of the motion.

19 COMMISSIONER BERGMAN: Thank you,

20 Commissioner Peralta. I will just note for the

21 record, this Commission has shown that we are not

22 unreasonable people, that we are willing to do what

23 is necessary when things come to our attention. And

24 sometimes things come to our attention that we

25 didn't know at the time.



1           And I believe it's important that folks  
2 understand that we are a reasonable group of people  
3 and will listen to rational and reasonable  
4 arguments.

5           Thank you, again. Thank you to the  
6 school. I'll look forward to hearing that that  
7 appeal has been withdrawn, and we will go forward.  
8 And I hope you guys can come to some reasonable  
9 agreement on the academic performance.

10           Thank you.

11           DR. MAESTAS: Thank you.

12           MS. MATTHEWS: Mr. Chair, members of the  
13 Commission, thank you very much.

14           COMMISSIONER BERGMAN: Thank you. Now, we  
15 still have one more to go through. Do we need a  
16 break, or do we want to get going so we can all get  
17 on the road?

18           I hear, "Let's keep going." So I would  
19 call South Valley Prep to the table, please.

20           (A discussion was held off the record.)

21           COMMISSIONER BERGMAN: All right. We're  
22 ready to go forward. Before we start this one, we  
23 now have information that we didn't have before.  
24 And so I'm going to state from the very outset that  
25 I believe this Commission needs to take the same

1 steps with this school that we just took with the  
2 previous school, that there was certainly no intent  
3 for anybody to be put out of business; and so we  
4 need to rectify that, if we don't rectify anything  
5 else today.

6 So that's where we're going to start the  
7 discussion. In just a second, Julia has something  
8 to say. Now, this school did choose to come back  
9 with a little bit of improvement on their  
10 indicators. And that's what I'm going to ask Julia.  
11 I believe she's --

12 MS. BARNES: I think Commissioner Shearman  
13 had something to say.

14 COMMISSIONER BERGMAN: Commissioner  
15 Shearman, did you have something to say?

16 COMMISSIONER TOULOUSE: It was  
17 Commissioner Toulouse.

18 COMMISSIONER BERGMAN: Okay. Go ahead.

19 COMMISSIONER TOULOUSE: I just wanted to  
20 say, at the beginning of this, I drove home angry  
21 last Friday because I felt we had just closed two  
22 schools.

23 And I want to say I don't think that was  
24 anybody's intent; but that's how I read the law.

25 And I want to say I appreciate everybody

1 now looking at this again; because it was very  
2 hurtful to think we would have done something like  
3 that. And I'm very glad we're rectifying it. And I  
4 want to reiterate my support of this school coming  
5 up. Thank you.

6 COMMISSIONER BERGMAN: Thank you,  
7 Commissioner Toulouse. I'm going to call on Julia  
8 Barnes. She's going to start the discussion here.  
9 Thank you, Julia.

10 MS. BARNES: Thank you. So I just want to  
11 explain the documents. And I -- we -- the same  
12 request went out to South Valley.

13 COMMISSIONER BERGMAN: They're not in your  
14 book. They were what was handed out by Julia.

15 COMMISSIONER CHAVEZ: Got it.

16 COMMISSIONER BERGMAN: These are new  
17 documents.

18 MS. BARNES: They were e-mailed out to  
19 you. So I think all the people on the phone have  
20 them, as well.

21 There was the same request sent out to the  
22 school to go to their board and come back with an  
23 alternative set of indicators. And the school did  
24 that.

25 The one thing that I want to identify is

1 the colored document is the new indicator. And what  
2 is in red is what is changed. So on Indicator 1 --  
3 and Charlotte can add if I've gotten something  
4 wrong -- the school -- previously, the indicator was  
5 for two grades, seventh and eighth. Their board,  
6 and as they have provided us all the paperwork, have  
7 added that their board has approved it. They have  
8 added sixth grade to the indicator.

9 In the standards, the "Exceeds" category  
10 now reads at 65 percent; it was previously at 62.  
11 The "Meets" standard was previously at 55 to  
12 61 percent; the school has increased those  
13 percentages to 62 to 64 percent on reading, and  
14 changed it so that the students must make more than  
15 one full year's of growth or test proficient.

16 The same thing on "Does not meet the  
17 standard." They raised it from 44 to 54 percent, to  
18 now reading 51 to 61 percent; again, they put in the  
19 same, "more than one full year's growth."

20 And then "Falls far below" is 50 percent  
21 or less. It was 44 in the previous indicator that  
22 was rejected; and again, they changed it to "more  
23 than one year's growth."

24 On the Math Short Cycle, they did the  
25 exact same thing, added sixth grade, 65 -- it's

1 exactly the same percentages, math and reading. So  
2 65 percent, when it was 56. The "Meets" standard is  
3 62 to 64 percent, and it's more than one year's  
4 growth. In the previous draft, that had been 50 to  
5 55 percent. So there's a bigger increase in what  
6 they're proposing on math and on reading.

7 The "Does not meet" standards, 51 to  
8 61 percent, and more than one year's growth; and at  
9 50 percent or less would be "Falls far below."

10 The social emotional learning goal, I  
11 believe, is unchanged; but I do not believe there  
12 was a dispute about that. So I don't think that  
13 there was a request to change that.

14 So that's just my presentation in terms of  
15 what the school has presented. Again, I'll just  
16 reiterate that they've provided us with all the  
17 documentation that their board has approved that.

18 COMMISSIONER BERGMAN: Thank you,  
19 Ms. Barnes. I think we then -- on this situation,  
20 before we invest a lot of time in this, is we have  
21 two options here now. We can go ahead, and if the  
22 ones that voted against this school a week ago are  
23 satisfied with these new proposed indicators, we  
24 could just go forward and make the vote to include  
25 all the contract and all the frameworks; or the

1 second option would be if those of you that voted  
2 against it a week ago still are not satisfied with  
3 these thresholds, which are an improvement --  
4 perhaps not a large improvement, but some of the  
5 wording has been changed. And the sixth grade has  
6 been added, and I believe that should have met some  
7 of the objections.

8 So I'm going to take a survey here. And  
9 I'll -- once again, I'll start with the four  
10 Commissioners that voted against it a week ago.

11 Commissioner Shearman, what are your  
12 thoughts?

13 THE CHAIR: Thank you, Mr. Chair. First  
14 of all, I want to thank the school for doing exactly  
15 what the Commission asked it to do. We asked you to  
16 go back to your governing council.

17 (A discussion was held off the record.)

18 This is Commissioner Shearman. I, first  
19 of all, want to thank the school for doing exactly  
20 what the school asked it to do, and that was to go  
21 back to the governing council, look at those numbers  
22 and come back with a counterproposal that brought us  
23 more realistic numbers.

24 And I am particularly speaking to the  
25 50 percent mark. Prior to this, 50 percent, or

1 right at it, of students could not meet the  
2 indicators, could not make a full year's academic  
3 growth, and the school could still meet the  
4 standard. That was my biggest objection to these  
5 indicators that were presented, both from this  
6 school and the prior school.

7 So I thank the school very much for doing  
8 exactly what we asked, and for doing a reasonable,  
9 thoughtful job of it, and bringing us back something  
10 that I would be happy to make the motion to approve  
11 these academic indicators, as they have been  
12 presented, to approve the performance framework  
13 containing these new indicators, and the subsequent  
14 contract for this school for the 2015-2016 academic  
15 year.

16 COMMISSIONER BERGMAN: Thank you,  
17 Commissioner Shearman, for those remarks.

18 Commissioner Peralta, your thoughts,  
19 please?

20 COMMISSIONER PERALTA: Mr. Chair, thank  
21 you. I would also agree with Commissioner Shearman.  
22 I also do want to thank the school for making the  
23 extra effort in coming back with something that I  
24 think is presentable and agreeable to my terms. And  
25 so I do vote to change my vote to a "yes."

1 COMMISSIONER BERGMAN: Commissioner  
2 Gipson?

3 COMMISSIONER GIPSON: I will reiterate the  
4 same thing.

5 COMMISSIONER BERGMAN: Commissioner  
6 Chavez, I believe you were --

7 COMMISSIONER CHAVEZ: Yeah. And I want to  
8 say I also want to thank the school. Appreciate it  
9 very much, you guys going back and, you know, having  
10 the conversation with your board and, you know,  
11 bringing some criteria, some standards that I feel  
12 more comfortable with.

13 I have a question.

14 COMMISSIONER BERGMAN: Ask it.

15 COMMISSIONER CHAVEZ: So basically my  
16 question is, you know, are you -- how are you going  
17 to -- and I'm sure that you've already thought about  
18 it in terms of meeting the goals that you've set.  
19 How are you guys going to do that?

20 COMMISSIONER BERGMAN: Before you answer  
21 it, go ahead and identify yourselves -- because I  
22 hadn't gotten to that point yet -- for the recorder,  
23 please.

24 MS. TRUJILLO: Commissioner Chavez, my  
25 name is Charlotte Trujillo. I'm the principal at



1 South Valley Preparatory School.

2 We have given a lot of thought -- you  
3 know, at the time that -- last Friday, when we  
4 talked about it, and at the time of negotiation when  
5 we set the original goals, we did look at the data  
6 that we had. Since then, we finished testing, and  
7 we have had some initial look at where our kids are  
8 at.

9 I think that in the improvement plan and  
10 the thing that we have had in place over this last  
11 year, we have seen some significant growth.

12 Do I think that every grade level is going  
13 to hit that mark? I hope so. And we're really  
14 close, particularly our eighth-graders. They have  
15 already hit that mark.

16 Our seventh-graders are not far behind.

17 It's our sixth-graders that always  
18 struggle and have to make the biggest growth. But I  
19 wouldn't say that they can't do it. I think they're  
20 close, and I think that the interventions that we've  
21 put in place, the after-school programming, the  
22 universal RTI class that we have in -- during the  
23 day, and just the dedication of the teachers to  
24 implement math in whatever subject they're teaching,  
25 has made a huge difference, particularly this year.

1           So I think, just continuing what we have  
2 in place and adding to it, what we know is working.  
3 I know that one thing that we have been doing for  
4 the last two years, and we're -- we see our greatest  
5 growth, is with our eighth-graders, is having that  
6 additional math class with the algebra lab year.  
7 That seems to be something that's extremely  
8 successful for our kids and makes a huge difference  
9 when they get to eighth grade and they're trying to  
10 learn those concepts. So it's supporting them very  
11 well.

12           And so probably increasing the amount of  
13 algebra lab that we're giving in sixth and seventh  
14 grade, so we can get them there faster.

15           COMMISSIONER CHAVEZ: Thank you.

16           COMMISSIONER BERGMAN: Thank you,  
17 Commissioner Chavez.

18           All right. Well, then, I believe we can  
19 cut to the chase here. And I believe -- I  
20 believe -- I think we can vote to accept this  
21 contract, including all of the -- all three of the  
22 performance frameworks.

23           But hold on a sec.

24           Commissioner Armbruster?

25           COMMISSIONER ARMBRUSTER: I agree with

1 you. But I think Cindy needed Susan Fox to identify  
2 herself for the record. Am I correct or not?

3 MS. FOX: Sure. I'm Susan Fox. For the  
4 benefit of the Commissioners on the phone, I'm  
5 sitting here, as well; but I haven't had to say  
6 anything. So I've been quiet.

7 COMMISSIONER CHAVEZ: Do you work at the  
8 school?

9 MS. FOX: I am the school's legal counsel.

10 COMMISSIONER BERGMAN: She's partner with  
11 Ms. Matthews. They double-team us sometimes.

12 MS. FOX: Patti did the heavy lifting  
13 today.

14 COMMISSIONER BERGMAN: All right. Then I  
15 believe -- is there any discussion? Are we pretty  
16 much on board on how we want to proceed with this?

17 We make a motion that we approve this  
18 contract for the term of the charter?

19 COMMISSIONER TOULOUSE: This is  
20 Commissioner Toulouse. I believe that Commissioner  
21 Shearman has already made a motion, and I would be  
22 very glad to second it.

23 COMMISSIONER GIPSON: Yeah, she did make  
24 the motion.

25 THE CHAIR: This is Commissioner Shearman.

1 I did make the motion.

2 COMMISSIONER BERGMAN: Was that an  
3 adequate motion, then? Counsel Granata is shaking  
4 his head "no."

5 MR. GRANATA: Commissioner Shearman, would  
6 you go ahead and make your motion?

7 COMMISSIONER TOULOUSE: She stated it,  
8 Mr. Granata. This is Carmie Toulouse. I will make  
9 a motion you might want to have Ms. Chapman read it  
10 back.

11 COMMISSIONER BERGMAN: Or Commissioner  
12 Shearman could just repeat it for simplicity.

13 THE CHAIR: All right. I'll be glad to.  
14 I move -- (The Chair cannot be heard.)

15 COMMISSIONER BERGMAN: Say it again,  
16 Carolyn.

17 THE CHAIR: Okay. I think something is  
18 moving. And certainly, it makes it where I can't  
19 hear. So...

20 COMMISSIONER GIPSON: You're good now.  
21 Go.

22 THE CHAIR: Okay. I move that the Public  
23 Education Commission accept the new indicators, as  
24 proposed by South Valley Preparatory School, that  
25 they be included in the performance framework, and

1 that the Commission approve the performance  
2 frameworks and the contract for the 2015-2016  
3 academic year.

4 COMMISSIONER BERGMAN: Carolyn, the way  
5 you worded that, you put the contract in there. The  
6 contract is a five-year contract; the frameworks are  
7 one year. You need wording there that separates the  
8 contract, that it's good for the term of the  
9 charter.

10 THE CHAIR: Mr. Granata?

11 MR. GRANATA: Commissioner Shearman, if  
12 you can just add the words, "as presented at the  
13 PEC's May regular meeting," I think it should  
14 suffice.

15 THE CHAIR: Thank you. I will add the  
16 words, "as presented at the Commission's May 2015  
17 meeting."

18 COMMISSIONER BERGMAN: Thank you,  
19 Commissioner Shearman. We do have a motion before  
20 the Commission. Do we have a --

21 COMMISSIONER TOULOUSE: Commissioner  
22 Toulouse would like to second.

23 COMMISSIONER BERGMAN: I was going to ask  
24 for a second, but I believe I now have a second.

25 The Commission is ahead of me today. I

1 will say that.

2 All right. We do have a motion before  
3 this Commission; we do have a second.

4 Before we vote, I would just ask  
5 Mr. Granata, they don't have to come back in June.  
6 We're now approving this today; right? They don't  
7 have to be added to the June --

8 MR. GRANATA: That is correct.

9 COMMISSIONER BERGMAN: I want to make sure  
10 we have all understood that. So we're putting them  
11 back in business.

12 All right. We do have a motion before the  
13 Commission. We have a second by Commissioner  
14 Toulouse.

15 I believe we're now ready -- is there any  
16 further discussion?

17 I see no further discussion.

18 Commissioner Peralta, would you call the  
19 roll, please?

20 COMMISSIONER PERALTA: Okay.

21 Commissioner Carr?

22 COMMISSIONER CARR: Yes.

23 COMMISSIONER PERALTA: Commissioner  
24 Conyers?

25 COMMISSIONER CONYERS: Yes.

1 COMMISSIONER PERALTA: Commissioner  
2 Armbruster?  
3 COMMISSIONER ARMBRUSTER: Yes.  
4 COMMISSIONER PERALTA: Commissioner Pogna?  
5 COMMISSIONER POGNA: Yes.  
6 COMMISSIONER PERALTA: Commissioner  
7 Toulouse?  
8 COMMISSIONER TOULOUSE: Yes.  
9 COMMISSIONER PERALTA: Commissioner  
10 Peralta votes "Yes."  
11 Commissioner Chavez?  
12 COMMISSIONER CHAVEZ: Yes.  
13 COMMISSIONER PERALTA: Commissioner  
14 Gipson?  
15 COMMISSIONER GIPSON: Yes.  
16 COMMISSIONER PERALTA: Commissioner  
17 Shearman?  
18 THE CHAIR: Yes.  
19 COMMISSIONER PERALTA: Commissioner  
20 Bergman?  
21 COMMISSIONER BERGMAN: Yes.  
22 COMMISSIONER PERALTA: Mr. Chairman, that  
23 is a 10-to-0 vote in favor of the motion.  
24 COMMISSIONER BERGMAN: Mr. Secretary,  
25 thank you for that vote. That is a 10-to-0 vote in

1 favor of the motion.

2 I, too, want to thank the school for going  
3 back on such short notice and making a "good faith"  
4 effort to increase those numbers a little bit. I am  
5 sorry for the anguish. I was not aware of the  
6 closing part of the function.

7 We will, also -- as we do everything else,  
8 we're going to address that in the future, very near  
9 future, I suspect. That needs to be looked at very  
10 closely, because I was not aware that's what this  
11 Commission was doing. That's the problem with  
12 legislation sometimes. Legislation and the real  
13 world do not always exist in perfect harmony.

14 So we are sorry for that anguish. We now  
15 wish you a successful five-year term, and we look  
16 forward to how this performance framework goes this  
17 year. And we'll talk to you in a year and see what  
18 we can do with the next performance framework.

19 I believe that closes your presentation.  
20 Thank you, South Valley.

21 MS. TRUJILLO: Thank you.

22 (Applause.)

23 COMMISSIONER BERGMAN: That concludes our  
24 business, I believe. I believe if someone has a  
25 motion that we would adjourn, we will do so.



1 COMMISSIONER POGNA: (Indicates.)

2 COMMISSIONER BERGMAN: Commissioner Pogna  
3 moves to adjourn.

4 COMMISSIONER CARR: Second.

5 COMMISSIONER BERGMAN: Commissioner Carr  
6 moves to second.

7 All in favor, say "Aye."

8 (Commissioners so indicate.)

9 COMMISSIONER BERGMAN: We are adjourned,  
10 and thank everyone for all their time today.

11 (Proceedings concluded at 4:02 p.m.)  
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1                   BEFORE THE PUBLIC EDUCATION COMMISSION  
2                                   STATE OF NEW MEXICO

3  
4  
5  
6  
7                                   REPORTER'S CERTIFICATE

8           I, Cynthia C. Chapman, RMR, CCR #219, Certified  
9   Court Reporter in the State of New Mexico, do hereby  
10   certify that the foregoing pages constitute a true  
11   transcript of proceedings had before the said  
12   NEW MEXICO PUBLIC EDUCATION COMMISSION, held in the  
13   State of New Mexico, County of Santa Fe, in the  
14   matter therein stated.

15           In testimony whereof, I have hereunto set my  
16   hand on May 26, 2015.

17  
18  
19                                   *Cynthia Chapman*

20                                   Cynthia C. Chapman, RMR-CRR, NM CCR #219  
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