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BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPT OF PUBLIC MEETING PROCEEDINGS

April 26, 2013

9:07 a.m.

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

REPORTED BY: Susan M. Hilton, CRR, CCR 108  
Bean & Associates, Inc.  
Professional Court Reporting Service  
201 Third Street, Northwest, Suite 1630  
Albuquerque, New Mexico 87102

(7264K) SMH

SANTA FE OFFICE  
119 East Marcy, Suite 110  
Santa Fe, NM 87501  
(505) 989-4949  
FAX (505) 843-9492



MAIN OFFICE  
201 Third NW, Suite 1630  
Albuquerque, NM 87102  
(505) 843-9494  
FAX (505) 843-9492  
1-800-669-9492  
e-mail: info@litsupport.com

## 1 APPEARANCES

## 2 COMMISSIONERS:

3 MS. CAROLYN SHEARMAN, Chair  
 4 MR. EUGENE GANT, Vice Chair  
 5 MR. VINCE BERGMAN, Secretary  
 6 MR. JEFF CARR  
 7 MS. MILLIE POGNA  
 8 MS. CARMIE TOULOUSE  
 9 MR. GILBERT PERALTA

## 7 STAFF:

8 MR. TONY GERLICZ, Director, Options for Parents  
 9 MS. KELLY CALLAHAN, Manager, Charter School Division

10 MS. ABBY WEAR  
 11 Counsel for the CSD  
 12 Assistant General Counsel for the PED

13 MR. MIKE WILLIAMS  
 14 Counsel for the PEC  
 15 Assistant Attorney General  
 16 State of New Mexico

17 MS. BEVERLY FRIEDMAN  
 18 PED Liaison to PEC

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1 THE CHAIR: I call to order the regularly  
2 scheduled meeting of the New Mexico Public Education  
3 Commission. Mr. Secretary, can we have a roll call?

4 COMMISSIONER BERGMAN: Yes, Madame  
5 Chairman.

6 Commissioner Pogna.

7 COMMISSIONER POGNA: Yes, I am here.

8 COMMISSIONER BERGMAN: Mr. Peralta.

9 COMMISSIONER PERALTA: Here.

10 COMMISSIONER BERGMAN: Commissioner  
11 Toulouse.

12 COMMISSIONER TOULOUSE: I am present.

13 COMMISSIONER BERGMAN: Mr. Carr.

14 COMMISSIONER CARR: Here.

15 COMMISSIONER BERGMAN: Mr. Gant.

16 COMMISSIONER GANT: Here.

17 COMMISSIONER BERGMAN: Ms. Shearman.

18 THE CHAIR: Here.

19 COMMISSIONER BERGMAN: Commissioner Bergman  
20 is here. We have seven members, and that is a  
21 quorum.

22 THE CHAIR: I will ask Commissioner Carr to  
23 lead us in the Pledge of Allegiance and Commissioner  
24 Peralta in the Salute to the Flag.

25 (Pledge of Allegiance and Salute to the

1 New Mexico Flag.)

2 THE CHAIR: Thank you. Also, I remind  
3 everyone to turn off your cell phone calls and please  
4 leave the doors open. It gets awfully stuffy in  
5 here.

6 UNIDENTIFIED SPEAKER: There's a loud  
7 noise, maybe somebody cutting grass.

8 THE CHAIR: We have this door, so maybe  
9 we'll be okay.

10 UNIDENTIFIED SPEAKER: Okay.

11 THE CHAIR: Please turn off your electronic  
12 devices, if they make noise. Thank you.

13 The next item on the agenda is Statement of  
14 Aspiration from Commissioner Toulouse.

15 COMMISSIONER TOULOUSE: Madame Chair,  
16 Members, having missed the first part of each of the  
17 other meetings I have been to, I wasn't sure what to  
18 do, but I do know I can say that for me -- and I know  
19 for every one of you here -- our job here is to do  
20 the very best we can for the students of the State of  
21 New Mexico and see that they get the very best  
22 education. Thank you.

23 THE CHAIR: Well said, Commissioner. Thank  
24 you very much.

25 Next item is Approval of the Agenda.

1 COMMISSIONER GANT: Madame Chairman,  
2 correct. We don't have our attorney. Correct me if  
3 I'm wrong. I don't think we're going to have the  
4 report listed as No. 4 nor the report listed as No.  
5 5. So we should note that at this time.

6 THE CHAIR: Thank you, Commissioner Gant.  
7 No, we will not have a report from the Secretary.  
8 However, I met with Deputy Secretary Paul Aguilar  
9 yesterday, and he did give me some information to  
10 bring to the commission from his office. So we will  
11 have at least an abbreviated report on Item 5.

12 Anything else on the agenda? The Chair  
13 would entertain a motion.

14 COMMISSIONER GANT: So moved.

15 COMMISSIONER CARR: Second.

16 THE CHAIR: Motion from Commissioner Gant,  
17 second from Commissioner Carr to approve the agenda  
18 with Item 4's omission noted. All those in favor,  
19 please say, "Aye."

20 (Commissioners so indicate.)

21 THE CHAIR: Any opposed, say a word.  
22 Hearing none, the agenda is approved.

23 Item No. 3 is Approval of the Minutes for  
24 the March 8 PEC meeting. Do we have any corrections  
25 or changes to note for the March 8 meeting?

1 COMMISSIONER GANT: I move we accept the  
2 minutes as written.

3 THE CHAIR: Motion from Commissioner Gant  
4 and second by Commissioner Peralta to approve the  
5 minutes as submitted. All those in favor, please say  
6 "Aye."

7 (Commissioners so indicate.)

8 THE CHAIR: Any opposed? Motion carries.

9 We will move past Item 4. We'll go  
10 directly to Item 5. I did meet yesterday with Deputy  
11 Secretary Paul Aguilar. He is at an ERB meeting  
12 today and could not be here. Secretary Skandera is  
13 at a Board of Governors' Conference, which she made  
14 me aware our governor is hosting, and all the cabinet  
15 secretaries are in attendance at that meeting. So I  
16 appreciate that.

17 Deputy Secretary Aguilar talked about the  
18 budget. They're beginning to work on budgets for all  
19 agencies, including the PEC. And he said this year's  
20 budget is going to have a little more money for us to  
21 decide how we want to spend it because we will not be  
22 paying an attorney. You'll recall we paid the Cuddy  
23 Law Firm last year to represent us, and we now have  
24 representation through the AG's office. And so that  
25 money stayed in the budget. Thank you, Deputy

1 Secretary Aguilar.

2           And he would like some direction from this  
3 commission on how we want to spend the funds. It's  
4 not a huge amount, but he would like to know where we  
5 want to place the funds. Do we want to -- we have  
6 always struggled with NASBE and NACSA and paying our  
7 dues to those organizations and travel to their  
8 meetings. He suggested perhaps maybe we ought to  
9 look at that as a place to use some of that money.

10           Beverly, do you have, by any chance,  
11 readily at hand what the dues for those organizations  
12 are?

13           MS. FRIEDMAN: Madame Chair, Commissioners,  
14 the NASBE dues are approximately \$11,500 without the  
15 professional development fee of \$5,000. And NACSA is  
16 paid through the Charter School Division for the PED.  
17 And you were all members on that membership.

18           THE CHAIR: Wonderful. Because I know  
19 that's been an issue in the past and those dues are  
20 rather expensive. The other consideration is both of  
21 those organizations have their national meetings  
22 coming up soon, and we need to decide how many or if  
23 any of our commissioners might want to go and how  
24 many we want to try to afford to pay for their  
25 travel, if we want it to come out of that money, or



1 are there other items that you can think of that our  
2 budget should or could pay for that would enhance our  
3 work. Commissioner Bergman.

4 COMMISSIONER BERGMAN: Do we know yet where  
5 the NACSA meeting is and when it is?

6 THE CHAIR: I believe it's in San Diego, is  
7 it not, Kelly?

8 MS. CALLAHAN: Madame Chair and  
9 Commissioners, that's correct. And it's in October.  
10 I'm not sure exactly of the dates.

11 COMMISSIONER BERGMAN: Well, I have never  
12 taken a trip, so I might be interested in that, if  
13 you want to put my name on a short list.

14 THE CHAIR: Commissioner Gant.

15 COMMISSIONER GANT: Madame Chair, Members,  
16 I think we talked about this in December somewhat,  
17 and it would be my recommendation that we don't --  
18 that we do not continue the membership in NASBE. I'm  
19 not sure we get enough out of it. We can't afford to  
20 go to everything. Because we do a lot of charter  
21 work, I think it's in our best interests and best  
22 interests of the students of New Mexico that we go to  
23 NACSA, to the Charter School Authorization convention  
24 or conference in October. And of course, we're going  
25 to have to go by the bylaws, but I think we can

1 arrange it. We had people go last year. So some of  
2 them who didn't go last year will probably go this  
3 year. But we need to go by the bylaws and decide who  
4 goes to what meetings.

5 And that's my recommendation. We don't do  
6 NASBE and do everything else. We don't know how many  
7 communities we're going to have to travel to this  
8 year, and that gets rather expensive. So we need  
9 that money to make sure we cover all our trips. It  
10 could be down to Columbus again. It could be  
11 wherever. So we need to have that money set aside  
12 for trips. Thank you.

13 COMMISSIONER POGNA: Madame Chair?

14 THE CHAIR: Commissioner Pogna.

15 COMMISSIONER POGNA: I agree with Mr. Gant.  
16 I don't think it would be worthwhile to be a member  
17 of NASBE, National Association of State Boards of  
18 Education. When we were state boards, we were  
19 immensely active. In fact, I was director for the  
20 Western area. We always attended conferences or  
21 conventions wherever they were, but it was a  
22 different -- it's a different area. I don't think we  
23 would utilize our money properly if we join. I would  
24 prefer not to.

25 THE CHAIR: Okay. Thank you.

1 COMMISSIONER CARR: Madame Chair?

2 THE CHAIR: Commissioner Carr.

3 COMMISSIONER CARR: I would concur with  
4 Mr. Gant and Ms. Pogna. I know I did some more  
5 travel to the LESC, education committees and things  
6 like that, and I would like to make sure, too, we  
7 have money for those things right here. I think  
8 those are the pressing -- most pressing things we  
9 need to do right now, things that are within our  
10 state. So I concur.

11 THE CHAIR: Any other comment?

12 COMMISSIONER BERGMAN: I also -- we're  
13 going to have multiple, I suspect, negotiations again  
14 in the fall and again in the spring. I certainly say  
15 we have enough for -- so maybe a couple are a car  
16 trip. I also think we're not getting enough out of  
17 NASBE.

18 THE CHAIR: Okay. So I think what I'm  
19 hearing is we do not think our association with NASBE  
20 is productive and so do not pay the dues for that,  
21 continue with our membership in NACSA, National  
22 Association of Charter School Authorizers, reserving  
23 enough funds to pay, if possible, travel expenses if  
24 all commissioners wanted to attend the NACSA  
25 conference in San Diego in October. Also, as

1 Mr. Bergman said, laying aside sufficient funds for  
2 all of the anticipated travel for commissioners. Do  
3 I have that correct?

4 COMMISSIONER GANT: Yes.

5 THE CHAIR: Do we need a vote on that,  
6 Mr. Attorney?

7 MR. WILLIAMS: I would just take a motion  
8 and a second, and you can do it by acclimation.

9 THE CHAIR: All right. You have heard the  
10 recommendations from our attorney that we vote.  
11 Would anyone care to make the motion? Commissioner  
12 Gant.

13 COMMISSIONER GANT: Madame Chair and  
14 Members, I move we do not pay for the dues for NASBE,  
15 we set aside enough money for all our travel, we  
16 consider enough money to send the majority of all, if  
17 so desired, commissioners to NACSA -- I never say  
18 that right -- and that's pretty much it.

19 COMMISSIONER POGNA: Second.

20 THE CHAIR: Motion by Commissioner Gant,  
21 second by Commissioner Pogna to continue membership  
22 in the National Association of Charter School  
23 Authorizers, but not in NASBE, to set aside  
24 sufficient travel money so all commissioners, if they  
25 so choose, could attend the national meeting of

1 NACSA, and also sufficient funds for travel and per  
2 diem for all travel and meetings required for  
3 commissioners. Are we ready to vote? All those in  
4 favor, please say "Aye."

5 (Commissioners so indicate.)

6 THE CHAIR: All those opposed? The motion  
7 passes unanimously. Thank you.

8 We are to Item No. 6 on the agenda. We had  
9 an earlier -- some discussion about having a charter  
10 school bring some of their students to showcase some  
11 of the things the students were doing, some of their  
12 learning activities, so on and so forth. And from  
13 that, it occurred to me that wouldn't it be a better  
14 plan, or at least certainly it sounded better to me,  
15 if we had a process whereby completely at random we  
16 selected a school or two --

17 (A discussion was held off the record.)

18 THE CHAIR: As you-all know, Director  
19 Gerlicz is attending this meeting by computer, by  
20 Go-To Meeting, and it seemed to have a mind of its  
21 own. We'll just put up with it.

22 Anyway, it occurred to me that if we had a  
23 random way to select a school or charter school or  
24 two, a state-chartered school that would provide this  
25 commission with a video or a link that we decide on,

1 if we so choose, that would showcase what they are  
2 doing, that highlights what they said they were going  
3 to do in their charter, whatever unique aspect they  
4 bring to their school and to their students, then  
5 let's have a little short video and have that sent to  
6 us so that we can see what all the schools are doing.  
7 And that way, if we do it by video rather than asking  
8 them to travel to the meeting, we won't be unduly  
9 hindering the schools that are at some distance and  
10 giving preference to the schools that are closer and  
11 could afford to bring their students.

12           You know, the students from Santa Fe could  
13 certainly come easily enough with little expense or  
14 relatively little. But a school in wherever our  
15 farthest one away is -- and I'm at a loss for where  
16 that is now -- but one from a fair distance would  
17 have students missing more school if they came and  
18 made a personal presentation. I'm throwing that out  
19 for discussion, Commissioners. What are your  
20 thoughts and what are your preferences? Mr. Bergman.

21           COMMISSIONER BERGMAN: Thank you. I agree  
22 with that, but I think we should also leave it open.  
23 Albuquerque is fairly close, and as you know, Santa  
24 Fe, too. I can see where a school in Roswell is  
25 probably going to want to make a 400-mile round trip

1 for a 10-minute opportunity, if they want to do that.  
2 My personal preference, I like to see the kids. A  
3 film is fine, if they want to do that. Essentially,  
4 I agree with what you're saying. But if they want to  
5 come, let them come.

6 THE CHAIR: Okay. Other comments?

7 COMMISSIONER PERALTA: I agree with what  
8 Commissioner Bergman has to say, and we give them the  
9 option, to leave that to the school. If they have  
10 expenses to set aside for certain travel, that's  
11 fine. And again, the connection with the kids and  
12 them being in this setting, with them being present  
13 in the setting may be a worthwhile experience for  
14 them also. So I totally agree with Commissioner  
15 Bergman.

16 THE CHAIR: The only concern I have with a  
17 10- or 15-minute video presentation, you know as well  
18 as I do when we get a group of kids in here, it's  
19 going to be a lot longer with the presentation. It's  
20 not something we are going to vote on, but I don't  
21 want to give preference to one group or another. I  
22 think you're correct in wanting to give them options.

23 COMMISSIONER BERGMAN: I think if we're  
24 firm with them, tell them you've got 10 minutes or  
25 you've got 15 minutes because we have other business,

1 I think most of them will adhere to that. I remember  
2 when I was a kid, I loved a road trip. So that's  
3 just me thinking aloud.

4 THE CHAIR: Certainly. Any other comments?

5 COMMISSIONER CARR: Madame Chair, I concur  
6 with you on the idea of the video. There's nothing  
7 wrong with giving them a time limit. Three- to  
8 five-minute speech, that's it.

9 THE CHAIR: Of course, that's a speech.  
10 Other comments? Commissioners, do you have a motion?

11 Let me just say my idea is to make this a  
12 responsibility of one of the officers of this  
13 organization, that they would be the one that would  
14 put all the names in the hat and draw out one or two,  
15 and then we would coordinate contacting those schools  
16 well in advance so they could provide -- they have  
17 plenty of time to make their plans for their  
18 presentation and their trip, should they choose to do  
19 so. I just want to make it as fair and inexpensive  
20 as possible, but still giving us an opportunity to  
21 see what those schools and what those students are  
22 doing. So think about whose responsibility you would  
23 like to make this, and then let's hear a motion that  
24 would cover this issue. Mr. Gant?

25 COMMISSIONER GANT: Madame Chair, I think



1 you may disagree, but this falls under the purview of  
2 the Secretary of Public Education Commission, and I  
3 move that we -- the student presentations -- that the  
4 schools be given the option of either a video or  
5 personally be here to do the presentations to the  
6 commission and that the videos -- the videos and  
7 presentations should be no longer than 15 minutes.

8 THE CHAIR: Could you talk about the  
9 content of the presentation because we don't just  
10 want it to be anything, or I don't. I want to know  
11 their goals and accomplishments.

12 COMMISSIONER GANT: In addition to what I  
13 just said in the motion, Commissioner Shearman, the  
14 Chair is correct. It should be related to what their  
15 charter is about, what they said they would do in the  
16 charter. It should not be anything that's offhand.

17 THE CHAIR: The motion by Commissioner  
18 Gant. Do we have a second?

19 COMMISSIONER CARR: Second.

20 THE CHAIR: Second by Commissioner Carr.  
21 The motion is -- let's have some discussion. Is  
22 there any discussion?

23 COMMISSIONER BERGMAN: Have we determined  
24 that the Secretary, who happens to be me, is willing  
25 to accept this responsibility? And the answer, I

1 will do it. But I would appreciate, Ms. Callahan --  
2 because she has all the contact information, I will  
3 work it out with Director Callahan. My understanding  
4 is we want it to be something positive, what they're  
5 excited about at their school. That's the tenor that  
6 we want to talk about?

7 THE CHAIR: That relates to their charter  
8 and their mission.

9 COMMISSIONER BERGMAN: Their charter and  
10 their mission?

11 THE CHAIR: Right.

12 MS. CALLAHAN: Madame Chairman,  
13 Mr. Bergman, I think we would be happy to coordinate  
14 with you-all on that.

15 Director Gerlicz is back online. So Tony,  
16 did you want to add anything to that?

17 MR. GERLICZ: Greetings from Washington,  
18 D.C. I have been able to hear the components of the  
19 discussion, and I think the suggestions are very  
20 fine. Short presentation, what they're excited  
21 about, and how it relates to their mission is a fine  
22 idea. I agree.

23 THE CHAIR: Any other comments? Hearing  
24 none, are we ready to vote? All those in favor of  
25 the motion, please say "Aye."

1 (Commissioners so indicate.)

2 THE CHAIR: Any opposed? The motion  
3 carries unanimously. Mr. Secretary, you have a new  
4 duty to coordinate with General Manager Callahan.  
5 Thank you very much.

6 I'm kind of excited. I think it will give  
7 us an opportunity to hear some things that we might  
8 not otherwise be aware of. I think it's great.

9 COMMISSIONER BERGMAN: I think it's  
10 important for the kids to see a process like this,  
11 even if it's just for a brief amount of time. I  
12 believe there's a plus there, too.

13 THE CHAIR: Absolutely. Absolutely.  
14 We're to Item No. 7. Director Gerlicz,  
15 we're glad you're back online because it's time for  
16 your report.

17 MR. GERLICZ: Good timing. Madame Chair  
18 and Members of the Commission, it's been actually two  
19 very fine days in Washington, the second one better  
20 than the first one, related to nationally related  
21 trends of charter schools being discussed. We will  
22 write up a report of that trip and send it to the  
23 commission just as soon as I return. But there was a  
24 lot of very interesting topics.

25 One of them related to No. 5 in my

1 Director's Report. The president of NACSA was there,  
2 and he mentioned NACSA Western as being a working  
3 group or alternative group. The second session is in  
4 Chicago, and it's really to raise the question of so  
5 many of our charter schools that deal with a student  
6 population that has never been successful, that have  
7 been drop-outs from other school districts. Many of  
8 the urban charter schools around the country really  
9 face the burden and the brunt of an accountability  
10 system that may not accurately reflect the quality of  
11 the work those schools do.

12 So this working group is convening in an  
13 alternate accountability system. New Mexico is  
14 involved. We have a program called SAM's Schools,  
15 which stands for Supplemental Accountability  
16 Measures. Kelly and I are very involved with that.  
17 She can speak to that additionally. That's a very  
18 interesting working group, and we will keep the PEC  
19 informed about that.

20 It is interesting to note in No. 8 that our  
21 applicant pool or new applicants -- and there were  
22 very few applicants who attended, five out of 11. We  
23 shall see how that translates into the final  
24 applications. Those that were there were vibrant,  
25 interested, asked terrific questions. I think we

1 have done a good job in preparing them for their  
2 applications. We have more training scheduled May  
3 10.

4 We did learn in Washington that like this  
5 year, there will not be federal grant monies  
6 available for stimulus and implementation, possibly  
7 in 2015. And we believe that that's going to have a  
8 chilling effect on new applicants because, as we all  
9 know, that's extremely difficult for them to do a  
10 planning year on their own without any federal  
11 assistance, but we shall see.

12 And I will work with the third-year schools  
13 as we have mentioned in the past. We are now  
14 developing a cycle of site visits that include an  
15 intense visit for a planning year, an intense visit  
16 for the first year schools to really ensure that  
17 they're getting up to speed quickly, less of third  
18 and fourth site visits and a more intense visit  
19 preparing for the renewal applications. That had  
20 occurred for the fourth year schools. We met with  
21 them very, very, I would say, successfully to get  
22 them working on acquiring the information they need  
23 for the renewal application, and we are designing  
24 what we hope to be either a two-day or three-day site  
25 visit in the spring as they prepare for renewal.

1           Moving on to our report on schools, we are  
2 serious about trying to visit every school every  
3 year. The report that you see on the Director's  
4 Report are synopses and abstracts of those visits.  
5 We are happy to answer any of your questions on any  
6 of those schools, but it gives you a snapshot of our  
7 work, of our follow-up with these schools. And when  
8 we find issues with the schools which do occur during  
9 the site visits and afterwards, this allows a  
10 framework to follow up with them. We do have some  
11 issues in some of these schools that we must follow  
12 up with, and we will, but these visits have proven to  
13 be very, very successful for us.

14           So our work continues. It continues to be  
15 a productive and busy time in the Charter School  
16 Division, and we are happy to answer any of your  
17 questions.

18           THE CHAIR: Commissioners, does anyone have  
19 questions? I see none.

20           Tony, I have just been glancing through  
21 your written report, and we very much appreciate your  
22 written report and the report on your site visits.  
23 They're very -- certainly they look very complete to  
24 me. I would note that there is one school where you  
25 do have some very serious concerns, and you're

1 waiting for audit results before taking the next step  
2 on this school. My question is, when do you expect  
3 those audit results, and will they be shared in  
4 detail with commissioners when they're received?

5 MR. GERLICZ: Madame Chair and Members of  
6 the Commission, they will be shared. And I think  
7 it's fair to say that we are preparing a follow-up  
8 visit to the Southwest Secondary Schools. I fear  
9 that the auditor's report is not on time. In my  
10 view, it should have been finished already. I would  
11 like to have a complete picture before we go down for  
12 a second visit.

13 But I will say that the conversation we had  
14 with the school authorities was very frank, very  
15 open, very honest. It's clear that we found an  
16 exceptional program. We would like, in an ideal  
17 world, to highlight that program as a -- what I call  
18 blended learning where they are usually using  
19 technology effectively. Some of the dark clouds that  
20 hang over that school we do need to clear away before  
21 we do any of that sort of work. So that work really  
22 needs to be done. And be assured that we will keep  
23 the PEC abreast. And if you would like, we are happy  
24 to put that on next month's agenda minutes.

25 THE CHAIR: I think that will be a good

1 idea, Mr. Director. I'm also under the understanding  
2 that there have been complaints turned in to the AG's  
3 office on this school for some of the very issues  
4 that you have highlighted here. Are you all working  
5 with the Attorney General's Office?

6 MS. WEAR: I was unaware of that.

7 MR. WILLIAMS: Actually, Madame Chairwoman,  
8 I'm not sure I recall that. Would that be a  
9 different section?

10 MS. WEAR: That's in the State Auditor's  
11 Office, but I don't know of any in the AG's office.

12 THE CHAIR: It's my understanding a parent  
13 had turned in some information to the AG's Office  
14 some months ago.

15 MR. WILLIAMS: Okay. I can check for you,  
16 Madame Chairwoman.

17 THE CHAIR: So then would it be appropriate  
18 for CSD to be working with the Attorney General's  
19 Office since the same concerns have been brought to  
20 light in both areas, or is that -- I'm just asking  
21 because I don't know.

22 MS. WEAR: Well, I'll get with Mike, and  
23 we'll see if anything has come into the AG's Office.  
24 But we have got some teeth on our own, so we may try  
25 to gnash those fist.



1 MR. WILLIAMS: To answer your question,  
2 Madame Chairwoman, there would not be a conflict on  
3 its face. Because if it's being investigated by the  
4 AG's Office, there may be a different number of  
5 reasons why, none of which impact the chartering  
6 responsibility of this commission.

7 THE CHAIR: I see. Thank you.

8 Again, any commissioners have questions or  
9 anything for the Director? Again, thank you,  
10 Director Gerlicz. Good report.

11 The next item on the agenda is our  
12 Executive Session pursuant to 10-15-1(H)(7), NMSA  
13 1978 to discuss pending litigation regarding Appeal  
14 of Secretary's Decisions on New Mexico Connections  
15 Charter Academy and Taos International School. The  
16 two cases remaining for Executive Session should be  
17 New Mexico Public Education Department versus  
18 Shearman, et al., Case No. D-101-CV-2013-00655, Judge  
19 Matthew, and New Mexico Public Education Commission  
20 versus New Mexico Education Department, Case No.  
21 D-101-CV-2013-00674, Judge Singleton. Do we have a  
22 motion to go into Executive Session pursuant to the  
23 information I just read?

24 MR. WILLIAMS: Madame Chairwoman, the  
25 explanatory language here that the cases remaining

1 for Executive Session would be these other two cases,  
2 it's somewhat inconsistent with the prior language  
3 for the Executive Session. I would ask that the  
4 motion simply reflect that we go into Executive  
5 Session pursuant to the section to consider all of  
6 the cases that are set forth on the agenda.

7 THE CHAIR: So moved. We'll do just fine.

8 COMMISSIONER BERGMAN: So moved.

9 THE CHAIR: Moved by Commissioner Bergman.

10 COMMISSIONER CARR: Second.

11 THE CHAIR: Second by Commissioner Carr to  
12 go into Executive Session and a roll call vote.

13 COMMISSIONER BERGMAN: And we would ask the  
14 reporter to turn off your equipment during our  
15 Executive Session.

16 Commissioner Pogna.

17 COMMISSIONER POGNA: Yes.

18 COMMISSIONER BERGMAN: Commissioner  
19 Peralta.

20 COMMISSIONER PERALTA: Yes.

21 COMMISSIONER BERGMAN: Commissioner  
22 Toulouse.

23 COMMISSIONER TOULOUSE: Yes.

24 COMMISSIONER BERGMAN: Commissioner Carr.

25 COMMISSIONER CARR: Yes.

1 COMMISSIONER BERGMAN: Commissioner Gant.

2 COMMISSIONER GANT: Yes.

3 COMMISSIONER BERGMAN: Commissioner  
4 Shearman.

5 THE CHAIR: Yes.

6 COMMISSIONER BERGMAN: Commissioner Bergman  
7 votes yes. Madame Chairman, seven to zero vote in  
8 favor. We're in Executive Session. And thank you  
9 for stepping outside. And we will call you when  
10 we're back in.

11 (Recess from 9:43 a.m. to 10:54 a.m.)

12 THE CHAIR: We need a motion to come out of  
13 Executive Session, please.

14 COMMISSIONER TOULOUSE: Madame Chair?

15 THE CHAIR: Commissioner Toulouse.

16 COMMISSIONER TOULOUSE: I move that we  
17 adjourn Executive Session and return to Open Public  
18 Session.

19 COMMISSIONER CARR: Second.

20 THE CHAIR: A motion and second to come out  
21 of Executive Session. Mr. Secretary, can we have a  
22 roll call, please?

23 COMMISSIONER BERGMAN: Mr. Pogna.

24 COMMISSIONER POGNA: Yes.

25 COMMISSIONER BERGMAN: Mr. Peralta.

1 COMMISSIONER PERALTA: Yes.

2 COMMISSIONER BERGMAN: Ms. Toulouse.

3 COMMISSIONER TOULOUSE: Yes.

4 COMMISSIONER BERGMAN: Mr. Carr.

5 COMMISSIONER CARR: Yes.

6 COMMISSIONER BERGMAN: Mr. Gant.

7 COMMISSIONER GANT: Yes.

8 COMMISSIONER BERGMAN: Ms. Shearman.

9 THE CHAIR: Yes.

10 COMMISSIONER BERGMAN: Commissioner Bergman  
11 votes yes. Seven to zero to come out of Executive  
12 Session. The matters disclosed in the closed meeting  
13 were only in the matters for closure, and no votes  
14 were taken and no action was taken. The commission  
15 would like to take a 10-minute break. We will see  
16 you-all at about five after.

17 (Recess from 10:56 a.m. to 11:08 a.m.)

18 THE CHAIR: We are back on the record and  
19 ready to proceed on Item No. 9, which is Action on  
20 Contracts with Charter Schools.

21 Director Gerlicz, if you're ready.

22 MS. CALLAHAN: We're trying to get him,  
23 Madame Chair.

24 THE CHAIR: Okay.

25 MS. CALLAHAN: Tony, can you hear me?

1 MR. GERLICZ: Yes, I'm here.

2 THE CHAIR: Please proceed, Tony.

3 MR. GERLICZ: Where are we on the agenda?

4 THE CHAIR: Item No. 9, Action on Contracts  
5 with Charter Schools.

6 MR. GERLICZ: Yes. So initially, we had  
7 three schools on the agenda to present their  
8 contract; Cottonwood Classic Preparatory School,  
9 Anthony Charter School, and the New Mexico  
10 Connections Academy. Commissioner Bergman  
11 participated along with Commissioner Pogna in the  
12 negotiations with Cottonwood Classic Preparatory  
13 School. Upon leaving those negotiations, there  
14 remains some unanswered questions that Cottonwood  
15 Classic Preparatory School's board raised  
16 particularly around the question of the allocations  
17 of the 2 percent and the analysis of the 2 percent  
18 that the school is allotted or has access to.

19 As we all know, this has been an area that  
20 has yet not been clearly answered and hence, they  
21 requested additional time to get the question  
22 resolved and requested that this be postponed until  
23 the June 7 board meeting and not to be presented  
24 today. I'm not sure whether Mr. Obenshain is at the  
25 meeting to answer questions, but this is the reason

1 that we request this be postponed until the June 7  
2 board meeting so that all parties can be clear on the  
3 remaining questions and the issues qualified.

4 MS. WEAR: This is Abby. Tony made a  
5 comment that the issue has not been qualified. There  
6 was language that we put into the contract. The  
7 statute called for a detailed description, and we did  
8 provide that to Cottonwood, and we sent it to you-all  
9 as well. To me, that has been cleared up, in my  
10 opinion.

11 MR. GERLICZ: Okay. Be that as it may, it  
12 is the request of Cottonwood that they will postpone  
13 the approval of the contract until June 7 so all  
14 parties can get more clear on the remaining  
15 questions. So that's the request that Cottonwood has  
16 made to the PEC today. The CSD has no objection to  
17 postponing until June 7. It's my feeling and our  
18 feeling if there are remaining questions on the  
19 contract, then it behooves everybody to slow down and  
20 make sure that we have one more month where we all  
21 get together and resolve any questions.

22 MR. WILLIAMS: Madame Chair.

23 THE CHAIR: Tony, Mike Williams has asked  
24 to be recognized, and I'm calling on him now.

25 MR. WILLIAMS: Tony, can you hear me?

1 Apparently not.

2 It's Mike Williams. Can you hear me?

3 MR. GERLICZ: I can hear you very well now.

4 MR. WILLIAMS: Thank you. I just want to  
5 make sure that I understand because I had seen some  
6 e-mail traffic with Cottonwood, and I was under the  
7 impression that they might be here to make this  
8 request on their own. I just want to build a record.  
9 Tony, are you representing that you are authorized to  
10 ask this request on behalf of Cottonwood and that  
11 they are in agreement --

12 MS. WEAR: Mike, I would ask that you not  
13 ask that and have Tony ask me that. He needs to  
14 coordinate with me on the extension request. Sam has  
15 not gotten to that quite yet, but CSD is not making  
16 the extensions. The schools will be making the  
17 extensions themselves.

18 MR. WILLIAMS: Do I understand, Abby,  
19 rather than Tony that will be a forthcoming request?

20 MS. WEAR: Correct.

21 MR. WILLIAMS: Under the current and formal  
22 extension process?

23 MS. WEAR: Correct. Yesterday I clarified  
24 to Sam that -- I was clear to Sam that he needed to  
25 contact you, but Sam was confused that I was

1 contacting you. So we came to a time crunch there.  
2 So it should be Sam or the school's attorney. I'm  
3 not sure who it is who will be contacting.

4 MS. FOX: Officially, it's me, but I  
5 haven't been asked to represent anything today. To  
6 the extent you need a request for the extension from  
7 somebody here, I'll make that request today.

8 MR. WILLIAMS: Thank you. I appreciate the  
9 clarification.

10 THE CHAIR: Tony, if you would like to move  
11 on then, that just leaves one contract, and that's  
12 New Mexico Connections.

13 MR. GERLICZ: That is correct. Madame  
14 Chair and Members of the Commission, to bring  
15 everyone up to speed on our involvement with the  
16 worksheet and the contract related to New Mexico  
17 connections academy, as the subcommittee of the  
18 Charter School Committee of the PEC will know the  
19 process very intimately by now, we followed the same  
20 process with the New Mexico Connections Academy. And  
21 I have been engaged with a number of representatives  
22 of the school, including board members, including  
23 representatives, in fulfilling the contract worksheet  
24 like we have with every other applicant school.

25 The worksheet went through various



1 iterations. We eventually got to the point where we  
2 said this process is now complete and ready to be  
3 populated into the contract. One step that has  
4 been -- I know Julia is present and will give the  
5 commission far more detail because one of the steps  
6 in this process that did not occur yet was what has  
7 occurred with every other school, and that's the  
8 final negotiation session where all parties are  
9 around the table and the authorizer included. That's  
10 a step that has not yet been completed, and that is a  
11 little bit of a departure from the other schools.

12 Nonetheless, the completed worksheet went  
13 to Julia who populated the contract, and I would ask  
14 Julia to take it from there so that she could comment  
15 on her work. Julia?

16 THE CHAIR: Thank you, Tony.

17 Julia, yes, please.

18 MS. BARNES: Madame Chairman and Members of  
19 the Commission, I'm Julia Barnes, and I'm under  
20 contract with the Education Department to work with  
21 the Charter Accountability Project, and I've been  
22 doing that for approximately 15 months. I do want to  
23 clarify that while I have a legal degree, I am not  
24 acting as a lawyer in this case. Abby Wear is  
25 representing the Public Education Department, and

1 Mike Williams -- I think I'm saying his name right --  
2 is, of course, your attorney. Sue Fox is also here  
3 representing the school. So let me tell you what I'm  
4 intending to do and clarify with you, Madame  
5 Chairman, that that's correct.

6 I understand that you may want to take  
7 action on this contract today, so the presentation I  
8 have is a little bit detailed to really catch you up  
9 on what's going on with this contract so that you  
10 will be able to deliberate and take whatever action  
11 you would like to take today. So that's why it's a  
12 little detailed.

13 I have prepared a document that attempts to  
14 walk you through the documents in front of you. What  
15 I'm intending to do is to explain what I think  
16 happened, and then the other lawyers, in particular  
17 Sue Fox for the school, is going to use the same  
18 document that you have in front of you to raise  
19 whatever questions, comments, or anything that she  
20 would like to say. And she may not agree with what I  
21 tell you. So I want to say this as broadly as  
22 possible. That's great. Anybody can disagree with  
23 whatever I have to say. And Abby doesn't hesitate to  
24 jump in if she wants to as well.

25 So I guess the first thing I want to do is

1 just confirm that that is how you would like me to  
2 proceed?

3 THE CHAIR: Yes, Julia, that sounds fine.  
4 Please go ahead.

5 MS. BARNES: Excellent. So let me just  
6 back everybody up just a little bit and make sure  
7 we're all on the same page as to what has happened.  
8 As Tony said, this is at a little bit different stage  
9 than other contracts that have come before  
10 subcommittees where I have facilitated. So just like  
11 every other contract that has been presented to you,  
12 there is a five-year contract being presented and  
13 there is a one-year performance framework. There is  
14 also an exhibit, an Exhibit 3 to the contract, as  
15 there have been to every other one which lists all of  
16 the requested waivers.

17 Waivers, as you recall -- and I'm certainly  
18 not meaning to talk down to any of you because I know  
19 many of you are sophisticated, and I want to make  
20 sure you're all on the same page, the waivers are not  
21 in the contract because you act on them. They will  
22 go through the normal Education Department request  
23 process just like they always do.

24 The reason we have addressed the waivers in  
25 every contract is that sometimes what happens is the

1 waivers also become material terms within the  
2 contract. So it's my intention to walk you through  
3 the five-year contract and the one-year performance  
4 framework that has been worked on by many people.

5 Sometimes -- I don't want to use the word  
6 negotiation because that -- because it's really  
7 more -- no one who has worked on the contract from  
8 the Public Education Department side has the ability  
9 to negotiate because they're not the parties. So I  
10 want to stay away from that.

11 So I've presented a document to you to help  
12 walk through the contract and the one-year  
13 performance framework. There are three different  
14 types of things that came up in this discussion with  
15 the school so I have color coded them. The first one  
16 is that this school asked to look at the template  
17 that you approved, and there was a pretty detailed, I  
18 would say, five- to 10-hour process of a lot of  
19 lawyers looking at the template that you approved.  
20 And I consider them cleanups. And in fact, we -- and  
21 I think Tony said this before, he's often said it,  
22 that as we're rolling out this new process, new stuff  
23 happens and that we should all really embrace that.  
24 So the lawyers looking carefully at the contract  
25 template in my view have really tightened it up for

1 this school.

2 I think that it's very possible that we  
3 will bring forth to you maybe at the next meeting  
4 changes to the template itself that will be used for  
5 all schools. But what we're talking about today is  
6 these contract changes just for this school.

7 Those are highlighted in green. And it  
8 really looks at three major areas. A very careful  
9 review as to who is involved in this contract,  
10 another careful review of exactly when contract  
11 provisions will be triggered, and then a very careful  
12 review of one section of the contract that looks to  
13 when charter schools need to provide documentation if  
14 they have entered into an agreement with a third  
15 party. I'll get to that. So there's three primary  
16 things looking at cleaning up the contract.

17 THE CHAIR: Julia, may I interrupt you?  
18 When you refer to Page 19, you are referring to Page  
19 19 of the contract?

20 MS. BARNES: Correct.

21 THE CHAIR: Okay. Thank you.

22 MS. BARNES: And I will just tell you that  
23 I asked Abby Wear to send me what got sent to you,  
24 and I'm hopeful that I have the same draft. I have  
25 used the draft she told me was given to you. It also

1 references the section, so we all can find that.

2           So the first thing I want to show you is  
3 how the template was modified by this school in a lot  
4 of negotiations with a lot of attorneys getting way  
5 involved in attorney like things. It was a lovely  
6 thing to see. The next thing is in blue. Those are  
7 the school specific terms. Those are the things that  
8 were on the worksheet that then became populated into  
9 this document. I want to have you understand what  
10 happened in that -- in those conversations, so those  
11 are all in yellow in the contract, and those were all  
12 on a worksheet that then were populated.

13           Those are all things that I think if you  
14 vote on this today, you can discuss as to whether you  
15 agree with them or not. So really, those are things  
16 that you would have talked about at the negotiation  
17 session.

18           The third set of things are in red on this  
19 document I have passed out, and that is just where  
20 something was raised that's going to happen by the  
21 CSD's next steps. I've just flagged it for you. I  
22 want you to follow what we're thinking. Some relate  
23 to the schools; some don't.

24           So unless there's questions about how I set  
25 up the document, I can jump into it. Are we good?

1 THE CHAIR: Please go ahead.

2 MS. BARNES: First, you can see on Page 3  
3 of the document that I have handed out, it's a chart,  
4 and that's in green looking at the contract cleanups,  
5 in blue looking at the populated terms, and in red  
6 looking at CSD. And it walks through page by page.

7 So the first thing that I want to bring to  
8 your attention -- and I'm only going to talk about  
9 the contract for a little while. You'll see at the  
10 end of the document I turn to the performance  
11 frameworks.

12 So the first thing that I want to tell you  
13 that the lawyers looked at is on Section 1.03. I  
14 believe it's on Page 8. This is where the lawyers  
15 wanted to tighten up this idea of improvement plans  
16 that the contract talks about. If a smaller issue or  
17 something happens during the five-year term, that you  
18 as an authorizer or CSD acting on your behalf would  
19 like to clarify in a plan. There is a process  
20 involved in the contract that allows for these  
21 improvement plans to be created. We have clarified  
22 in this section that the authorizer needs to request  
23 that. It was a little unclear before as to how an  
24 improvement plan would come about, so we have just  
25 clarified that the authorizer will request it.

1 I'm happy to take questions at any time.  
2 My thinking is to keep going until you have a  
3 question.

4 On Page 9, Section 1.04 under the history,  
5 so if you look at your contract document on Page 9,  
6 you'll see a chart that's all in yellow. This  
7 school, of course as you recall, was approved on  
8 appeal by the Secretary, and the Secretary did  
9 approve it with conditions, with five conditions.  
10 They're put in here, right here, two of them which is  
11 the Board of Finance, No. C, and completing the  
12 Planning Your Checklist, Item D on Page 9. Those  
13 will be completed prior to commencing operations or  
14 during the planning year. So it says that.

15 So Condition A which is dealing with  
16 student computers, Condition B which is looking at  
17 monitoring how performance happens under common core  
18 and 21st Century skills, and E which says that the  
19 school will operate grades four through 12. Those  
20 three provisions are going to be taken care of in the  
21 contract. C and D are going to be taken care of in  
22 the planning year.

23 COMMISSIONER GANT: Madame Chair?

24 THE CHAIR: Go ahead.

25 COMMISSIONER GANT: What is "graduated"



1 defined as?

2 MS. BARNES: Thank you for that question.  
3 The contract template looks to keep smaller things  
4 small and bigger things big and to allow the parties  
5 to the contract to have more tools. So of course,  
6 there's corrective action, there's an ability to  
7 suspend a charter, all the things that are allowed  
8 under law. In addition, what we meant by "graduated"  
9 is that there is now under the contract an ability  
10 for you to say an issue came up, it's a smaller  
11 issue, but we want you to handle it. So you are  
12 allowed to handle it through an improvement plan and  
13 to request an improvement plan.

14 Let me give you an example. If a parent or  
15 four parents or something made a complaint to the  
16 Charter Schools Division and it looked like they  
17 needed to look at describing their lottery process  
18 better, you might do an improvement plan with the  
19 school, that the school told you how they were going  
20 to make improvements to the lottery process and make  
21 it more clearer to the parents. That's an example of  
22 an improvement plan. The authorizer, either you or  
23 the Charter Schools Division, could make a request to  
24 the school and say, Tell us how you're going to  
25 address these four parent complaints, and they might

1 say, Here's a three-page document of how we're going  
2 to do it, and that's an improvement plan. That's  
3 what we mean by "graduated."

4 MR. GANDERT: Thank you.

5 MS. BARNES: Going on, Page 10.

6 THE CHAIR: Page 9, Condition A, it says,  
7 The parties have adopted organizational indicator  
8 5(e) in the performance framework. Help us know how  
9 to find those various sections.

10 MS. BARNES: So the performance frameworks,  
11 which is the other document we're going to look at,  
12 is a one-year framework. Actually, if you look at  
13 the very last page of the chart -- and we're going to  
14 get to it when we get to Page 9 -- but the very last  
15 page talks about 5(e). We will talk about the  
16 performance indicator. So it's the very last term of  
17 the very last page of the performance indicator. It  
18 is referenced in the contract but taken care of in  
19 the performance framework. So I will talk about it  
20 when we look at the performance framework.

21 THE CHAIR: Okay. Thank you.

22 MS. BARNES: If I can add one thing. That  
23 is a mechanism we have been using for this contract.  
24 If the contract requires that something be done, for  
25 example, a school is going to change locations, but

1 they haven't done it yet, but you said, Okay, great,  
2 you can change locations, but we want you to do it  
3 appropriately, we have been adding a performance  
4 framework indicator that says that they will provide  
5 to you and the CSD in the performance indicator that  
6 they have done it appropriately. So here's a  
7 condition that is now a performance indicator that  
8 will be looked at by the CSD at the end of next year  
9 that says we have done this correctly.

10 THE CHAIR: Thank you.

11 MS. BARNES: Page 10, one of the things  
12 that has been clarified since your attorney is  
13 becoming more involved and Abby Wear came on board  
14 and some of the -- it's just clear that we needed to  
15 allow anyone to be defined as an authorizer who's  
16 asked to do something later on in the contract to  
17 look at it. So we have said -- and I think it's  
18 cleanup language -- that you're defined as the  
19 authorizer, CSD staff can be defined as authorizer  
20 acting on your behalf or any other person designated  
21 by the commission or CSD. The lawyers for the PED  
22 might look at it. So we just made it clearer, said  
23 it's anyone that is asked to take action. Did you  
24 have a question?

25 COMMISSIONER BERGMAN: I'm not sure it's a

1 question. I don't believe statute allows anyone to  
2 be an authorizer, number one. Counsel, do you have  
3 Page 10 at the bottom? Have you had a chance to read  
4 that?

5 MR. WILLIAMS: No. I'm actually looking at  
6 it as we speak and not able to give you an opinion,  
7 but it's worth discussing.

8 THE CHAIR: In my reading of the Charter  
9 School Act as amended, I believe there authorizer is  
10 defined as public education commission or a local  
11 school board, period. I don't think we can override  
12 statute simply by putting it in here. And frankly, I  
13 don't like it. I don't like other people being  
14 identified as authorizers. Perhaps -- I understand  
15 what you're trying to do to allow other people who  
16 are designated by PEC to have some input into the  
17 contract or the negotiations, but I think  
18 "authorizer" may be the wrong word.

19 MS. BARNES: So maybe we could -- so we  
20 could global, replace with something. We need to  
21 define CSD as your staff -- and maybe Abby can jump  
22 in -- CSD as your staff is going to do a lot of work  
23 under this contract. We don't want to define it as  
24 you unless you're going to take a lot more time.  
25 Your staff is going to do a lot of this. So we just

1 need somehow within the contract to say, These are  
2 the people who may act. It doesn't assign any other  
3 commission as authorizer under this.

4 COMMISSIONER CARR: Madame Chair.

5 THE CHAIR: Mr. Carr.

6 COMMISSIONER CARR: This is no different  
7 than a local superintendent authorizing somebody to  
8 do different. She is carrying out the decision of  
9 the Public Education Commission. The fact you can  
10 appeal things to her puts her in a position as a  
11 judge kind of, and so she's just carrying out her  
12 duties of her office and supervising charter schools.  
13 That's all the Secretary of Education is doing. But  
14 to put authorizer against the statute --

15 MR. WILLIAMS: Madame Chair?

16 THE CHAIR: Mr. Williams.

17 MR. WILLIAMS: Julia, what is the concept?  
18 And Abby, I'm sure you have talked about this. It's  
19 a designation; right?

20 MS. BARNES: Right.

21 MR. WILLIAMS: Frankly, if the commission  
22 is going to designate staff, for example, to act on  
23 its behalf, it can be through MOU, it could be  
24 through a couple other things. I don't know that  
25 that's even appropriate for this particular contract.

1 It's simply saying as designated by the commission.

2 MS. WEAR: To make somebody else the  
3 authorizer, it would allow CSD to have the authority.  
4 You're right. The PEC shall blah, blah, blah. We  
5 need the CSD to be able to do blah, blah, blah.

6 MR. WILLIAMS: If I might, going to  
7 Commissioner Bergman's question, I'm not prepared to  
8 give an opinion that this is appropriate because if  
9 the concept is designation properly handled, it  
10 actually makes some sense legally. And certainly, I  
11 don't see any impediment at this point to going  
12 through this process, whether it's MOU and proper  
13 designations. Again, I don't reject the concept. My  
14 concern is we're dropping it into this contract in  
15 the manner we have done it.

16 MS. WEAR: It wasn't a global replace. We  
17 specifically noted the place where authorizer was  
18 used, and if it needed to be someone else, we changed  
19 it. So let's go through the contract, and you'll  
20 notice we just didn't hit global replace for  
21 everything on this. We went through -- Sue, we went  
22 through and chose -- and Julia -- we chose the areas  
23 we were going to use the word in.

24 MS. BARNES: And let me just point out as  
25 well. It does say, "Any person designated by the

1 commission or as designated by law." So that  
2 designation concept is in this phrase. So why don't  
3 I star it.

4 THE CHAIR: No. Because the Secretary is  
5 not an authorizer. And I'm at a little bit of a loss  
6 here pursuant to 22(a)(b)(9). I don't have that in  
7 front of me. I don't know what it says.

8 MS. WEAR: Sorry, Mike. If you want to --

9 MR. WILLIAMS: Go ahead.

10 MS. WEAR: What that is referring to in (9)  
11 is the language that says an appeal to the Secretary,  
12 this is confronting the impact issue if the charter  
13 authority, PEC and school has not come to an  
14 agreement on the contract within 30 days, the school  
15 may appeal to the Secretary and final language in  
16 that provision of the statute is an appeal to the  
17 Secretary shall preclude the chartering authority  
18 from chartering the school. So she is designated by  
19 law under that phrase in that particular situation as  
20 the chartering authority because if the PEC is  
21 precluded from that, she's the one who's doing it.

22 THE CHAIR: Are you saying that that  
23 identifies the Secretary in that particular instance  
24 as an authorizer of charter schools?

25 MS. WEAR: Yes, ma'am, because I would

1 prefer that the statute went on to clarify that. But  
2 what the statute does essentially by precluding the  
3 PEC, that's all that's left by preclude, or if it was  
4 a local district. Whoever appeals to the Secretary,  
5 the statute then goes on to preclude the chartering  
6 authority that has been co-chartering it.

7 THE CHAIR: That's in the case of  
8 contracts?

9 MS. WEAR: Which is what we're dealing with  
10 here.

11 THE CHAIR: I'm just talking about here.

12 MS. WEAR: That's what we're referring to.

13 THE CHAIR: I don't like the whole section.

14 MR. WILLIAMS: Part of what I would  
15 suggest, Madame Chairwoman, you have got a lot of  
16 information you have got to cover, and I want to  
17 throw two things out to you. One is, this type of  
18 issue should be, I think, discussed by the attorneys,  
19 and then I can come back to you, as appropriate, with  
20 guidance, if that's acceptable to you. I prefer not  
21 to wordsmith it at this point and simply try to  
22 identify it as an area for further discussion, if  
23 that's permissible, if that's consistent with your  
24 desire. Because at this point, I do understand the  
25 concept that is being presented to you, but I need to



1 have a better understanding of it in the context of  
2 the overall contract.

3           And Abby's already referred to other  
4 references throughout the agreement. I prefer to  
5 have those discussions as well so that I have a  
6 better handle on it, if that makes sense. But again,  
7 you have two options today. One is if this agreement  
8 is acceptable to the commission, they can accept it.  
9 If there is work that needs to be done, then there's  
10 work that needs to be done, and we can talk about it  
11 perhaps June 7. This is the kind of stuff that may  
12 need some time to digest.

13           THE CHAIR: Thank you for that  
14 recommendation. If it's all right with the  
15 commissioners, we'll so note our concern with this  
16 page and move on.

17           MS. BARNES: Great.

18           THE CHAIR: Thank you.

19           MS. BARNES: Page 11, Section 2.02, what  
20 has been added here, again, my whole purpose is to  
21 show you where things have been changed. So in this  
22 Section 2.02, we have added that the lawyers will  
23 also get notice. Notice under the contract is  
24 defined in this section. It doesn't stop anyone from  
25 getting notice. It actually adds more parties so

1 that the lawyers will get notice because the notice  
2 provision throughout the contract is given when  
3 formal things happen.

4           The next comment I have is on Page 16. I  
5 wanted to raise some general things about how this  
6 has been working. Again, the automatic waivers and  
7 the discretionary waivers are things that are put in  
8 this contract for clarification, but the waivers are  
9 granted under law by the Secretary and in a process  
10 that's already in existence. I just wanted to flag  
11 for you again that the way that waivers tend to be  
12 something that you consider is something in the  
13 waiver, then should we also mention it in the  
14 material terms of the contract. So I'm more flagging  
15 this for you than anything else. And it is making  
16 this be a little less confusing as something that I  
17 think is Charter School Division's next step. It's  
18 not anything specific about this school.

19           I'm assuming you're going to stop me when  
20 you want to. Page 18, Section 4.02, Tony mentioned  
21 to you earlier the detailed language. Abby did the  
22 same. The detailed description of the use of the 2  
23 percent, this language has been inserted in this  
24 contract, and in fact, it's the same language that  
25 was inserted in the Cottonwood contract. I just want

1 to bring that to your attention.

2 THE CHAIR: Julia, could we please go back  
3 to waivers?

4 MS. BARNES: Yes.

5 THE CHAIR: There's a waiver on the waivers  
6 list on the second page. It talks about driver's  
7 education. It says, "The school plans to seek  
8 approval for its online driver's education course."

9 MS. BARNES: So I just want to be clear to  
10 everybody, you have moved to the actual Exhibit 3.

11 THE CHAIR: And you're going to go through  
12 that; right?

13 MS. BARNES: Right.

14 THE CHAIR: I'm sorry for jumping ahead.  
15 Let's do it when we get to it.

16 MS. BARNES: Okay. I struggle with how to  
17 best present this to you. That was at least how I  
18 was thinking.

19 So again, back to 4.02, I just want to  
20 point out to you as Abby Wear indicated to you  
21 earlier, the department has come up with what they  
22 consider to be detailed language as to how the 2  
23 percent will be spent. It's on the bottom of 18 and  
24 the top of 19. I believe this school didn't raise  
25 any issues about that language.

1           Then I did want to tell you as well that  
2 the contract template that you approved previously  
3 had another section which said, Does the school have  
4 any requests for how to use the 2 percent? We spoke  
5 to Hillary Knottscamp -- I don't know if I'm saying  
6 her name correctly -- and at her direction, we  
7 decided the request for 2 percent should not be in  
8 the contract, but should be a separate request to the  
9 Charter Schools Division. This school has a couple  
10 of requests, I think, for training, or maybe I'm  
11 getting my schools mixed up. But anyway, they're  
12 welcome to make that request to CSD, but it's not  
13 part of the contract. So Commissioner?

14           COMMISSIONER BERGMAN: Finish.

15           MS. BARNES: It's not here now, but it will  
16 be presented. We found that the request that the  
17 schools were making were very helpful to CSD to know  
18 what they needed, but Hillary Knottscamp did not want  
19 them in the contract.

20           COMMISSIONER BERGMAN: I have a question  
21 here under 4.02. Looking at No. 1, and I'm going to  
22 read, it says, "A portion of the expenditures go to  
23 charter school staff salaries and benefits. The PED  
24 has signed off on this." They're going to give money  
25 back to the charter school?

1 MS. BARNES: Very good point. They were  
2 happy knowing we were going to pay their salary.

3 COMMISSIONER BERGMAN: Thank you.

4 MS. BARNES: See, this is where you have to  
5 be patient with the good ideas that are raised again  
6 and again and again, and we just have to know that we  
7 continually have to update these documents like you  
8 just raised.

9 On Page 19, so just finalizing that idea to  
10 4.02, we haven't lost the benefit of getting the  
11 request from the schools, but it's not part of the  
12 contract.

13 Page 19, Annual Audits, this is just really  
14 kind of to make you aware that particularly at spring  
15 budget workshop, several people raised a much bigger  
16 long-term issue about how chartered schools and  
17 audits take place and this issue of component parts.  
18 So it's not an issue in this contract, but it is just  
19 to give you a little bit of a heads up of an issue  
20 that the CSD has agreed to start to look at in longer  
21 term issues because how audits in charter schools  
22 works out is a bigger topic.

23 On Page 20 --

24 COMMISSIONER GANT: Excuse me.

25 THE CHAIR: Commissioner Gant.

1                   COMMISSIONER GANT:  Madame Chair and  
2 Commission Members, on Page 19, highlighted it  
3 states, "The school does not have an associated  
4 not-for-profit foundation" on and on and on, three  
5 lines.  Now, as I remember it -- old age may have  
6 gotten me -- but in the community meetings and  
7 sitting right in that chair, if this outfit said they  
8 were going to have a not-for-profit foundation in the  
9 State of New Mexico that would be the go-between,  
10 between Connections which is a for-profit company so  
11 they would meet the letter of the law.  Now you're  
12 saying they don't have a not-for-profit?

13                   MS. BARNES:  I'm certainly going to defer  
14 this to Sue Fox.

15                   MS. FOX:  Madame Chair and Commissioner  
16 Gant, I don't have any such recollection, and nowhere  
17 in our charter, and that was nowhere at no time  
18 contemplated as something that was going to happen  
19 from the get-go.  Again, I think this language allows  
20 the school at an appropriate time, if it wishes to,  
21 establish a foundation and then there would be the  
22 appropriate notification.  But no, that was never  
23 part of this school's application.

24                   COMMISSIONER GANT:  I request the legal  
25 counsel look into that very closely.

1 COMMISSIONER CARR: Madame Chair.

2 THE CHAIR: Commissioner Carr.

3 COMMISSIONER CARR: I don't want to belabor  
4 this, but I want to make note that I concur with  
5 Commissioner Gant. That's my recollection as well.

6 But a note for further reference to look  
7 into in the future, there's many examples  
8 historically of people setting up not-for-profit  
9 special corporations. Anybody can set up a  
10 not-for-profit. And how do you see -- the only way  
11 you can tell is if there's some kind of undue  
12 motivations for other purposes other than educating  
13 our children is to take a look at who is on the board  
14 of directors of all those different entities.

15 And for further note, I mean, that's one of  
16 the things we need to do. I want to make that note  
17 while we're on it, and it's something that I think we  
18 need to look into in the future. But it goes to the  
19 leases as well. We don't dig anywhere deep enough in  
20 having clarity in what actually goes on. So we need  
21 to look at that in the future.

22 THE CHAIR: Thank you.

23 MS. WEAR: Commissioner Carr, may I be  
24 recognized? As we get further on, you will see  
25 there's a provision to review leases.

1 COMMISSIONER CARR: Okay.

2 MS. BARNES: In fact, next.

3 MS. WEAR: Good.

4 THE CHAIR: Okay.

5 MS. BARNES: Any counsel in the room, if  
6 I'm representing this next section the way you don't  
7 think, let me know. But in the law -- Abby, maybe  
8 you can find it exactly -- there needs to be a  
9 provision -- actually, we should probably -- do you  
10 know that exact section, Abby?

11 MS. WEAR: What?

12 MS. BARNES: The contracting section.

13 MS. WEAR: For the management of the --

14 MS. BARNES: No. Hold on. It's the --  
15 Sue, Do you know the cite?

16 MS. WEAR: Which one are you talking about?

17 MS. BARNES: The contracting provision  
18 cite. I think it's under 9 and why this got added  
19 into the contract.

20 MS. WEAR: Which, the not-for-profit?

21 MS. FOX: Are you on 4.02(d)?

22 MS. BARNES: Yes. What would require that  
23 we put in something about the contracting?

24 MS. WEAR: The procurement.

25 MS. BARNES: No, it's not.



1 MS. FOX: It's in the statutes. It's in  
2 Section or Subsection 9 of the Charter School Act.

3 MS. BARNES: I know. Which section?

4 MS. FOX: Try 10, if you have it in front  
5 of you.

6 MS. WEAR: 9 is just A, B, C.

7 MS. BARNES: Just one second. I just want  
8 to make sure. I'm sorry. So the law under Section  
9 9(B)(14) says that the contract has to include a  
10 provision if the charter school contracts with a  
11 third party provider the criteria and procedures for  
12 the chartering authority to review the provider's  
13 contract and the charter school's financial  
14 independence from the provider. That Section 14 is  
15 required to be in your contract. It was in and it is  
16 in the template, and we worked to tighten that up.

17 So the terms that were tightened is  
18 primarily two-fold. It's to clarify that in order to  
19 ensure financial independence of. So this is where  
20 they have entered into -- this is a large contract.  
21 You want to make sure the authorizer and whoever  
22 takes a look at it, wants to ensure that there was  
23 financial independence, that that large contract that  
24 Charter School A entered into was done preserving the  
25 financial independence of the charter school.

1           So on Page 20, there's now a provision for  
2 looking at contracts that are for goods and services  
3 and a provision relating to leases or real property.  
4 That's what Abby was just referring to. Those large  
5 contracts will be submitted to the authorizer or  
6 staff, and they will be reviewed for financial  
7 independence and compliance with the procurement code  
8 which, of course, are law that provides safeguards  
9 for contracts using public monies.

10           So this section on Page 20 and 21 and  
11 potentially on the top of Page 22 has been tightened  
12 up quite a bit.

13           MR. WILLIAMS: Julia, I'm sorry to  
14 interrupt you. May I be recognized, Madame Chairman?

15           THE CHAIR: Sure.

16           MR. WILLIAMS: I'm trying to keep up. I  
17 get fascinated by things over here, and I'm going  
18 forward. Could we go back to Page 20? And maybe  
19 you're already on it.

20           MS. BARNES: We're on Page 20.

21           MR. WILLIAMS: Are you going to be talking  
22 about the 10 days? I'm looking at the receipt of the  
23 financial compliance documentation and Paragraph 2 on  
24 Page 21. Will you be talking about that at all?

25           MS. BARNES: I'm certainly open to having

1 you-all reading these two pages and asking me any  
2 questions on them.

3 MR. WILLIAMS: Okay. Is that in the  
4 template? I'm getting used to this. Susan is  
5 nodding her head.

6 MS. FOX: We didn't change the time frames,  
7 to my recollection.

8 MS. BARNES: Correct. What the primary  
9 changes were is clarifying how financial independence  
10 was going to be shown to you and relying on  
11 assurances of financial independence and the  
12 Procurement Code.

13 MS. WEAR: And other applicable law.

14 MS. BARNES: And other applicable law and  
15 dealing more specifically with the fact that there  
16 are two kinds of large contracts that a school could  
17 enter into; goods and services or a lease. Both of  
18 those kind of contracts will come for review, but  
19 they require slightly different requirements. So  
20 leases aren't under the Procurement Code. So the  
21 leases require a financial assurance. The large  
22 contracts for goods does come under the Procurement  
23 Code. They have to show you they did that  
24 appropriately and provide financial assurance.

25 So we had a phrase in the law that said you

1 need to establish a procedure. The procedure is set  
2 out on Page 20 and 21.

3 MR. WILLIAMS: Okay. And thank you very  
4 much. That goes to the question. Ten working days.  
5 Let's say staff is doing the work which they do.  
6 They get this financial documentation. They get 10  
7 working days. I'm wondering if it's in the template  
8 because of the provision if there is no response,  
9 you're talking about that procedure that needs to be  
10 identified, the authorizer shall be deemed to have  
11 consented to the proposed contract.

12 MS. BARNES: That was in the template.  
13 I'll just tell you the thinking.

14 MR. WILLIAMS: Sure.

15 MS. BARNES: It's that -- and maybe Sue  
16 would want to speak to this as well. By the time a  
17 contract is presented to you-all to make sure that  
18 there is financial independence, they have been  
19 working off and on getting this service or whatever  
20 for quite awhile. And so there is a tension -- I  
21 think there's lots of tensions in this contract on  
22 how you're going to balance these things between  
23 giving the authorizer or staff time enough to look at  
24 something and not taking a very long time. Was 10  
25 days the right period of time? It's what's in the

1 template earlier, and it's what's still here in  
2 there. I know Abby Wear was a little bit hesitant  
3 about it.

4 So that's where it is here. Again, as Sue  
5 Fox was saying, that exact sentence was not changed  
6 from the previous time.

7 MR. WILLIAMS: And the 10 days, I  
8 understand that presents a real kind of just an  
9 on-the-ground logistical issue. I'm trying to  
10 understand basically if there's no response. I  
11 assume that's if there's no response in that time  
12 frame, then they're deemed to have consented?

13 MS. BARNES: That's correct. I'll just  
14 tell you the policy. I'm not trying to -- there is a  
15 balance between charter schools being -- needing to  
16 move forward on contracts. And this could be a  
17 lease, it could be -- if it's a very large contract,  
18 it's something that they have prioritized. You know,  
19 they have limited budgets. So the thinking is that  
20 if they're entered into a large contract, they have  
21 gone through a procurement process, there needs to be  
22 some way that they know they can move forward.

23 And I think there are -- the balancing is,  
24 you know, what if it took you three months to get  
25 back to them? At some point, it's really hindering

1 conceptually the charter school's ability to move  
2 forward. So yes, there could be a lot of  
3 conversation about this. It is a judgment call.

4 MR. WILLIAMS: I got you. Because on large  
5 contracts, staff should have time to do due  
6 diligence, and they really shouldn't move forward  
7 until staff is satisfied. I'm just curious. I want  
8 to point out for the commission that if something  
9 slips through the cracks, there's a consent provision  
10 in there. Thank you, Julia. I'm sorry to take your  
11 time.

12 MS. BARNES: No problem.

13 MR. WILLIAMS: I wanted to make sure I  
14 understood what that was about. Thank you, Madame  
15 Chairman.

16 THE CHAIR: Thank you. I have one concern  
17 or one statement to make. I would -- this is a  
18 lengthy section. It is a very important section. I  
19 would like to see a side-by-side comparison of the  
20 new wording and the original wording.

21 MS. BARNES: Yeah. That's a perfectly  
22 reasonable request. It's revised so much that a red  
23 line doesn't work. So in order to give that to you,  
24 we would have to have you read one and read the  
25 other. There's not an easy way to do it primarily

1 because we added in the lease. We made enough  
2 changes at some point. To track changes, it's just a  
3 red mess. That does not mean at all that you can't  
4 take both and compare them and that -- actually,  
5 there was really a lot of conversation among the  
6 lawyers about how to institute this. It's required  
7 that you do it in the law, but it doesn't tell you  
8 too much about how you're going to do it.

9           So the how is what's -- is what we gave  
10 kind of a first version, and then actually I felt --  
11 I don't know. Maybe that's kind of because I'm  
12 fascinated by the law, but I thought it was a very  
13 fascinating legal conversation myself. And this is  
14 what we came up with.

15           THE CHAIR: That is something I would --

16           MS. BARNES: -- enjoy doing as well?

17           THE CHAIR: Yes. Commissioner Gant?

18           COMMISSIONER GANT: Julia, just for  
19 clarification, now that I think about it a little  
20 bit, back on 19 when I referred to the not-for-profit  
21 foundation --

22           MS. BARNES: Yes, sir.

23           COMMISSIONER GANT: -- if I remember the  
24 words correctly, the gentleman sitting there at the  
25 table, that Connections, the company, was considering

1 forming a nonprofit LLC by the same name Connections  
2 to work with this school. It's probably in the  
3 minutes. And here it states in the event that an  
4 associated not-for-profit foundation, which in my  
5 remembrance would have been Connection, LLC,  
6 not-for-profit foundation. So it looks like you have  
7 leeway to get in there. And you get to Page 20, and  
8 it's a single sentence that says the school shall not  
9 contract with a for-profit entity for management of  
10 the school. But in essence, if they have a nonprofit  
11 foundation with the same name, there needs to be some  
12 wordsmithing here or clarification because this  
13 bothers me. It really bothers me.

14 MS. BARNES: So schools are not, under New  
15 Mexico law, allowed to contract with a for-profit  
16 entity, so that's why that sentence is in there. The  
17 second part you're raising goes back to the comment  
18 before. And Sue, I didn't know if you want to add  
19 anymore than what you just said, or it's marked as  
20 something to look at for sure.

21 MR. WILLIAMS: Sure.

22 MS. BARNES: Because the school has to  
23 operate in a way that follows New Mexico law, and  
24 that sentence is what New Mexico law says. So I'm  
25 going to -- I think he's noting it.



1 MR. WILLIAMS: Julia, the sentence on Page  
2 20 is darn near the statute.

3 MS. BARNES: It probably is the statute.

4 MR. WILLIAMS: It's just parroting the  
5 statute. And I get that. So that in and of itself,  
6 Commissioner Gant, is not the problem. What I  
7 understand you're concerned about, it's clearly  
8 prohibited here, and perhaps there's a different way  
9 to get the same result by using a nonprofit. Is that  
10 what I'm hearing you saying?

11 COMMISSIONER GANT: Yes.

12 MR. WILLIAMS: We would need to look at  
13 that. Certainly on the face of the document, we  
14 don't know if that's true or not. But based on your  
15 recollection and what's represented here, it sounds  
16 to me like they're actually the same thing. They  
17 were considering doing it. This would allow them to  
18 continue to consider whether they do that or not.  
19 But as I understand from the document, they're not  
20 doing that. Is that right, Sue?

21 MS. FOX: Connections, LLC, is a for-profit  
22 organization that is a potential vendor to the school  
23 pursuant to what was provided in the application  
24 originally. And they will -- the school is going to  
25 be following the Procurement Code to determine who

1 its curriculum vendor is going to be. So this  
2 process in terms of the review, whoever that vendor  
3 ends up being would come under this particular  
4 provision and be reviewed by Abby or staff or whoever  
5 the PEC designated to review that contract for  
6 compliance with the Procurement Code as well for the  
7 conflict of interest or any other provision of the  
8 law --

9 MR. WILLIAMS: Thank you.

10 MS. FOX: -- that would apply.

11 COMMISSIONER GANT: Madame Chair, I would  
12 suggest that the attorney -- Mike, that you get the  
13 original application and read what they talk about in  
14 the procurement and the foundation. I believe it's  
15 in there. I would recommend that you read that  
16 portion of the application for some clarity on that.

17 MS. WEAR: It's on our website.

18 MR. WILLIAMS: Thank you. I'll do that,  
19 Commissioner.

20 THE CHAIR: Thank you.

21 MS. BARNES: If I might just add because  
22 Mike just raised it, lots of this contract brings in  
23 the law by parroting the law. And that's actually  
24 one of the things that I think was achieved through  
25 this contract is for charter schools -- I guess I'm

1 just giving you kind of my opinion as to why I like  
2 this law. Charter schools have to comply with the  
3 law, but it can be all over the place, and it can be  
4 very hard for them to know what to do. This  
5 contract -- and in fact, it's annotated, and there's  
6 almost like a page of cites. It brings the law in  
7 verbatim. It's not like we tried to parrot it. We  
8 did parrot it. So it's clear to schools what they  
9 need to do.

10           And I think as one of the real benefits of  
11 this law, the performance framework and particularly  
12 organizational framework, which is a compliance  
13 document, it also collects it into one place what  
14 they have to do. And so I think that's just an  
15 overarching comment about some of the benefits I see  
16 from this law. I think it's no secret to anyone that  
17 I'm a pretty big fan of this law in terms of moving  
18 charter school and accountability forward, but that's  
19 my opinion.

20           COMMISSIONER GANT: Madame Chair, on leases  
21 as a side comment, which is referred to on 20. The  
22 PEC, PSOC Task Force, LFC and others are looking very  
23 closely at charter school leases and the possibility  
24 of a standardized lease for all, which won't impact  
25 this particular school, but in the near future it

1 will.

2 MS. BARNES: Okay.

3 COMMISSIONER CARR: Madame Chair, I'm  
4 sorry.

5 MS. BARNES: No problem.

6 COMMISSIONER CARR: I haven't thought of  
7 this question before. I mean, I understand 501(3)(c)  
8 you can make donations and you can make them  
9 anonymously. Correct me if I'm wrong, any of the  
10 lawyers that are here. Can we give -- could I -- if  
11 I liked a particular charter school and I wanted to  
12 give them \$100,000, could I do it anonymously?

13 MS. BARNES: I'm certainly not going to  
14 answer that.

15 MS. WEAR: That's a question for your  
16 attorney.

17 MR. WILLIAMS: I'm not going to answer it.  
18 Honest to goodness, I have no clue. I would have to  
19 look at that for you.

20 COMMISSIONER CARR: Okay.

21 MR. WILLIAMS: Obviously, you have the --  
22 it doesn't sound right, but it doesn't mean that you  
23 can't. I have to look at it.

24 COMMISSIONER CARR: You have another point  
25 for future study.

1 MR. WILLIAMS: I'm getting a list. I like  
2 this.

3 THE CHAIR: Let's move on.

4 MS. BARNES: All right. So these two  
5 pages, as I was just saying, that was one of the  
6 major things that was -- probably the only thing that  
7 was extensively revamped.

8 Moving on to Page 24, Section 4.07, a small  
9 point -- I'm just trying to make sure you know what  
10 got changed -- is there was a minor point that when  
11 the Charter School Division is going to do an annual  
12 review, annual site review, there now is a  
13 requirement that they give the forms and the protocol  
14 to the school 30 days in advance so that the school  
15 knows completely what the site visit is going to  
16 include. So that's a technical thing. I will tell  
17 you CSD is working really hard on how to do the site  
18 visits, and I know that there's been lots of  
19 conversations. So we're raising that.

20 On Page 26, there was a conversation --  
21 again, I guess I really appreciated Sue bringing it.  
22 Charter schools are being asked to be held  
23 accountable. They want to know what that means. So  
24 all through this section, which this Section 5 talks  
25 about the organizational framework and refers to it,

1 the organizational framework is the compliance  
2 framework. And it says continually they will  
3 demonstrate, they will demonstrate compliance, they  
4 will demonstrate compliance. And I'm just raising  
5 for you that Sue is raising that on behalf of this  
6 school. That is also an issue for many schools.  
7 They want to know how do you comply.

8 So the performance frameworks give some  
9 clarity. And then there's additionally, the CSD is,  
10 you know, like it says, you must demonstrate  
11 compliance with the Open Meetings Act, you must  
12 demonstrate compliance with special education  
13 requirements, you must demonstrate compliance with a  
14 lot of things. The performance indicators give some  
15 clarity, and then the CSD is working on a guidance  
16 document.

17 Again, I'm just trying to tell you how the  
18 conversation went along. Page 28, this section  
19 regarding amendments was moved to give it more  
20 emphasis. Again, one of the purposes and one of the  
21 benefits that I see of this law is that it clarifies  
22 in the contract what are the material terms of the  
23 charter, not material violation, but what is material  
24 about this school. And there's a whole section in  
25 yellow that we're going to talk about in a second

1 where the school has had to outline, I kind of think  
2 as promises that they need to outline to the parents,  
3 promises, things they said they would do. And so if  
4 it's in this contract, they need to come back and  
5 amend that with you, if they want to change it.

6 And it's a little bit -- again, these are  
7 my own words. They can't promise to do so and say,  
8 Oh, gosh, I never felt like doing it and never come  
9 back to you and talk to you about it. So that  
10 section of the material terms of the charter is  
11 really an important section, and it's been something  
12 looked at closely.

13 And I just heard Commissioner Shearman  
14 earlier today even saying if the children are going  
15 to come to do a presentation, this is kind of the  
16 essence of our school. So it's really looking at  
17 that and their mission specific indicators. So I  
18 wanted to just refer to that.

19 Leading into that, starting on Page 29, and  
20 this is in the school specific terms of this  
21 document, everything in yellow starting from Page 29  
22 to Page 38 are the provisions that this school  
23 presented and have been populated into these pages.  
24 These are the material terms.

25 So Commissioner Shearman, you were talking

1 earlier about being familiar with the worksheet, and  
2 in the worksheet there's material terms of the  
3 contract. It starts on Page 29 through Page 38.

4 This school, of course, is a virtual  
5 school. So the material terms talk a lot about how  
6 that will work. And it starts with the mission and  
7 goes through it. I certainly don't want to skip over  
8 it, but maybe we'll come back to it so we can get to  
9 the end of the document. But these are key pages for  
10 you for sure.

11 COMMISSIONER BERGMAN: Madame Chair.

12 THE CHAIR: Commissioner Bergman.

13 COMMISSIONER BERGMAN: Just a question for  
14 my own benefit, perhaps. I noticed under School  
15 Mission it states, "The students throughout the State  
16 of New Mexico who need an alternative to traditional  
17 classroom for a particular time period." Does that  
18 mean that this school intends to accept a student for  
19 a month? They're not accepting full-time students?  
20 It sounds like the student is going to dictate what  
21 time period he's going to be a student in the school.

22 MS. BARNES: Do you want to address that?

23 And then I want to address broader points. But go  
24 ahead, Sue.

25 MS. FOX: The intent of this school is to



1 keep its students for as long as its students will  
2 stay. The school cannot prohibit a parent or a  
3 student from withdrawing from the program, if they  
4 deem that appropriate. There could be a circumstance  
5 where a student, for example, has a kind of long-term  
6 illness, et cetera, et cetera, which then resolves  
7 itself, and the student wishes to return to a more  
8 traditional school. But the intent here wasn't to be  
9 taking in students month by month necessarily. But  
10 we can't control who leaves and why.

11 COMMISSIONER BERGMAN: Thank you, Susan,  
12 for that clarification. Thank you, Madame Chair.

13 THE CHAIR: Okay.

14 MS. BARNES: This might just be how this  
15 takes shape in my mind, but the flavor or nature of  
16 this school, just in my words -- and again, Sue can  
17 say her words, or if they're correct -- but there is  
18 a sense that one of the reasons for this school is  
19 that sometimes kids need a school like this because  
20 they can't -- they aren't -- they can't go to school,  
21 medically fragile kids or someone who broke their  
22 femur. So there is a sense that this school does  
23 provide an option for, I call it, an alternative  
24 population, kids that aren't fitting into the normal  
25 school. So those are the kind of things that the

1 flavor of the school is put in these pages from Page  
2 29 to Page 38 so that it does explain that a little  
3 bit.

4 That's some of the things that I think the  
5 CSD looked at in trying to work through the worksheet  
6 is to understand the flavor of this school and how  
7 that -- what kind of promises they make to the  
8 parents.

9 THE CHAIR: Commissioner Bergman.

10 COMMISSIONER BERGMAN: Well, no. Finish  
11 your statement.

12 MS. BARNES: So I guess I will say that in  
13 my opinion, they have done a good job of explaining  
14 the flavor of their school in these next few pages.  
15 How you'll feel about it is, of course, what you act  
16 on as the PEC. But it is intended to be the place  
17 where a school describes what it's going to do.

18 For example, when we have these  
19 conversations with media arts, they talked a lot  
20 about media arts classes were the flavor of the  
21 school. The online nature of the school is populated  
22 through here.

23 COMMISSIONER BERGMAN: I just want to make  
24 a point that it seems to me that this raises students  
25 moving in and out, and I understand why they would do

1 it and why it's allowed. I understand students move.  
2 It certainly raises to me that on count day, and then  
3 the next day the student goes to local school and it  
4 has funds and the local school has the funds. That's  
5 not for us to decide. That's for the legislature. I  
6 just wanted to make that point.

7 MS. BARNES: I think that is right. There  
8 is no formula funding changes the same as with any  
9 one school for the virtual school.

10 THE CHAIR: Again, I'm jumping ahead.  
11 These are the indicators on 29 through 38. Then in  
12 the performance framework, they are set out again.

13 MS. BARNES: Correct.

14 THE CHAIR: Possibly with more specificity.  
15 If I have a question or a concern with one of these  
16 indicators, where would it be better to raise it,  
17 when we get to the performance framework or at this  
18 point? Does anybody have a preference? Does it  
19 matter to your presentation?

20 MS. BARNES: I guess I would suggest that  
21 we talk about -- there's no indicator in the  
22 contract. The indicators are all in the performance  
23 framework. So if you wanted to talk about these  
24 material terms, they're right here, and I would think  
25 right now is a good time to talk about them. The

1 mission specific indicator, which on the worksheet we  
2 talk about the mission and the mission specific  
3 indicator, I would suggest you'll see -- I have done  
4 nothing -- once you get to Page 8, I've just listed  
5 every single indicator that they propose so you're  
6 going to talk about all of them. I have not skipped.  
7 So anything on 28 through 38, I suggest you talk  
8 about them.

9 THE CHAIR: These are material terms. They  
10 almost mirror the indicators in many cases? I  
11 haven't word for word looked through every one of  
12 them, but many of them are the same. So if I have a  
13 concern, does it matter where I raise that concern?

14 MS. BARNES: No.

15 THE CHAIR: One refers to the other, I'm  
16 assuming.

17 MS. BARNES: No. It doesn't matter to me.

18 THE CHAIR: Okay. Let's keep going.

19 MR. WILLIAMS: What page are you on, Julia?

20 MS. BARNES: I think while the commission  
21 has not discussed Pages 29 through 38, I'm done  
22 saying that these are very important pages to think  
23 about.

24 MR. WILLIAMS: Madame Chairwoman, I have  
25 one question for Julia before she moves on.

1 THE CHAIR: Okay.

2 MR. WILLIAMS: On Page 37, food service,  
3 and it says NMCA will serve students statewide who  
4 will not be attending a physical brick and mortar  
5 building. That's a reference to the virtual  
6 nature --

7 MS. BARNES: Right.

8 MR. WILLIAMS: -- or statutory requirements  
9 for a public school? I'm looking at 37. I'm just  
10 curious.

11 THE CHAIR: Under food service?

12 MR. WILLIAMS: Yes.

13 MS. WEAR: The particular section, if  
14 you'll call that out.

15 MR. WILLIAMS: I'm very sorry, Abby. Let's  
16 see.

17 MS. BARNES: Page 37, XII.

18 MR. WILLIAMS: Yes, 12.

19 MS. BARNES: Yes, it refers to the virtual  
20 nature of the school. I will flag for you on Page  
21 35, I think this flavor of virtual school follows all  
22 the way through this provision, but also the intended  
23 school location. It identifies they will serve all  
24 counties because it's a virtual school. It talks  
25 about how they're going to deal with the fact that

1 kids may still have food -- back to the food service  
2 section, yes, it's a virtual school. The kids are  
3 taking online classes, but the school has still  
4 indicated how it will work with students that  
5 otherwise would have qualified for meals. So I think  
6 they put in a lot there. But yes, it's just  
7 referring to the fact that it's a virtual school.

8 MR. WILLIAMS: And with respect to the  
9 facility, I mean, it says what it says. They don't  
10 know yet?

11 MS. WEAR: Let me supplement Julia's answer  
12 to your question. There are other questions with PED  
13 Title 1, for example, who rely on free and reduced  
14 lunch numbers who decide to award, for example, Title  
15 1 funds. It will still be information we collect  
16 although food service won't be offered, but these  
17 numbers are offered for federal award funding.

18 MS. BARNES: That's why I was trying to say  
19 earlier some of the challenges with dealing with the  
20 worksheet on this school really does come down to the  
21 fact that it is a virtual school and how do we make  
22 this work within this contract. There have been  
23 other schools with other challenges. This one is the  
24 fact that it's a virtual school.

25 My personal spin, there were kind of three

1 challenges. One is, is it's a virtual school. How  
2 do you make that happen? It's a very large school.  
3 How does that impact these terms? The third one --  
4 and these are just my opinions so someone else can  
5 say that they don't agree with me. But the third one  
6 is, this is the first new school that we have looked  
7 at a contract. Every other school we have looked at  
8 up to now was a renewing school and has been in  
9 place, sometimes for many, many years. Well, it's  
10 almost easier or is easier, in my opinion, to do a  
11 performance framework for an ongoing school that you  
12 know what their challenges are.

13           They're kind of guessing what's going to  
14 happen in New Mexico. So how do you do a performance  
15 framework for them in the first years? Those were  
16 the challenges I see. They are a virtual school.  
17 How do you deal with that? It's a large school? How  
18 does it impact potentially a large school, and it's a  
19 new school, and how do we deal with that? We're  
20 going to deal with new schools next month. So I'm  
21 just trying to indicate what the Charter School  
22 Division thought about.

23           MR. WILLIAMS: Madame Chairwoman.

24           THE CHAIR: Yes, sir.

25           MR. WILLIAMS: That's very interesting.

1 And I can see why as a lawyer, even though you're not  
2 here in the capacity as a lawyer, I see why it's  
3 interesting. I was just listening to what you were  
4 saying about the challenges. So why is it a  
5 five-year proposal? In other words, if there's so  
6 much -- many of these imponderabilities. I'm hoping  
7 I'm not stepping outside of my boundary.

8 THE CHAIR: Not a bit.

9 MR. WILLIAMS: That actually does impact  
10 the term of the contract because there's so much you  
11 don't know how it's going to play out.

12 MS. BARNES: I guess the easy answer is the  
13 Secretary gave them a five-year contract.

14 MR. WILLIAMS: I understand. You may  
15 understand that we see things in different lights.  
16 I'm just curious.

17 MS. BARNES: Okay. Can I just tell you  
18 what my opinion on that is? One of the things that I  
19 really like about this law is that you have a  
20 five-year contract, but five annual performance  
21 indicators. So you're going to look at this school  
22 for this one year. Then next year you're going to  
23 say, How are things different, and the third year  
24 you're going to come back. You're going to do a  
25 performance framework year by year. It's not a



1 five-year framework. It's an annual framework. It's  
2 going to be extremely helpful on new schools because  
3 I think most people realize that schools don't really  
4 hit their stride until year three.

5 So this law has been rolled out in a way  
6 that kind of addresses both of those concerns, that  
7 the five-year contract -- this one got a five-year  
8 contract, many of them do. The next one, Health  
9 Leadership, is a five-year contract. But each year  
10 you get to come back and say, What are we thinking  
11 about now? Because maybe they do great in Section A,  
12 but they don't do so great in Section D. Well,  
13 great. We'll change the performance indicators. So  
14 it allows you to move the spotlight as you need it.  
15 I'm a fan of this law. That's part of why I'm a fan  
16 of it.

17 MR. WILLIAMS: Thank you, Madame  
18 Chairwoman.

19 THE CHAIR: Mr. Gant.

20 COMMISSIONER GANT: I hate to beat up this  
21 dead horse, but Page 32 under Educational Programs of  
22 the school, explain to me what the New Mexico  
23 Connection Academy, LLC, is. Is that the school? Is  
24 that the foundation? Is that the company?

25 MS. BARNES: Sue, I'm going to defer.

1 MS. FOX: I'm looking for it.

2 MS. WEAR: Section C, Material Terms I.

3 COMMISSIONER GANT: Sounds like a  
4 foundation to me. It sounds like a nonprofit to me  
5 that they're going to connect with.

6 MS. FOX: Again, it is described this way  
7 because this -- the prohibition is on for-profit  
8 companies managing.

9 COMMISSIONER GANT: I understand all that.  
10 Explain what this is.

11 MS. FOX: This is -- the proposal is for a  
12 curriculum provider, Connections, LLC, as was  
13 discussed in the application, to provide the online  
14 curriculum services for this school, not a management  
15 situation. That's the governing counsel which has  
16 already been on board to manage the school as it's  
17 authorized to do. Whether this is Connections, LLC,  
18 or Flynn Wealth Management, LLC -- I'm just throwing  
19 out other names -- Smith Barney -- but this is to  
20 provide the curriculum for the school and the  
21 curriculum provider. So I guess maybe I'm not  
22 locking on to your concern properly, Mr. Gant.

23 COMMISSIONER GANT: Madame President, I  
24 would like some kind of definition, paperwork  
25 description of this LLC, how it was established,

1 what's their mission, and what they plan to do. I  
2 want to know what this outfit is. I really have  
3 concerns about this.

4 MS. FOX: If there is a contract, Madame  
5 Chair and Mr. Gant, if a contract or proposed  
6 contract results between this school and this entity  
7 pursuant to the process that's described in this  
8 contract, all of that will be part of the review that  
9 your staff will conduct as part of that, even those  
10 questions will be answered in that context as well.  
11 Certainly, New Mexico Connections, LLC, is a New  
12 Mexico LLC, and information for that LLC is on, I  
13 believe, the Secretary of State or PRC website like  
14 the others just for that basic information.

15 COMMISSIONER GANT: Thank you.

16 THE CHAIR: If I might clarify,  
17 Commissioner Gant, you're asking for this  
18 clarification prior to any contract being signed?

19 COMMISSIONER GANT: You got that one right.

20 THE CHAIR: Okay. So that fix wouldn't  
21 quite meet his needs.

22 MS. FOX: Right. But just to clarify,  
23 Commissioner Shearman, Commissioner Gant, I believe  
24 that the review process for all contracts isn't an  
25 after-the-fact review process by you-all because that

1 wouldn't make any sense. No one wants to enter into  
2 any contract before having the proper approvals.  
3 That would waste a whole lot of time, including your  
4 own. So yes, we will provide that information in  
5 advance of any contracts being signed.

6 COMMISSIONER GANT: Thank you.

7 COMMISSIONER TOULOUSE: Madame Chair.

8 THE CHAIR: Commissioner Toulouse.

9 COMMISSIONER TOULOUSE: Madame Chair, I  
10 have been at a disadvantage and chosen not to speak  
11 because I was not in any process having coming on the  
12 board this year. But I do have a concern with a  
13 contract that says, "Plans to partner with." If  
14 they're for-profit and the school must be a school,  
15 you need a bidding process. You need to comply with  
16 state procurement, don't you?

17 THE CHAIR: No. In New Mexico, you can  
18 choose your own curriculum. That's the one thing you  
19 do not have to do. Am I correct, Attorneys?

20 COMMISSIONER TOULOUSE: That's what I don't  
21 know because it just still looks funny if there  
22 haven't been contracts finished up or anything else  
23 to have it actually specified in a contract under any  
24 circumstances.

25 THE CHAIR: Curriculum is the example.

1 MR. WILLIAMS: Madame Chairwoman, I think  
2 the part in the provision that is the rather  
3 ambiguous language is "plans to partner with." You  
4 have another contract provision that clearly states,  
5 you know, there's a legal prohibition on management.  
6 And as I understand it, what has been clarified is  
7 this would be a vendor providing merely curriculum  
8 development. The question is that management -- is  
9 that component of management, is it not, can you, in  
10 fact, segregate that? That's what I'm hearing. And  
11 I don't mean -- I'm doing that for my own benefit.

12 THE CHAIR: That's fine.

13 MR. WILLIAMS: So I think clearly I don't  
14 hear any disagreement with the prohibition of  
15 management in that regard. I think really what I'm  
16 hearing Connections say is that this curriculum  
17 vendor is permissible under the law, and that that's  
18 what this partnership refers to. It could be  
19 clarified. I'm just saying that I think it's the  
20 ambiguous nature of the statement that's  
21 disconcerting.

22 COMMISSIONER TOULOUSE: Madame Chair, it's  
23 that word "partner" that I find difficult then to  
24 figure out exactly what the role is.

25 THE CHAIR: All right. Then let's put that

1 on our list of items that need clarification.

2 MS. CALLAHAN: Madame Chair, Mr. Gerlicz  
3 wanted to ask a question, if that would be  
4 permissible.

5 THE CHAIR: Please go ahead.

6 MR. GERLICZ: Madame Chair and Members of  
7 the Commission, it really wasn't a question. But in  
8 listening to the conversation, I would like to  
9 address Attorney Williams with his wondering about  
10 why the contract was renewed for five years and echo  
11 what Julia has already stated. In the back and forth  
12 component of the process with Connections, each time  
13 we went back and forth with Connections stating to us  
14 what they wanted to do, what measures they wanted to  
15 indicate, we would comment to them and send it back.  
16 And I would have to say that every time that  
17 occurred, there was improvement in the goals and in  
18 the standards, and we finally got to a place that  
19 really was not finished, but we knew that we were at  
20 a place where we would have a benchmark for one year.

21 As Julia mentioned with these performance  
22 frameworks, that will give us an opportunity to go  
23 back after one year and say, Okay, did we low-ball  
24 these measures? Were they too easy to meet? Did we  
25 high-ball these measures? Were they extraordinary to

1 meet? And they would just be indicators for the  
2 second year and then again for the third year and  
3 then again for the fourth year, which will give us so  
4 much more evidence to determine a renewal decision.  
5 And that is why these contracts are for five years  
6 because each year these indicators will be rewritten  
7 into the performance frameworks, and that was  
8 evidenced in our negotiation with the contract.  
9 Those were the comments I wanted to make.

10 THE CHAIR: Thank you, Mr. Gerlicz.

11 Let me bring up a point of order. I have  
12 let the time just fly past. It's almost 12:40, and  
13 we have not had a break for lunch. Do we want to  
14 break for lunch and come back, or do we want to  
15 continue? Personally, I would like a break. Julia,  
16 would that adversely impact your presentation?

17 MS. BARNES: That would be great. I would  
18 suggest doing the next one which kind of gets us to a  
19 little bit of a good stopping point.

20 THE CHAIR: You say "next one."

21 MS. BARNES: The Recurrent Enrollment which  
22 is on Page 6, the next section in blue. I would just  
23 explain it to you.

24 THE CHAIR: Total enrollment?

25 MS. BARNES: I'm sorry.

1 THE CHAIR: Tell me again where.

2 MS. BARNES: On Page 6, Page 43, 6.08.

3 THE CHAIR: I have a question on Page 34  
4 before we go to that.

5 MS. BARNES: Okay. Let's break for lunch.

6 THE CHAIR: How long do we need,  
7 Commissioners? Thirty, 45 minutes, an hour? Be back  
8 here no later than 1:30. Thank you. We are recessed  
9 until 1:30.

10 (Recess from 12:39 to 1:36 p.m.)

11 THE CHAIR: The meeting of the Public  
12 Education Commission is now back in session.

13 Ms. Barnes, will you please continue.

14 MS. BARNES: I will. So where we cut off  
15 previously was just identifying Pages 29 through 38  
16 as a key section for you to consider. I thought you  
17 had a question, though, Commissioner, on one of the  
18 pages before we moved past that. Commissioner  
19 Shearman, you had said that you had a question on --  
20 somewhere in here.

21 THE CHAIR: I'm going to defer that till  
22 later.

23 MS. BARNES: Okay. Great. So the next  
24 page I just want to bring to your attention is Page  
25 43. It actually is going to have me remember to tell



1 you something also. This school goes back to one of  
2 the key points to me in your thinking and CSD's  
3 thinking is this is a brand new school contract, and  
4 it has a different flavor than the renewing school  
5 contracts. So in the conversations with the school,  
6 they have agreed to things in later years, but the  
7 performance contracts are one year only. So they  
8 don't have any recurrent enrollment. They don't have  
9 any kids coming back next year. It's their first  
10 year.

11           However, on Page 43 at the bottom, Section  
12 6.8, they have put in a provision what they are  
13 committing to in advance about their recurrent  
14 enrollment not this year, but the following year.  
15 And I'm sorry to jump backwards, but they did a  
16 similar thing with some of the performance indicators  
17 where they agreed to some later year terms as well.

18           And I'm sorry. I want to find that for  
19 you. Sue, do you know those pages off the top of  
20 your head?

21           MS. FOX: No. I'm sorry.

22           MS. BARNES: I found it. Pages 29 and 30  
23 and 31, they have agreed to some higher level  
24 standards in future years. And so we put that in the  
25 contract as well. So this is unusual because, in my

1 view, the way that the statute works is you negotiate  
2 a performance indicator every year. They have agreed  
3 to some future year goals and some future year  
4 recurrent enrollment.

5 Just to flag those for you, Page 29 and 30,  
6 and 43 is the current enrollment. That should be in  
7 yellow. And it's not. But it should be. Again, I  
8 think you should look carefully at that. That's  
9 another section. Along with Pages 29 through 38 and  
10 Page 43, it appears -- those are good pages to look  
11 at.

12 We are going to turn back again to the  
13 concept of cleaning up the template. This Section  
14 6.09 which is part of the compliance organizational  
15 framework references, the template talked about when  
16 a school should notify you of major events. There  
17 were five major events, and we have taken out two of  
18 them as probably not a good idea.

19 The three that remain, let me talk about  
20 what remains. It's on Page 44, the bottom of the  
21 page. If there is a complaint filed against the  
22 school by a governmental agency, they need to tell  
23 you. That remains in there. If there is a  
24 conviction of any member of the governing board or  
25 staff of a felony or misdemeanor involving moral

1 turpitude, they need to tell you about that. The  
2 third one is that if there is an investigation, an  
3 independent audit or investigation regarding  
4 misappropriation of school funds, they have to bring  
5 that to you.

6           There were two others. I've got to admit I  
7 didn't focus on that provision very much when I was  
8 first looking at the contract. One said -- and this  
9 has been taken out -- that they would tell you about  
10 any employee discipline. Well, the point that Sue  
11 Fox was making is, boy, you could sure get a lot of  
12 information. You need to know about really serious  
13 things, not about a time that an employee is  
14 disciplined. So we took that out.

15           The other was one that I'm not sure where  
16 it came from. It said it would tell you that the  
17 school closed due to a natural disaster. Part of my  
18 concern is if an earthquake hits the school, they're  
19 probably not going to remember to call you. And so  
20 we took that out as kind of an odd one.

21           So that's an example where we have  
22 tightened up. While you may certainly talk about it,  
23 at least my thinking and our thinking is the major  
24 serious things that happen in the school, they have a  
25 requirement to tell you, and we just cleaned that up.

1                   On Page 52, if I can move on, I'm just  
2 letting you know that the contract in the way that it  
3 works, and the statute is kind of complex, and we're  
4 constantly making the contract to try to be a little  
5 bit clearer so people understand that. This  
6 particular section talks about how performance  
7 indicators happen.

8                   Every year this commission, probably in the  
9 fall or early winter, will sit down as a body and  
10 decide what the general performance indicators should  
11 be for the next year. You may love what you did last  
12 year generally. You may -- for example, A through F  
13 is one of the educational indicators. You may decide  
14 the next year, no, that is perfect, but you need to  
15 look at it and think about it again. So you create a  
16 general framework that you use as the general  
17 template. Then schools can do specific mission  
18 goals, but there's a second step, a school specific  
19 step. This just clarified that.

20                   People were confused by the concept. It  
21 doesn't make much sense to people that it should be  
22 two parts, that you should decide generally what you  
23 want for all your schools and then schools can talk  
24 about it specifically. That's the way the law is  
25 written. So we just clarified that.

1 I will say just generally I understand that  
2 the reason that happened is that they want you to  
3 think what is best for all the students that you are  
4 responsible for overseeing rather than always looking  
5 school by school. So there's a general step and a  
6 specific step. We cleared that up. We didn't change  
7 anything. The law requires us to do it that way.

8 I did want to point out because I know that  
9 it's -- maybe you guys are really up to speed with me  
10 a lot, but we talk material terms of the contract.  
11 That's Pages 29 through 38 in this contract. And  
12 that often later when you're looking at renewals, you  
13 look at material violations. And often, you are  
14 talking about that. So both of them use the word  
15 "material," so it's a little confusing. I did want  
16 to show that material violations is still in the  
17 contract because it's still in the law. And that is  
18 in Section -- on Page 57, 9.09.

19 So the same requirements for renewal exist  
20 as always have existed, and one of the questions is  
21 material violations. Because I know there can be  
22 confusion, they're now are material terms which is  
23 what does the school promise to do, and then there  
24 are the same grounds for renewal as there used to be  
25 which allows us to look at material violations. So

1 just flagging that for you.

2 Page 60, the statute requires that we have  
3 a mediation provision. The template as it -- this is  
4 Page 60, Article X. The template you approved  
5 previously allows mediation any time. That could  
6 be -- someone could request mediation even if you  
7 were looking to revoke their charter, for example.  
8 It could be any time.

9 I'll just tell you that we're looking at  
10 that. We may suggest in a cleanup of the template  
11 that mediation not be automatic or automatically be  
12 able to be requested in those more serious  
13 situations. We will probably put in language that  
14 says unless the parties agree or something. So  
15 again, I'm really -- I've really tried to raise every  
16 single thing we were talking about. So it's not  
17 changed in this contract. But in the template, we're  
18 like, CSD is going to look at that and we're going to  
19 talk about it and see what we think about that.

20 I'm just going to say one more sentence  
21 about that. Many serious issues can be successfully  
22 mediated. So the fact that it's a serious issue  
23 doesn't -- in my opinion didn't mean that you can't  
24 do it. For example, have a mediation process for  
25 termination of parental rights. Well, you don't get

1 more serious than that, in my view, and it can be a  
2 successful process. I don't want to say you never  
3 are going to do it, but I think we're talking about  
4 it not being automatic.

5 Article XII, which is, I'm sorry, a little  
6 bit further, and I didn't put a page number, 65.  
7 These are the serious remedies that you are allowed  
8 by law. They are brought into this contract. They  
9 are not changed. One of the next big roll-out things  
10 just for your knowledge is that Abby Wear is going to  
11 head up a project to either do a policy or a rule or  
12 to address the processes that will happen in these  
13 very serious actions. So that's coming up on the  
14 horizon.

15 Abby, did you want to add anything to that?

16 MS. WEAR: We are going through rule making  
17 right now. Since the charter regs don't go along  
18 with them, we are adding to things, and they don't  
19 speak to the framework because they were -- when they  
20 were initially promulgated, they didn't exist. We  
21 are going through a redraft and cleanup right now.

22 THE CHAIR: When is PEC going to see those?

23 MS. WEAR: Probably when they're put out  
24 for public comment.

25 THE CHAIR: Not before?

1 MS. WEAR: I'll check on it for you.

2 THE CHAIR: I appreciate it.

3 MS. BARNES: And that is also -- I know  
4 that CSD is looking in general and many of you have  
5 requested, what can we learn from these processes,  
6 how can we make them better. So there's kind of  
7 internal conversations about how we roll these things  
8 out in a better way.

9 Someone once said to me that the most  
10 intense situations that are very bumpy, like this  
11 contract has not been entirely smooth, but you can  
12 learn a whole lot from that and roll out better  
13 processes, so we are at least looking at that.

14 Just, again, to show you a complete  
15 understanding of the contract template changes, Page  
16 69, Section 14.07. Put in a phrase, it's an  
17 interesting thing. This goes back to something Mike  
18 was talking about earlier. The contract parrots the  
19 law as it exists right now. And we intended to do  
20 that, to bring it together in one place so that  
21 people have a collected place where they can  
22 understand what their responsibilities are. And it's  
23 going to aid you, I think, in looking at  
24 accountability.

25 What happens when the law gets changed next



1 week, what happens then? You have a contract that  
2 complies with the law today, but next week might not  
3 comply with the law. The provision says -- and Sue  
4 Fox was raising that this is based on our  
5 Constitution -- that if the law changes, yes, the law  
6 will change under this contract unless it -- let me  
7 read you her language. As long as it does not impair  
8 the existing contract and the parties' respective  
9 rights. So there may be a time where the law  
10 changes, but it won't take effect until the end of  
11 this contract. So that phrase has been added.

12 That is the end of what I wanted to show  
13 you under the contract. The next section, and you  
14 may give me guidance as to how you want to deal with  
15 this, is looking at the performance framework.  
16 Everything -- so we're on Page 8 of the chart.  
17 You'll see everything on Page 8 and Page 9 is all in  
18 blue, which means that it was all populated by this  
19 school under the worksheet. I would be very happy to  
20 show you what they have put in there and what  
21 conversations with CSD have gone in there. Just like  
22 the material terms, this is a section for you to look  
23 at very carefully. So Madame Chair, would it help  
24 you to have me walk you through there?

25 THE CHAIR: Let me ask the commissioners at

1 this point. Do we want to continue with Julia's very  
2 able presentation and very much appreciated, or is  
3 there another direction we would choose to go at this  
4 time? Commissioner Bergman.

5 COMMISSIONER BERGMAN: I would be  
6 comfortable stopping at this point and reading the  
7 framework, and then we will be able to formulate more  
8 cogent questions for the next get-together, whenever  
9 that is.

10 COMMISSIONER GANT: I agree.

11 THE CHAIR: In that case, I think it's  
12 going to require a motion for us to move forward,  
13 Mr. Gant.

14 COMMISSIONER GANT: Madame Chairwoman, I  
15 make the following motion. In compliance with the  
16 District Court's order and duly noting the Public  
17 Education Commission's pending legal appeals, and  
18 without waiving the legal rights of the Public  
19 Education Commission or any individual commissioners'  
20 legal rights, I move that the Public Education  
21 Commission implement the Secretary's order approving  
22 New Mexico Connections Academy charter application  
23 with the five enumerated conditions. I further move,  
24 Madame Chairwoman, that you appoint the Charter  
25 School Committee to work with CSD and other

1 appropriate personnel -- hang on.

2 THE CHAIR: The computers, aren't they  
3 lovely?

4 COMMISSIONER GANT: And other appropriate  
5 individuals to work to develop the final contract for  
6 the New Mexico Connections Academy to be considered  
7 on 7 June 2013.

8 THE CHAIR: You have heard the motion. Do  
9 we have a second?

10 COMMISSIONER BERGMAN: Seconded.

11 THE CHAIR: Seconded by Commissioner  
12 Bergman. Is there discussion?

13 Commissioners, you have heard the motion.  
14 Unless you need me to, I will not repeat it. Then we  
15 will vote. Roll call, Mr. Secretary.

16 COMMISSIONER BERGMAN: Commissioner Pogna.

17 COMMISSIONER POGNA: Yes.

18 COMMISSIONER BERGMAN: Commissioner  
19 Peralta.

20 COMMISSIONER PERALTA: Yes.

21 COMMISSIONER BERGMAN: Commissioner  
22 Toulouse.

23 COMMISSIONER TOULOUSE: Reluctantly, yes.

24 COMMISSIONER BERGMAN: Mr. Carr.

25 COMMISSIONER CARR: Yes.

1 COMMISSIONER BERGMAN: Mr. Gant.

2 COMMISSIONER GANT: Yes.

3 COMMISSIONER BERGMAN: Ms. Shearman.

4 THE CHAIR: Yes.

5 COMMISSIONER BERGMAN: Commissioner Bergman  
6 votes yes.

7 THE CHAIR: We have a unanimous vote to  
8 renegotiate or rework this contract and bring it back  
9 to the June 7 meeting. I have also been asked or  
10 directed in the motion to ask the Charter School  
11 Committee to work with Charter School Division and  
12 other appropriate parties to work on this contract.  
13 Would it be appropriate now for us to try to set a  
14 time or a date for that since most of the parties are  
15 here right now?

16 MR. WILLIAMS: Madame Chairwoman, I think  
17 that would be a good idea. And then when you're done  
18 with that, I need to get the commission's direction  
19 on a potential stay of the Secretary's review of the  
20 contract while you're working on it.

21 THE CHAIR: Okay.

22 MR. WILLIAMS: We can deal with that,  
23 unless you want me to address that right now.

24 THE CHAIR: Yes, please.

25 MR. WILLIAMS: Okay. Just briefly, and

1 Ms. Fox can speak to this directly to protect her  
2 client's interest, she had actually had a declaratory  
3 impasse on the contract to preserve the statute  
4 limitations limits so she didn't waive them. The  
5 contract is before the Secretary. I have spoken with  
6 Ms. Fox, and we have agreed that the commission will  
7 stipulate to an order to the Secretary to hold in  
8 abeyance the consideration of that appeal pending the  
9 commission's evaluation and negotiation.

10 THE CHAIR: And Ms. Fox?

11 MS. FOX: That's correct, Madame Chair.

12 THE CHAIR: Thank you very much. Do we  
13 need a motion on that, Mr. Williams?

14 MR. WILLIAMS: I would actually give you  
15 that authority. My motion can be by acclamation. It  
16 doesn't have to be roll call. I would like to file  
17 that with your permission. Sorry to take you off  
18 track with that other issue.

19 THE CHAIR: Okay. If you would state the  
20 correct wording for that motion so that we can --

21 MR. WILLIAMS: Sure. I ask the commission  
22 give me authority to submit a stipulated motion to  
23 the Secretary to hold in abeyance for review NMCA's  
24 appeal pending the commission's negotiation and  
25 consideration of the contract that has been presented

1 to it today.

2 COMMISSIONER CARR: So moved.

3 COMMISSIONER GANT: Second.

4 THE CHAIR: Motion by Commissioner Carr and  
5 second by Commissioner Gant. Any discussion?

6 All those in favor, say "aye."

7 (Commissioners so indicate.)

8 THE CHAIR: Opposed, same sign. Motion  
9 passes unanimously. You have the authority.

10 MR. WILLIAMS: Thank you, Madame Chairman.

11 THE CHAIR: We are back to C. Beverly gave  
12 us calendars. If we can look at those, and I would  
13 like for Mr. Williams to also consider being at that  
14 meeting, if at all possible, Ms. Fox of course, Julia  
15 if you can be, CSD, Abby. It's going to be a rather  
16 large meeting, but I think all the needed parties.

17 MS. CALLAHAN: Tony is on the line as well.

18 THE CHAIR: Okay. Certainly Tony will be  
19 welcome, if he can make it. I will tell you that I  
20 have been advised by Commissioner Gant who is a  
21 member of the Charter School Committee that he will  
22 only be available May 17 and before. After that,  
23 he's going to be involved in medical stuff. So  
24 anybody got a suggestion as to a date?

25 MS. BARNES: May 14.

1 MR. WILLIAMS: I'm sorry. I didn't hear  
2 you.

3 MS. BARNES: May 14.

4 THE CHAIR: Is that a good date? Did  
5 everyone hear the suggestion May 14?

6 MS. FOX: Madame Chair, that works for us.  
7 However, I do have to check with a couple members of  
8 our governing council to make sure, but that should  
9 provide sufficient time to get the calendars.

10 THE CHAIR: Let's do first choice and  
11 second choice and maybe that will make the process a  
12 little easier. We're saying perhaps May 14 or --

13 MS. BARNES: May 14 looks good, May 7, May  
14 15.

15 MS. WEAR: I'll be in Phoenix.

16 MS. BARNES: Abby is in Phoenix, and I  
17 suggest we go there.

18 THE CHAIR: We'll meet you. I prefer Las  
19 Vegas.

20 MS. BARNES: May 15 potentially.

21 THE CHAIR: May 15. I will tell you May 14  
22 I've got a meeting the night before. So for my  
23 participation May 14, I would humbly ask if that's  
24 our choice, that we start later in the day.

25 MS. BARNES: That's fine.

1 THE CHAIR: Can we make May 15 the first  
2 choice and May 14 the second choice?

3 MS. BARNES: Sure. And I think it will be  
4 in Albuquerque. That may help your travel a little  
5 bit. I'm not sure.

6 MS. FOX: It can be.

7 THE CHAIR: It doesn't matter to me.

8 MR. WILLIAMS: I'm down there anyway.

9 THE CHAIR: You're there. The school is  
10 there.

11 COMMISSIONER BERGMAN: Is that good for  
12 staff in Albuquerque?

13 MS. CALLAHAN: Tony, does the 14th work for  
14 you?

15 MR. GERLICZ: I just sent you a message.

16 THE CHAIR: What about the 15th?

17 MS. CALLAHAN: What about the 15th, Tony?

18 MR. GERLICZ: 15th in the afternoon and  
19 17th are the best.

20 THE CHAIR: 17th.

21 MS. CALLAHAN: 17th is not the best.

22 MR. GERLICZ: 15th after 10:00 is fine.

23 THE CHAIR: 15th, I don't care. Monday is  
24 the time issue.

25 MR. WILLIAMS: 15th at 10:00 seems to make



1 sense.

2 THE CHAIR: 15th at 10:00 in Albuquerque at  
3 CES?

4 MS. CALLAHAN: Yes, that's probably the  
5 biggest. They can use the bigger room that they can  
6 set up.

7 MS. BARNES: The State Bar has the big  
8 room.

9 THE CHAIR: Let's settle on May 15, 10:00  
10 a.m. at CES.

11 MS. CALLAHAN: Tentatively, if they are  
12 open. If not, we will make a backup.

13 THE CHAIR: Thank you so much, Julia.

14 MS. BARNES: You're welcome.

15 THE CHAIR: Tremendous presentation.

16 We are now ready to move onto Item No. 10,  
17 Action on Amendments for Charter Schools, La Promesa  
18 Early Learning Center. And I will defer to Director  
19 Gerlicz for that presentation.

20 COMMISSIONER TOULOUSE: Madame Chair.

21 MR. GERLICZ: Madame Chair, Members of the  
22 Commission.

23 MS. CALLAHAN: Hang on, Tony. Commissioner  
24 Toulouse has a comment.

25 COMMISSIONER TOULOUSE: Madame Chair, I

1 would like to recuse myself on this issue because I  
2 have a relative attending La Promesa to be fair.

3 THE CHAIR: So noted.

4 MR. GERLICZ: Members of the Commission,  
5 this amendment from La Promesa Early Learning Center  
6 is two fold. And actually, we will take one at a  
7 time. The first amendment is a change of location,  
8 and the change in location is due to an increase in  
9 the school building, and that increase in the school  
10 building is as a result of the increasing demand for  
11 the school. Currently, the school enrollment cap is  
12 300.

13 The second amendment request is to change  
14 that to 500 as the school has been experiencing  
15 waiting lists in kindergarten, first grade, third  
16 grade and seventh grade. And therefore, requests, a  
17 change in the enrollment capping there from 300 to  
18 500 as well as changing the location, current  
19 location to the address that's mentioned on the  
20 amendment.

21 The facility has been approved by PSFA.  
22 They had found that result, and it is the Charter  
23 Schools Division recommendation that these amendments  
24 be approved. And I believe that we should take each  
25 of these amendments individually, so whichever one

1 the Public Education Commission wants to take first  
2 is fine. We can take the enrollment cap change from  
3 300 to 500 first and then entertain the second one,  
4 which is the location change. So let's take the  
5 amendment that increases the enrollment cap from 300  
6 to 500 first.

7 I also refer members of the commission to  
8 the Director's Report where there was a site visit to  
9 La Promesa joined by Rachel Lavosek, and she had  
10 insights into what is going on at the school. The  
11 school has responded very well to the instructional  
12 audit. It's our view that the school is on the right  
13 track. Even though they received a low grade on the  
14 last report card, there are good things happening at  
15 that school. We believe that the school is on the  
16 right track. So it's our recommendation that we  
17 approve the enrollment cap change.

18 THE CHAIR: Thank you, Mr. Director. I  
19 would like to ask representatives from the school, if  
20 there are any today, to please come forward.

21 MS. MAESTAS: Good afternoon.

22 THE CHAIR: Good afternoon. Thank you for  
23 waiting. If you would like to make a presentation  
24 and say anything to the commission, we would be happy  
25 for you to do so. Please identify yourself and your

1 position with the school.

2 MS. MAESTAS: Thank you. My name is Analee  
3 Maestas, and I'm the Executive Director of La Promesa  
4 Early Learning Charter School, and we come before you  
5 today to ask for an increase in our cap as we have  
6 continued requests from the community. We have  
7 waiting lists in designated areas that were listed as  
8 well as others to this date. And based on that, we  
9 really feel that we are meeting the needs of the  
10 community, and they continue to request their kids  
11 attend our school.

12 THE CHAIR: Thank you very much. Are there  
13 questions or comments from commissioners?

14 I do have a concern. I printed off the  
15 Gregg Report as Director Gerlicz sort of alluded to.  
16 Currently, the school does have an "F" grade. And  
17 it's not the only one in the state. But I was  
18 concerned about the grades that made up that final  
19 grade. Performance in math and reading, current  
20 standing is an "F." School points of 3.6 out of a  
21 possible 40 points. School growth, and that is  
22 identified, In the last three years, did your school  
23 increase grade level performance? For example, did  
24 this year's third graders improve over last year's  
25 third graders? Those were zero points. A "D" in

1 growth of highest performing students, a "C" in  
2 growth of lowest performing, and a "B" in opportunity  
3 to learn. Bonus points, two and a half.

4 I am concerned that your current students  
5 are really, in my view, not making the progress that  
6 certainly I would like to see them make. And my  
7 thought would be rather than increasing your  
8 enrollment cap where you're working with even more  
9 students, I would think your time would be better  
10 spent working with the students you currently have to  
11 try to bring up these very serious areas. I mean,  
12 some of these areas, I think they are more important  
13 to me than others, and the performance in math and  
14 reading and the school growth where the school scored  
15 the fewest points are the ones that I think are very,  
16 very important.

17 So I'm not at all in favor of increasing  
18 the enrollment cap for those reasons. Any other  
19 comments from commissioners?

20 MS. MAESTAS: Can I address your concerns?

21 THE CHAIR: Please do.

22 MS. MAESTAS: We had a very thorough  
23 instructional audit, and during that time, we were  
24 able to demonstrate the growth of our students. We  
25 have a very high enrollment of English language

1 learners, and we were able to demonstrate their  
2 proficiency in their home language. We do have short  
3 cycle assessment data that indicates that growth both  
4 in English proficiency as well as in their home  
5 language. On the AMOAs, we have met both of those,  
6 which again complies with the students meeting  
7 English language proficiency.

8 We also provide a lot of intervention for  
9 our students. Our teachers are on an eight-hour  
10 contract, and with that all teachers are required to  
11 require an additional 30 minutes of instructional  
12 time for those students that are most at-risk  
13 students, and we can see the progress that is being  
14 made with those efforts.

15 In addition to that, we have engaged our  
16 families in that process, and we have parent  
17 intervention sessions where, once again, we provide a  
18 tool kit for parents to take home to also support  
19 their children at home. And once again, with our  
20 efforts and I think the public education visit, we  
21 were able to demonstrate the kind of growth that our  
22 students are making.

23 And so I would, once again, yield to any  
24 other questions in regards to that. But I think we  
25 do have the evidence that demonstrates that our

1 students are making those grades. And I expect that  
2 this year that grade is going to change.

3 THE CHAIR: I certainly appreciate that  
4 explanation. It certainly sounds like you have  
5 things in place to help the students to grow. I  
6 would like the growth here on your school grade  
7 report card, and that would -- perhaps by next year  
8 that will change significantly, and I would be happy  
9 to reconsider it at that point. That's my personal  
10 opinion. Anyone else have an opinion?

11 COMMISSIONER BERGMAN: Can you read just  
12 the last two statistics you read there? It sounded  
13 to me like that's the youngest kids and the most  
14 at-risk. The ones there was a "C" and "B," what were  
15 those on?

16 THE CHAIR: Growth of lowest performing  
17 students. How well did your school help individual  
18 students improve? They got a "C." Opportunity to  
19 learn, does your school foster an environment that  
20 facilitates learning? That's a "B." But in the hard  
21 facts, or at least that's my interpretation, that's  
22 where the lower grades are.

23 COMMISSIONER BERGMAN: I agree with you.  
24 It just sounds like in the at-risk areas they're  
25 making progress where they have a "C" and "B." I'm

1 willing to go either way on this one.

2 THE CHAIR: We have a second amendment to  
3 look at, and that's to change locations. We can do  
4 this in one motion or two. What's your pleasure?

5 COMMISSIONER CARR: Madame Chair, I think  
6 we should do two.

7 THE CHAIR: Is anyone ready to make a  
8 motion?

9 The Chair will make the first motion, if  
10 that's all right with everyone. I would move that  
11 the PEC deny the amendment proposed by La Promesa  
12 Early Learning Center to increase their enrollment  
13 cap.

14 COMMISSIONER CARR: Second.

15 THE CHAIR: The motion and the second on  
16 the floor is to deny the amendment to increase the  
17 enrollment cap. Is there any discussion? Seeing  
18 none, all those in favor, please say "aye."

19 (Commissioners so indicate.)

20 THE CHAIR: Do we have to do a roll call?

21 MR. WILLIAMS: Yes.

22 THE CHAIR: Sorry. Mr. Secretary, may I  
23 have a roll call?

24 COMMISSIONER BERGMAN: I believe a yes vote  
25 is to deny.



1 THE CHAIR: Yes.

2 COMMISSIONER BERGMAN: No vote is to not  
3 deny. Commissioner Pogna.

4 COMMISSIONER POGNA: Yes.

5 COMMISSIONER BERGMAN: Mr. Peralta.

6 COMMISSIONER PERALTA: Yes.

7 COMMISSIONER BERGMAN: Ms. Toulouse  
8 abstains.

9 Mr. Carr.

10 COMMISSIONER CARR: Yes.

11 COMMISSIONER BERGMAN: Mr. Gant.

12 COMMISSIONER GANT: Yes.

13 MR. VENIE: Ms. Shearman.

14 THE CHAIR: Yes.

15 COMMISSIONER BERGMAN: Yes. One  
16 abstention, zero to six motion, and the motion has  
17 passed.

18 THE CHAIR: Thank you, Mr. Secretary. The  
19 amendment to increase the enrollment at La Promesa  
20 Early Learning Center is denied.

21 We're now looking at the amendment to  
22 change locations. Questions or concerns, or are we  
23 ready for a motion? Commissioner Gant.

24 COMMISSIONER GANT: Madame Chair and Fellow  
25 Commissioners, as you-all know, charter schools have

1 a problem finding places to live to set up schools.  
2 And they have gone through the effort, they have been  
3 through the PSFA to get their approval. So  
4 apparently, they get occupancy as required by law.  
5 It meets all the hazards and safety requirements. So  
6 I would recommend based upon this -- because if we  
7 postpone it another year, they will probably lose the  
8 building. It would be my recommendation if the  
9 commission would allow them to move, give them their  
10 room and get them settled, and if they want to talk  
11 about a larger population, then they're prepared to  
12 accept that larger population and not have to worry  
13 about moving or have that population. So that's my  
14 recommendation.

15 THE CHAIR: Is that a motion, Mr. Gant?

16 COMMISSIONER GANT: Yes.

17 THE CHAIR: We have a motion by Mr. Gant.  
18 Do we have a second?

19 COMMISSIONER CARR: Second.

20 THE CHAIR: Second by Mr. Carr.

21 Discussion?

22 COMMISSIONER POGNA: Is there a motion?

23 THE CHAIR: Commissioner Gant, what is the  
24 motion?

25 COMMISSIONER GANT: I'll read it. Members

1 of the Commission, I move to approve the amendment  
2 presented by the La Promesa Early Learning Center to  
3 move to a new facility.

4 COMMISSIONER CARR: Second.

5 THE CHAIR: Okay. Any discussion? Roll  
6 call vote, Mr. Secretary.

7 COMMISSIONER BERGMAN: Ms. Pogna.

8 COMMISSIONER POGNA: Yes.

9 COMMISSIONER BERGMAN: Mr. Peralta.

10 COMMISSIONER PERALTA: Yes.

11 COMMISSIONER BERGMAN: Commissioner

12 Toulouse, I believe, again abstains.

13 Commissioner Carr.

14 COMMISSIONER CARR: Yes.

15 COMMISSIONER BERGMAN: Commissioner Gant.

16 COMMISSIONER GANT: Yes.

17 COMMISSIONER BERGMAN: Commissioner

18 Shearman.

19 THE CHAIR: Yes.

20 COMMISSIONER BERGMAN: I vote yes. Zero to  
21 six vote with one abstention, and the motion is  
22 carried.

23 THE CHAIR: Thank you for your  
24 presentation.

25 MS. MAESTAS: Thank you very much.

1 THE CHAIR: Next is Actions on the  
2 Amendments presented by Cesar Chavez Community  
3 School. Do they have representatives from that  
4 school? If so, I would ask that they come forward.

5 MS. CALLAHAN: Madame Chair, Commissioners,  
6 this is a cleanup amendment for the school, and so we  
7 didn't feel it was necessary for the school to travel  
8 from Albuquerque to come up because it is -- they're  
9 actually adding instructional hours to their program  
10 rather than taking away. So it's a cleanup to  
11 address their educational program hours.

12 THE CHAIR: Thank you for that explanation.  
13 Are there comments, questions, concerns by  
14 commissioners?

15 COMMISSIONER CARR: No.

16 THE CHAIR: Hearing and seeing none, the  
17 Chair will entertain the motion on the amendment  
18 presented by Cesar Chavez Community School.

19 COMMISSIONER CARR: Madame Chair, I move to  
20 approve the amendment presented by Cesar Chavez  
21 Community School to add classroom instruction time to  
22 the current school year schedule. Do you want me to  
23 read the whole thing?

24 THE CHAIR: No.

25 COMMISSIONER BERGMAN: I would second that.

1 THE CHAIR: Motion by Commissioner Carr and  
2 second by Commissioner Bergman for the amendment by  
3 Cesar Chavez Community School. We will have a roll  
4 call vote.

5 COMMISSIONER BERGMAN: Ms. Pogna.

6 COMMISSIONER POGNA: Yes.

7 COMMISSIONER BERGMAN: Mr. Peralta.

8 COMMISSIONER PERALTA: Yes.

9 COMMISSIONER GANT: Ms. Toulouse.

10 COMMISSIONER TOULOUSE: Yes.

11 COMMISSIONER BERGMAN: Mr. Carr.

12 COMMISSIONER CARR: Yes.

13 COMMISSIONER BERGMAN: Mr. Gant.

14 COMMISSIONER GANT: Yes.

15 COMMISSIONER BERGMAN: Ms. Shearman.

16 THE CHAIR: Yes.

17 COMMISSIONER BERGMAN: Mr. Bergman votes  
18 yes. Seven to zero vote, and the motion has passed.

19 THE CHAIR: It is approved to grant the  
20 motion at Cesar Chavez Community School.

21 COMMISSIONER CARR: Is that going to be our  
22 last vote?

23 THE CHAIR: Our last vote?

24 COMMISSIONER CARR: Our last vote today.

25 THE CHAIR: We have our closing items. I

1 should have announced earlier that we are -- the PEC  
2 is going to put Taos International -- the  
3 implementation of the Secretary's order for Taos  
4 International School on the June 7 agenda.

5 Now, then, we are to Item No. 11, Village  
6 Academy Closure Procedures and Update. Ms. Callahan.

7 MS. CALLAHAN: Madame Chair, Commissioners,  
8 thank you. As you know, the Charter Schools Division  
9 has been working with the Village Academy school to  
10 work on its closure procedures. They did have a vote  
11 that they were denied again in December as a renewal  
12 and did not present their appeal papers in time. So  
13 we have moved forward, and I have included for your  
14 review the working time line document that we are  
15 pursuing with Village Academy.

16 We have had several meetings with the  
17 administration and governing board of Village  
18 Academy. I feel like it's been a very positive  
19 result considering it's a very negative process that  
20 we're having to go through. The school  
21 administration has been very responsive, and we also  
22 want to outline that the Bernalillo Public Schools  
23 have committed to taking all of the school's student  
24 records past and present and will store them with  
25 their student records on-site so they will be secure,

1 and they will be accessible according to the  
2 Bernalillo Public Schools record-keeping process.  
3 That was a large concern from all of the parents as  
4 well as the school administration and governing  
5 board.

6 And so Allen Tapia, the Superintendent of  
7 Bernalillo Public Schools, made that commitment and  
8 is working with Karen Mayhew who is the head  
9 administrator at Village Academy to work out the  
10 actual transfer of those records and working with the  
11 school to ensure that everything is complete, that  
12 parents have the records that they need to transfer  
13 their students to the schools that they wish to  
14 attend. And so we feel like that was a very large  
15 point that we were able to negotiate and move forward  
16 on. So that was really important for us.

17 As you can see by the time line, and I  
18 think I presented this originally in February -- and  
19 I'm a color code fanatic in case you didn't notice.  
20 And so if you look through the time line, and I'm not  
21 going to go through point by point, but the green  
22 highlights indicate that these are tasks that have  
23 been completed either by the school, PED, Bernalillo,  
24 whomever it is that we're working with at the present  
25 time. Any blue highlights are anything that the PED

1 on behalf of the PEC will be doing as follow-up.

2 I'm working very closely with Abby. Julia  
3 is also helping on this project in her role as the  
4 contractor to the PED and has a lot of experience  
5 working with schools, and so we're very grateful to  
6 have that.

7 And then yellow highlights are tasks that  
8 the school needs to complete according to the time  
9 line that we have worked on with them. And their  
10 most immediate need right now is to -- we have got an  
11 agreement now where the records are going to go for  
12 the students. Now, they need to get those records  
13 organized, documented and recorded so that there's a  
14 trail as to where these student records go.

15 So they're in the midst of doing that right  
16 now. They have already completed an inventory of the  
17 assets that are going to go to Bernalillo Public  
18 Schools, and that is getting ready to go through the  
19 transfer process with Bernalillo. Bernalillo will be  
20 addressing this during their May board meeting to do  
21 the transfer of assets pursuant to the New Mexico  
22 Administrative Code. And so we are -- we feel like  
23 we're making very good progress thanks to the great  
24 cooperation of the school.

25 We will be meeting with the parents on May



1 14. Superintendent Tapia has agreed to attend that  
2 meeting and will be working with the parents who are  
3 going to be transferring their students to  
4 Bernalillo. There are some parents who have  
5 indicated that they would like their students to go  
6 to another charter school. And the primary charter  
7 school is the Academy in Rio Rancho, physically the  
8 closest charter school in Rio Rancho, made outreach  
9 to them, and the school will meet with the incoming  
10 school to make sure there's an orderly transfer of  
11 records and make sure the students have no gap in  
12 their educational program. And I think that's the  
13 most critical aspect that we need to address.

14 As far as the biggest other issue that  
15 we're working with is the records of finance,  
16 personnel, just the miscellaneous records that don't  
17 fall under students. Bernalillo is going to take the  
18 human records, special ed records, Title 1 records,  
19 all of those things they have about the students.  
20 However, they do not have the capacity to take the  
21 financial records. Remember, the school is going on  
22 10 years old. There's a lot of information. Even  
23 though it's a small school, there's a lot of  
24 information from finance and personnel that they need  
25 to store.

1 I am working with Abby and the school's  
2 attorney to come up with a plan that would ensure the  
3 security. Again, with personnel files, it's very  
4 sensitive, and we need to make sure that those  
5 records are secure. And so we are looking into the  
6 State records process of them actually being stored  
7 with other State records. And so we are pursuing  
8 that option right now.

9 We also will be looking -- meeting with  
10 Deputy Secretary Aguilar. If there's a need for us  
11 to do -- if we can't do the State records process,  
12 then we will have to come up with an internal secure  
13 process that we will develop with the Deputy  
14 Secretary and his staff. And so we are very mindful  
15 of it, and hopefully, we have assured the school we  
16 will be very thorough in making sure that those  
17 records are all complete.

18 And as I said, we're progressing. We have  
19 made some -- the communications to the various  
20 stakeholders. We have met with the governing board.  
21 I actually attended their meeting two weeks ago, and  
22 Abby attended the staff meeting. So we have had  
23 representation at all of their stakeholder members,  
24 and we feel like this process is going to continue to  
25 work in an orderly fashion. And I will continue to

1 keep you-all apprised at the next meeting. Just  
2 remember, June 30 is when this school will actually  
3 be out of business.

4 We are also putting together provisions to  
5 contract with the school business manager and the  
6 administrator as there are things that are going to  
7 have to cycle through into July and possibly even  
8 August. For example, the test scores and their  
9 school grading. They're obligated to get those test  
10 records to the parents and for the students. The  
11 financial obligations that go through June 30 will  
12 have to be paid in July. The tax records that need  
13 to happen, the business manager will be responsible  
14 for those in January of '14.

15 So in our meeting with Deputy Secretary  
16 Aguilar, we will also be setting out the process of  
17 how we keep those folks on contract. The school does  
18 have some carry-over money that they will be able to  
19 give back to the PED, so we will hopefully have funds  
20 that we can access that we can ensure that the staff  
21 that's needed to make the final closure is completely  
22 taken care of as well as any miscellaneous expenses  
23 that come up with closure.

24 Abby, did you want to add anything?

25 MS. WEAR: No, just if you have any

1 questions about the time line or anything that I can  
2 help answer. But it's progressing well. And as  
3 Kelly said, we are working very well with the school  
4 to make sure the records are taken care of and trying  
5 to figure out, you know, where do we store the  
6 personnel records. There's a lot of things we're  
7 going through, but we're getting through them.

8 THE CHAIR: Thank you very much. Any  
9 questions? We know you're working hard. Thank you.

10 MS. CALLAHAN: Yes, ma'am. Thank you  
11 Madame Chair, Commissioners.

12 THE CHAIR: We are ready for Item No. 12,  
13 MOU with the PED-CSD and PEC Concerning Monitoring  
14 and Corrective Action. Abby, you want to present  
15 that?

16 MS. WEAR: There's been no additional  
17 movement on that. There was some language that Mike  
18 and/or Mark were going to work on so we can agree on,  
19 although we haven't had the opportunity to do since  
20 last time. We will put that off till next time.

21 THE CHAIR: Can we table it or say we're  
22 going to?

23 MR. WILLIAMS: Just put it on the next  
24 agenda.

25 THE CHAIR: We'll roll it to June.

1           The next item is Legislative Update. I  
2 have really nothing on legislation. Does anyone  
3 else?

4           Please let the record so note that  
5 Commissioner Carr must leave at this time, but we  
6 still have a quorum. Thank you.

7           Anyone have anything legislative wise to  
8 bring up?

9           Then let's go to PEC Comments, and let's  
10 just go around the room and see who has what to say.

11           Commissioner Peralta.

12           COMMISSIONER PERALTA: I have nothing at  
13 this time.

14           THE CHAIR: Commissioner Pogna.

15           COMMISSIONER POGNA: No.

16           THE CHAIR: Commissioner Bergman.

17           COMMISSIONER BERGMAN: I was going to  
18 suggest in light of our discussions today, it might  
19 be appropriate for our committee and staff and  
20 Counselor Wear and Williams to sit down in one of our  
21 work sessions like we have had in the past, and I  
22 suggest we do it in May. And May has gotten crowded  
23 now. I got to thinking we are meeting on June 7  
24 anyway. I wondered if it would be possible for us to  
25 meet on the afternoon of June 6 after lunch, and we

1 sit down and discuss some of these issues that have  
2 arisen and start thinking about the future and how  
3 these issues might affect the future. So I kind of  
4 would like to suggest that if we can get together on  
5 the 6th, if that fits the schedule.

6 THE CHAIR: Commissioner Bergman, I think  
7 you and I think alike, and I was going to suggest a  
8 work session. And I agree, May is getting full. It  
9 looks like the 6th of June might be a good day. But  
10 my suggestion is that everybody is invited to  
11 participate in this work session, all the  
12 commissioners, the CSD staff, the attorneys, whomever  
13 might like to participate and have some input. I  
14 think it would be worth our while to sit down. This  
15 is a really new process. And while I think it's  
16 going pretty well, I think if we all sat down and put  
17 our heads together, it might make the next  
18 get-together go a little better. How about you,  
19 Mr. Gant?

20 COMMISSIONER GANT: Go ahead.

21 THE CHAIR: Okay. Commissioner Toulouse.

22 COMMISSIONER TOULOUSE: Madame Chair, I  
23 don't have much to say.

24 MS. CALLAHAN: Commissioner Gerlicz was  
25 wondering if he could comment on the work session.

1 THE CHAIR: Sure.

2 MS. CALLAHAN: Go ahead, Mr. Gerlicz.

3 MR. GERLICZ: I echo what Mr. Bergman has  
4 proposed. And my apologies for being new in the  
5 position and not knowing the proper protocol. But it  
6 strikes me that I'm nearly six months into the  
7 position at the end of this month, and I think a  
8 retreat of some sort between the Public Education  
9 Commission and CSD staff would be wholly in order to  
10 review what we have learned in this new process, what  
11 do we want to work together on, our strategies and  
12 our protocols, and all of that, I think, would be  
13 time very well spent. And there's enough for a half  
14 day and possibly a whole day. I would be willing to  
15 work out a date suitable for everyone, if that idea  
16 meets with acceptance. Thank you.

17 THE CHAIR: Thank you for that, Tony.

18 Commissioner Gant.

19 COMMISSIONER GANT: Madame Chairwoman, I  
20 have three items I would like to discuss real quick.  
21 The top one, there is nothing we can do about it, but  
22 just for information. Some of you already know this.  
23 I don't remember if I told you this, but Pearson --  
24 you know who Pearson is, they're the ones who own  
25 Connections -- they have taken over the process of

1 testing for GED. There will be online course  
2 testing. There will be no paper whatsoever. And we  
3 know a lot of people, a lot of folks that are trying  
4 to get a GED are not computer literate. I'm not sure  
5 how it's going to work. There is no paper.

6           Again, as I said, now if you're currently  
7 involved with the GED, taking the courses, taking the  
8 test, if you're taking the Spanish version you have  
9 to -- I read this on a Farmington website. Up there,  
10 you have to have your part done, everything done by 7  
11 November. If you're doing the English version, it's  
12 by the 28th of November. After that, you cannot  
13 complete it. You have to start the whole thing over,  
14 all over again. And it will be not a cost of \$60 for  
15 a set of tests. It will be a cost of \$120 a test.

16           GED right now in the State of New Mexico is  
17 magnified by the higher ed department. Now they're  
18 going to come up with all the funds necessary to  
19 cover everybody that wants to take a GED. I see a  
20 down trend in folks trying to get a GED, and this is  
21 not going to help our future in the State of New  
22 Mexico where we would have better employees, et  
23 cetera.

24           But I'm just informing you of this. You  
25 need to watch it. As far as I can tell, nobody in a



1 leadership position has even spoken up to this.  
2 Across the United States, Pearson has taken over from  
3 a nonprofit outfit that used to run it. So now here  
4 we are, another nail in the coffin. The public  
5 schools, public higher ed becoming privatized.  
6 That's just my comment and nobody else's.

7 I did attend as a Commissioner for the New  
8 Mexico Public Library Commission, which I serve on  
9 now, and it was brought to my attention by an  
10 individual who attended the meeting who came up to me  
11 afterwards. As you-all know, last November we passed  
12 GO bond issue for libraries. He informed me, which I  
13 should have known and did not know, that libraries,  
14 public school libraries were authorized \$3 million as  
15 part of that nine million GO. As of right now, he's  
16 not certain, and I am not certain, that charter  
17 schools are getting their portion of it. I looked it  
18 up, and each school, each charter school, the  
19 baseline is \$3,000 per school, a one-time shot. Plus  
20 at that time, it was a \$1.61 for a member of the  
21 charter schools. That could have changed.

22 Last April, the PED was supposed to start  
23 the process of developing final figures for what  
24 schools were going to get. Each district gets so  
25 much money also. It's on the list. You can download

SANTA FE OFFICE  
119 East Marcy, Suite 110  
Santa Fe, NM 87501  
(505) 989-4949  
FAX (505) 843-9492



MAIN OFFICE  
201 Third NW, Suite 1630  
Albuquerque, NM 87102  
(505) 843-9494  
FAX (505) 843-9492  
1-800-669-9492  
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1 it. Go to the web and download it. It may have  
2 changed since that document was put together. And  
3 he's also told me that some of the district charter  
4 schools, authorized charter schools are basically  
5 being told you don't need to get that money.

6 So I would ask -- and I realize this is out  
7 of -- not in CSD's purview, I guess, but I don't know  
8 who else to ask. I asked the PED to do its due  
9 diligence so the schools are getting the GO bond  
10 money as directed last year. I don't know. I can't  
11 find it. I think we should know that because that's  
12 over \$3,000 per school. If they're authorized to  
13 have it, if they're not getting it, where is it  
14 going? I don't know who to ask, Kelly. Could  
15 you-all look into that?

16 MS. CALLAHAN: Yes.

17 COMMISSIONER GANT: It affects our schools.  
18 It affects all charter schools across the state.

19 The last item is not a good one. I got  
20 notice -- I got something in my e-mail the other day.  
21 I got it on Friday night. And it concerns the  
22 Learning Community Charter School of Albuquerque. If  
23 you remember, for those who were here, commissioners  
24 that were here, this is one we denied in December of  
25 2010 for its poor performance. It was reversed on us

1 by the Secretary.

2 I have checked their progress since then.  
3 They have been in corrective action or re -- what do  
4 they call it -- restructuring one and two. And last  
5 year, they had an "F," and this year they had a "D"  
6 on the school grade.

7 But anyway, on February 19, there was a  
8 notice published on the door -- I assume it's the  
9 door of the school -- that there would be a meeting  
10 on April 21 of the Governor's Council for the school.  
11 The notice was saying it was an emergency closed  
12 meeting.

13 MS. WEAR: I can answer any questions on  
14 that.

15 COMMISSIONER GANT: What would constitute a  
16 personnel matter or test breach?

17 MS. WEAR: They didn't end up having the  
18 meeting. Sue Fox is the attorney, and it wasn't  
19 properly noticed. What is going on there, we have  
20 gotten a long list of complaints, to be honest, but  
21 the one they were dealing with had to do with the  
22 head administrator. But that meeting did not occur.

23 We are going to go do a site visit on the  
24 30th, and I will be in attendance for that. There's  
25 several things that we're looking into. We're

1 treating it as a first-year site visit meaning we  
2 have a 20-page document of questions and things we  
3 would like to produce. And there are a lot of things  
4 we are looking into, and we may end up with a  
5 corrective action plan.

6 COMMISSIONER GANT: Thank you, Abby. They  
7 haven't had a meeting, so maybe they didn't have an  
8 open meetings violation. I'm really concerned. The  
9 personnel matters are not our problem. That's the  
10 Governor's Council problem. But breach of tests,  
11 testing breach, that is our concern.

12 MS. WEAR: We're looking into that  
13 accusation.

14 COMMISSIONER GANT: Federal programs, if  
15 they violated --

16 MS. WEAR: I'm working on Title 1, getting  
17 the application into Title 1 and checking into that  
18 issue as well.

19 COMMISSIONER GANT: If they spent that  
20 money wrong and supplemented those funds --

21 MS. WEAR: We will take it back.

22 COMMISSIONER GANT: Then I question -- my  
23 question, nobody else's here -- they do have a board  
24 of finance. I wonder if their board of finance, what  
25 we granted them is still in effect.

1 MS. WEAR: We'll be looking into all of  
2 these issues. We're doing a site visit on the 30th.  
3 Feel free to e-mail me any concerns or any additional  
4 things that you may want to look into, and I'll let  
5 you know that, yes, that's on our radar, or no, we  
6 will add it to our site visit.

7 COMMISSIONER GANT: Could we have a report  
8 for the commission not later than the 7th of June?

9 MS. WEAR: Absolutely. On the site visit,  
10 you mean?

11 COMMISSIONER GANT: About whatever you  
12 find.

13 MS. WEAR: On the site visit, we're going  
14 to take corrective action. We will submit that and  
15 send that plan to you-all for you to look at because,  
16 yes, we have gotten that. I'm coordinating with  
17 constituent services so everybody knows all of the  
18 complaints in the hopper and everything coming  
19 through, not just with that school, but anything else  
20 I'm coordinating on the other two departments on.

21 COMMISSIONER GANT: I must admit I got a  
22 picture of it, and I said, You got to be kidding? I  
23 sat there and looked at that, and I said, This school  
24 has been open how many years and they're playing this  
25 game? I said, You've got to be kidding me? Thank

1 you. That's it.

2 THE CHAIR: Thank you very much for  
3 bringing that up. It's gratifying you're right on  
4 top of it, and I appreciate that and certainly will  
5 appreciate the report.

6 Back to our work session that we are  
7 tentatively looking at on June the 6th, work session  
8 retreat, whatever anybody wants to call it, I think  
9 PEC, CSD staff, legal staff and any other interested  
10 parties who want to attend. Now, that's going to  
11 have to be an open meeting, is it not?

12 MR. WILLIAMS: Yes.

13 THE CHAIR: It will need to be properly  
14 noticed.

15 MR. WILLIAMS: Yes. When we do that for  
16 the Board of Nursing, we just typically set it as an  
17 in-service and send it out in the notice for the next  
18 regular meeting. You'll notice it as Day 1, Day 2,  
19 so the 6th and 7th.

20 THE CHAIR: Okay. We'll depend on Beverly  
21 for that.

22 COMMISSIONER BERGMAN: We need a location  
23 then.

24 THE CHAIR: That's the other thing.  
25 Beverly, check on location. I know you're going to

1 be gone.

2 MS. FRIEDMAN: I'll be gone the week  
3 before, but I'll notice it.

4 THE CHAIR: Unless we can set it up now,  
5 that will certainly be a help.

6 MS. FRIEDMAN: June 6 for the in-service?

7 MR. WILLIAMS: Yes.

8 THE CHAIR: And 7th for the meeting.

9 MS. FRIEDMAN: Okay. May I ask also, I  
10 have got a list here of items for the June 6 meeting,  
11 and Kelly had suggested that they might even need  
12 more time than one day because there are a number of  
13 contracts. And I'm not sure if we want to just kind  
14 of wait on that or decide if you want another day for  
15 the meeting is what I'm getting at.

16 THE CHAIR: Kelly, how many contracts are  
17 we going to be looking at?

18 MS. CALLAHAN: We will have Anthony,  
19 Cottonwood, Connections, Taos, Health Leadership High  
20 School. So we have five.

21 THE CHAIR: Are we talking about Taos  
22 International? I thought they asked for another  
23 year, another planning year.

24 MS. CALLAHAN: Yes, Madame Chair, they did.  
25 What we do with that case, they need to do the

1 preliminary contract, which is the agreement that  
2 they will complete the planning year checklist. We  
3 did that with Health Leadership, if you recall.

4 THE CHAIR: Right.

5 MS. CALLAHAN: In January, I believe, or  
6 February.

7 THE CHAIR: Okay.

8 MS. CALLAHAN: That won't be as  
9 comprehensive as the other four. So we have those in  
10 addition to possibly the MOU. Again, it seems like  
11 we have piled some things on there, but if we're  
12 doing a two-day meeting/work session, we might be  
13 able to get some of the other business taken care of.  
14 Again, meeting with the Executive Committee when we  
15 have the agenda, we'll have a better idea, I think,  
16 of what's going on. But I'm not sure exactly. I  
17 think Julia pointed out that the new contracts, for  
18 instance, Health Leadership and Connections right now  
19 because we don't have a lot of background knowledge,  
20 we may have to do some work with it. And so I am  
21 hesitant about not having the time to work with those  
22 very carefully and thoughtfully.

23 That was just a suggestion I made to  
24 Beverly. But I would certainly defer to the  
25 Executive Committee as we discuss what it is. Once



1 we have some substantive information, we'll probably  
2 be better able to estimate how much time it's going  
3 to take.

4 COMMISSIONER BERGMAN: Madame Chair?

5 THE CHAIR: Commissioner Bergman.

6 COMMISSIONER BERGMAN: How about an  
7 in-service session on the 6th and start a regular  
8 meeting after lunch at 1:00? That would give you a  
9 day and a half for a regular meeting, if everybody's  
10 schedule can be accommodated.

11 THE CHAIR: If, in fact, that's enough for  
12 the work session. I don't want to cut that off.  
13 Let's do that. Let's leave the two days right now.  
14 Wait till we have a better feel for the agenda or  
15 draft agenda, and then the EC can make some hard  
16 choice. Commissioner Gant?

17 COMMISSIONER GANT: Madame Chair, I believe  
18 there's one more that we really haven't talked about  
19 in over a year. I can't say the name. They asked  
20 for a second year.

21 MS. CALLAHAN: Madame Chair, La Jicarita.  
22 And Madame Chair, Commissioner Gant, La Jicarita has  
23 a status report in the report that -- the Director's  
24 report that Mr. Gerlicz did earlier this afternoon or  
25 this morning, and it has the time line. So we will

1 need to do a Commence Operations presentation for  
2 that because they will have completed their planning  
3 year checklist. So they fall under the previous  
4 statute prior to the Amended Charter School Act. So  
5 they do not need a specific contract, but they will  
6 need to have approval for Commence Operations.

7 So we will have to add La Jicarita to that.  
8 You can see their status report in the Director's  
9 report to get up to the minute of what they're doing  
10 now. We will be ready to do that presentation June  
11 7.

12 THE CHAIR: That's also June 7?

13 MS. CALLAHAN: That's correct.

14 COMMISSIONER GANT: Madame Chair, Members,  
15 as I said, a POEC meeting, which is one of my  
16 trips -- the lady was here earlier, but I told her to  
17 go because she was not going to be putting anything  
18 in today. But she tells me that they have not been  
19 talking to PSFA. They don't -- the PSFA does not  
20 know the status of the facility. And I believe -- I  
21 haven't read it yet, but I believe the portables they  
22 have talked about getting are still over in Rio  
23 Rancho.

24 MS. CALLAHAN: Madame Chair, Commissioner  
25 Gant, I'm just pulling back. I haven't worked with

1 La Jicarita directly. Mr. Richardson is here, and  
2 Mr. Gerlicz also says that they did send us a very  
3 comprehensive report. They did indicate that they  
4 have submitted a facilities master plan and ed spec  
5 to PSFA, and they have their plan of what's going to  
6 be happening for the transfer of the portable  
7 buildings on that outline. And so they are,  
8 according to them. We can definitely check with  
9 PSFA.

10 MS. WEAR: It's in the Director's report.

11 Tony, when you say it's in the Director's  
12 Report from March 26, are you talking about the  
13 portables issue?

14 MR. GERLICZ: In my Director's Report,  
15 Madame Chair and Commissioner Gant. And again, this  
16 comes from Brad Richardson who is there in the  
17 audience and can answer your questions directly. But  
18 on March 19, La Jicarita asked PSFA for bidding March  
19 26. They responded by informing La Jicarita that Rio  
20 Rancho portables appear to be in condition to meet  
21 the requirements. So it seemed like they are on  
22 track. But again, Mr. Richardson would probably have  
23 the latest on that.

24 MS. CALLAHAN: Madame Chair and  
25 Commissioner Gant, Mr. Richardson, do you have

1 anything to add in addition?

2 MR. RICHARDSON: No. I think the time  
3 frame I gave is current information as I have from  
4 them. However, that's with regard to the facilities.  
5 They are on target with the Planning Your Checklist.  
6 And Karen Ehlert and I will be conducting a site  
7 visit, I think it's May 10. So we're still working  
8 with them. They have a new director that they have  
9 appointed, and he's -- we have been working with him  
10 on Planning Your Checklist. So as far as I know,  
11 we're still on target.

12 MS. CALLAHAN: Thank you, Mr. Richardson.  
13 Madame Chair, Commissioner Gant,  
14 Commissioners, we feel they are doing due diligence  
15 and making progress. We will have a more updated  
16 report. We can check with PSFA and find out exactly  
17 where they are on this. But this is current up to  
18 April 20 -- April 23. And so if we get any other  
19 information, we'll make sure that we'll transmit that  
20 to you, the commissioners. But we do -- we will have  
21 a more comprehensive recommendation when we get to  
22 the June 7 meeting. If anything happens in between  
23 there, we will make that known to the Charter School  
24 Committee and commissioners.

25 THE CHAIR: Thank you.

1                   COMMISSIONER GANT:  Madame Chair, looking  
2 at the time schedule, they started working the master  
3 plan facilities master plan and educational specs in  
4 February.  I don't see any approval of those items  
5 yet.  So how can they be setting up buildings without  
6 approval of ed specs and facility master plan?  I  
7 don't understand that.  I would also like to know  
8 because they're not getting any starting money, as I  
9 remember.

10                   MS. CALLAHAN:  No.  They are.  They  
11 received the grant from last year.

12                   COMMISSIONER GANT:  Okay.

13                   MS. CALLAHAN:  So Madame Chair,  
14 Commissioner Gant, they received the federal start-up  
15 money last year of approximately \$500,000.  So they  
16 have a total of 36 months to spend that money.  So  
17 they are still within the frame of the start-up  
18 grant.

19                   COMMISSIONER GANT:  I just have concerns  
20 that I had when we did the community school meeting.  
21 They have some wonderful ideas, I guess, but it's pie  
22 in the sky as far as I can tell right now.  If those  
23 portables are still in Rio Rancho, I wish them luck.  
24 I do.  I really wish them luck to get ready by  
25 August.

1 MS. CALLAHAN: Commissioner Gant, Madame  
2 Chair, Commissioners, we will meet with  
3 Mr. Richardson, and I will work with them as liaison  
4 and final reports and make sure everything is in  
5 order absolutely before we make any recommendation to  
6 commence operations. So we will definitely keep you  
7 in the loop on that.

8 COMMISSIONER GANT: I do have a meeting  
9 with the PSFA on the 3rd then, 3rd of May. Thank  
10 you.

11 MS. CALLAHAN: Thank you.

12 THE CHAIR: All right. Any other  
13 commissioner comments?

14 We're now to Item 15 on the agenda, Open  
15 Forum. Beverly, do we have anyone signed up?

16 MS. FRIEDMAN: Madame Chair, no one has  
17 signed up for Open Forum.

18 THE CHAIR: Okay. Thank you. We will move  
19 on to Item 16 which is Review of PEC Process and  
20 Procedures Including Open Meetings Act. Mr. Williams  
21 and Ms. Friedman.

22 MR. WILLIAMS: Thank you, Madame  
23 Chairwoman. I'm going to be brief. I'm not going to  
24 engage in an overview or review at this time. I do  
25 want to raise two issues that go to forward processes

1 from the procedures today which should have been on  
2 the day that officers were elected. The board  
3 provision 3(b)(1) provides that officers will be  
4 elected at the first regular meeting subsequent to  
5 the adjournment of the regular session of the  
6 legislature in a given calendar year and will serve  
7 until the first regular meeting subsequent to the  
8 adjournment.

9           As your lawyer, we're in twix and between.  
10 If I say go ahead and elect your officers pursuant to  
11 your rules and regs, we are arguably committing an  
12 Open Meetings Act violation. As you're aware, I'm  
13 going to say, Comply with the Open Meetings Act. And  
14 this needs to be, in my humble opinion, probably  
15 noticed for your inserts. I would like this matter  
16 to be dealt with as the very first agenda item,  
17 action item at your next meeting on the 6th. I would  
18 actually prefer it on the 6th.

19           THE CHAIR: Why on the 6th?

20           MR. WILLIAMS: Really it should have been  
21 held today, and it is my best advice to the  
22 commission that their officers be in place before the  
23 in-service because your in-service will deal with how  
24 does the executive group deal with CSD and the  
25 commission. There's going to be an aspect of

1 in-service that directly affects the new officers.

2 THE CHAIR: Okay.

3 MR. WILLIAMS: That would be my advice.

4 THE CHAIR: Okay.

5 MR. WILLIAMS: I just want to be sure we  
6 get it on the agenda.

7 Whatever has been in front of you is the  
8 second Open Meetings item that I wanted to draw to  
9 your attention. The statute -- the Open Meetings Act  
10 actually requires a resolution. It actually requires  
11 on an annual basis that the commission establish a  
12 policy and a process. I have met with Beverly on  
13 this briefly. Thank goodness this morning she had  
14 some time to look at this. I want to make three  
15 basic changes, three quick changes to the draft that  
16 you have that reflect Beverly's input as to how  
17 business has been done with the commission in the  
18 past.

19 On Page 1, Line 20, where it currently  
20 says, "All meetings shall be held monthly." Stricken  
21 that based upon the calendar you folks set in  
22 December. So I'm going to propose that read, "All  
23 meetings shall be held as set forth in the attached,  
24 approved 2013 calendar." Now, the reason that works  
25 is because you need to be doing this resolution every



1 year. So if we do a good job the first time, all  
2 you've got to do is swap out that calendar and update  
3 the dates.

4 The second addition would be Line 30.  
5 There has been some changes in law, and just to keep  
6 things uniform, I would like to say the last sentence  
7 beginning at 30 going to 31 on Page 1, "The agenda  
8 shall be available to the public at least 72 hours  
9 before any regular meeting."

10 And then Page 2, Line 51, right in the  
11 middle where I've put a hyperlink address. Actually,  
12 Beverly informed me there's three different places.  
13 So the best way for folks who are going to access  
14 this information would be just to get to the PED  
15 website and navigate from there. That makes sense to  
16 me. And there's no changes beyond that.

17 So essentially, I'm presenting this to the  
18 commission. If you would like to ask me some  
19 questions about it, I would be happy to walk through  
20 it. It's the end of the day so I am mindful of that.  
21 I present this to you in draft with those changes for  
22 your approval. And I would change it and submit it  
23 to Beverly.

24 THE CHAIR: And put this on the June 7  
25 agenda?

1 MR. WILLIAMS: Yes. I'm sorry, what?

2 COMMISSIONER GANT: The 6th.

3 MR. WILLIAMS: Either one.

4 THE CHAIR: The Open Meeting session.

5 MR. WILLIAMS: It should be a no-brainer.

6 COMMISSIONER GANT: Maybe we should have  
7 the meeting on the 6th and just keep going. If it  
8 carries over into Friday on the 7th, then whenever we  
9 finish our regular scheduled meeting, then we can  
10 have time to perhaps do our in-service. He wants us  
11 to have our election first on Thursday.

12 MR. WILLIAMS: That would just simply be an  
13 action item preceding the items. I get tired. And I  
14 don't know about anybody else. If you have done a  
15 full day like today and you do an in-service the next  
16 day, that can be kind of rugged. I'm just suggesting  
17 that could be difficult.

18 Anyway, I just wanted you folks to have  
19 this. It's required. And if the commission will  
20 give me direction to make those changes, this would  
21 be an action item for you.

22 THE CHAIR: Commissioner Bergman.

23 COMMISSIONER BERGMAN: I call everyone's  
24 attention to Lines 25 and 26. It says, "Regular  
25 meetings shall be held on the first Monday of each

1 month." We never have. We meet on Thursday or  
2 Friday.

3 MR. WILLIAMS: That's what I'm talking  
4 about. What you do is you pick a date, and this can  
5 be very helpful for you. For some reason at that  
6 regular meeting we screwed up notice, this actually  
7 substitutes for notice. So whatever date you folks  
8 want to choose as regular, it doesn't really matter  
9 because as it says before, you'll schedule it  
10 regularly unless otherwise noticed.

11 COMMISSIONER BERGMAN: So that doesn't tie  
12 us down on Mondays?

13 MR. WILLIAMS: No.

14 COMMISSIONER BERGMAN: It varies on  
15 contract needs and all other needs.

16 MR. WILLIAMS: That's why at the beginning  
17 of the sentence it reads, "Unless otherwise  
18 specified." That's what we do in the Attorney  
19 General's Office in case something goes on with a  
20 noticed meeting. We can put whatever day you want,  
21 the first Thursday or Friday.

22 COMMISSIONER GANT: Sometimes we meet in  
23 Albuquerque.

24 MR. WILLIAMS: Sure.

25 COMMISSIONER BERGMAN: We may meet in

1 Gallup some day. Who knows?

2 MS. FRIEDMAN: I have a question. And  
3 basically, last December, I think we actually -- it's  
4 all in the minutes. But at that meeting, we took the  
5 time to say that our normal elections were usually in  
6 March, but we were going to have the elections in  
7 December because the Chair of the commission was  
8 leaving.

9 MR. WILLIAMS: Yes.

10 MS. FRIEDMAN: And we did do the elections  
11 so that we had a chair to begin the year 2013.

12 MR. WILLIAMS: Yes.

13 MS. FRIEDMAN: Does that preempt what's in  
14 the policies and procedures --

15 MR. WILLIAMS: No.

16 MS. FRIEDMAN: -- or do we still have to  
17 have another election although our officers have only  
18 been in office for two months?

19 MR. WILLIAMS: They were elected on an  
20 interim basis. The commission is not at liberty to  
21 ignore its own rules. This becomes, if you will, the  
22 elections of officers for the following calendar  
23 year, which is actually what it says on its own  
24 terms.

25 I looked at that specific issue. That's a

1 great observation. But no, what happened in  
2 December -- and I talked to Mark about this -- was  
3 you had to have a chairman, chairwoman. You had to  
4 have officers. So you were perfectly within your  
5 rights to take that action. But this is required by  
6 the board's rules.

7 MS. FRIEDMAN: Okay.

8 COMMISSIONER GANT: Madame Chair, Members,  
9 back to the first page, Line 30, 31, that's  
10 redundant. You have already said it in Line 26.

11 MR. WILLIAMS: That wouldn't surprise me.

12 THE CHAIR: It does say 72 hours up there.

13 MR. WILLIAMS: Yes. There you go. That's  
14 what happens when you start cutting and pasting  
15 there, Commissioner. Thank you for your good eye. I  
16 appreciate that.

17 COMMISSIONER GANT: You're welcome.

18 MR. WILLIAMS: I will make that change.  
19 May I have direction from the commission? I would  
20 like to leave -- this is fairly standard language.  
21 We have made a uniform document with most of the  
22 board and commissions. If you give me your best shot  
23 at a day, I would love to have it. When you look at  
24 Line 26, it's not the first Monday. Could we pick --  
25 it could be the second Tuesday. I don't really have

1 a preference. But what would you like to say?

2 COMMISSIONER BERGMAN: We normally meet on  
3 Fridays to accommodate people like Commissioner Carr  
4 and others that work.

5 THE CHAIR: What Friday?

6 COMMISSIONER GANT: Second Friday of the  
7 month.

8 MR. WILLIAMS: Second Friday of the month.  
9 Thank you. Sometimes I feel like Radar O'Reilly. Do  
10 you guys ever remember MASH? Just sign here in  
11 triplicate.

12 Anyway, thank you for that. I'm open to  
13 guidance. I just want to get this tight so literally  
14 you folks take about two seconds on it in June.

15 THE CHAIR: All right. So if we see  
16 anything startling or striking, we'll let you know.

17 MR. WILLIAMS: Shoot me an e-mail, and if  
18 it's material, then I would bring it back to the  
19 commission in a presentation in June and note why  
20 that change was made. But ideally, we get the  
21 periods and commas in the right places, and we're  
22 done.

23 THE CHAIR: Okay. Anything else,  
24 Ms. Friedman?

25 MS. FRIEDMAN: Yes, if I may take a few

1 minutes and just talk about reimbursement and per  
2 diem.

3 THE CHAIR: Please do.

4 MS. FRIEDMAN: Everybody woke up. I sent  
5 you a note, most of you, with the first batch of  
6 travel reimbursements that I sent out about two weeks  
7 ago. And most of that information is what I'm going  
8 to mention. And I had done the first travel  
9 statements to you, sent them out, got them signed,  
10 turned them in, and I had not read carefully an  
11 e-mail that said that the reimbursement for mileage  
12 had gone up from 41 cents to 44 cents. So all of  
13 those had to be redone, and that's what you got  
14 probably two weeks ago were the redone ones. The  
15 other ones you got today were everything I had as of  
16 yesterday when I finished them.

17 And so basically, you are in the process of  
18 signing them and so forth. And if you'll be sure to  
19 give me those back and the travel statements for  
20 today's meeting and any other meetings that you have  
21 had, and I'll get those processed.

22 DFA has also made a ruling that if there  
23 are any errors on the travel reimbursements, if there  
24 are three or more errors on a travel reimbursement,  
25 they are sent back, and I have to redo them again.

1 And so hopefully -- thank goodness Mr. Bergman found  
2 one error today that I was able to correct. And so  
3 hopefully, they are all correct. And the next step  
4 after you sign today is to have Mr. Aguilar sign and  
5 then they go to our financial group of people who do  
6 the editing, so to speak.

7 And what they used to do is use White-Out  
8 to do corrections. And if there's more than three  
9 White-Outs on one of those, then they send it back.  
10 We have to redo it, and I'll be sending them out to  
11 you to be signed again. So that's basically the  
12 process.

13 The kind of errors are in addition.  
14 They're in maybe just some of the other things that  
15 I'm going to mention. Number one is that on all of  
16 your travel reimbursements I have to -- you'll notice  
17 on your papers, I have to use your home address. I  
18 cannot say from Roswell to Santa Fe. I have to say  
19 your address, your street, your city, state and zip  
20 code and where you're going to exactly. When you-all  
21 went to CES for your meetings, I think, Mr. Bergman,  
22 you had the address on there, thank goodness. And so  
23 I put that address down with the correct zip code and  
24 everything, and hopefully it passes through without  
25 any corrections.



1           Another thing that they look for is that  
2 many of you give me odometer readings, and I use  
3 those odometer readings to figure out the mileage.  
4 They have now asked me to include not only odometer,  
5 but also Rand McNally to show that the mileage is  
6 approximate and that it's not off by a whole lot. I  
7 use your odometer readings to calculate the mileage.  
8 Unless that's an error and they send it back to me  
9 and say no, we have to use Rand McNally.

10           Another one is tips. When you have  
11 receipts for meals -- number one, I have to call Mr.  
12 Carr because I have a receipt, and from some other  
13 people, too, that when you get a receipt for food, I  
14 have to know what kind of food you eat. And we have  
15 never had our problem with our commissioners. And  
16 basically, for tips, you are allowed 20 percent tips,  
17 not any more. So if your meal was \$1.92 and you left  
18 \$2.00, then I have to correct that on your receipt to  
19 make sure it's 20 percent. Because if I don't, then  
20 it's an error, and I get it back.

21           The other thing is that if you use a credit  
22 card for the hotel, motel, it has to be in your name,  
23 and it can't be in your wife's name. And so they  
24 want it in your name rather than in anyone else's  
25 name to charge for hotels.

1           Also, there's an additional cost -- not  
2 cost, but an additional amount that you receive. If  
3 you leave your house -- and some of you have to leave  
4 at 5:30 in the morning and you stay overnight and you  
5 don't get back until 5:00 the next day, technically,  
6 you are eligible for partial day payment. And  
7 there's a certain amount. Up to six hours, you get  
8 \$12. Up to ten or 12 hours, you get \$20. Some of  
9 your forms you will see a partial day payment, and  
10 that's for those extra hours.

11           So I'm sorry that it's taken so long, but  
12 we have been working through some of these  
13 corrections and the additional money for mileage and  
14 different things like that. So hopefully, all of  
15 this is finalized and you should be getting your  
16 money. Unfortunately, there's shortage of people up  
17 there, too, so I'm not sure how long it's going to  
18 be, but I'll ask Paul if he can try to put these on a  
19 fast track.

20           COMMISSIONER GANT: Madame Chair, so in the  
21 future, Ms. Friedman, I'm going to take a picture of  
22 my odometer when I leave with the time set on it and  
23 a picture when I get here. You want the odometer  
24 from round trip?

25           MS. FRIEDMAN: Right. Right. And for many

1 of you, you have it down and you know, and basically  
2 you've got it right from your home to here, and it's  
3 always the same amount.

4 THE CHAIR: Don't go anyplace in between.

5 MS. FRIEDMAN: If I may make one more  
6 comment. Mr. Bergman asked me about presentations  
7 from schools. I spoke to a couple people from IT  
8 bureau. I asked them about DVDs and thumb drives and  
9 about actually connecting to the schools so that you  
10 could see a presentation delivered live from a  
11 school, say, in Roswell or Artesia someplace.

12 Number one, they said thumb drives were the  
13 best because our -- many of our computers do not have  
14 the ability to read DVDs or CDs. So presentations on  
15 thumb drives. And if the school has -- and I forget.  
16 I was walking and couldn't remember it, but I think  
17 it's called a trumble hookup to the school. And what  
18 that means is that we could connect with the school  
19 so that they could do a presentation via television.  
20 But I will find more out about that. The bottom line  
21 is presentations for the schools should be on thumb  
22 drives.

23 COMMISSIONER BERGMAN: I appreciate that.  
24 I actually will coordinate with Director Callahan,  
25 too, because it doesn't do us much good if they send

1 something up and we can't display it. I want to make  
2 sure we have the right media.

3 MS. CALLAHAN: Madame Chairman and  
4 Ms. Friedman and Commissioner Bergman, we will figure  
5 out a medium to work out of and to make sure that  
6 it's the most efficient and we won't be taking time  
7 away from the commission.

8 THE CHAIR: Good.

9 MS. CALLAHAN: Madame Chair, may I have  
10 just one additional announcement?

11 THE CHAIR: Sure.

12 MS. CALLAHAN: The Health Leadership High  
13 School negotiations with the PEC were originally  
14 slated tentatively for May 1. I just wanted to  
15 update you and ask what your preference would be.  
16 Health Leadership High School, as you remember, is  
17 the new approved school from September. They have  
18 been working on their Planning Your Checklist. We're  
19 now in the spring getting ready to do their full  
20 contract. What's happened is we have run into sort  
21 of a -- it's very difficult when you haven't been  
22 open.

23 As Julia alluded to, the schools that we  
24 have been working with have data we can draw from,  
25 and these new schools don't. We are running into a

1 little bit of a snag with our work with the school to  
2 try to get a good baseline as we possibly can so  
3 there will be a good negotiation process. And so my  
4 question is, we have set the 16th for the negotiation  
5 for Connections. Would it be possible or appropriate  
6 if we did either the 17th or the morning of the 16th?  
7 I know that you were talking about a meeting  
8 conflict, Madame Chair, but if we could do -- if we  
9 tied the Health Leadership to this, that means you  
10 only have to travel -- stay one night or however we  
11 want to do it.

12 So I wanted to throw that out there so you  
13 get that on your calendars. And this would be the  
14 Charter School Committee and any other commissioners  
15 who would be interested under a quorum unless we were  
16 going to do an open meeting.

17 THE CHAIR: We are talking May 15 for  
18 Connections.

19 MS. CALLAHAN: May 15 is the Connections.

20 THE CHAIR: I would recommend that we not  
21 do two in one day. It's so intense.

22 MS. CALLAHAN: So would you be open to  
23 looking at the 16th? The afternoon or morning on the  
24 15th and the morning of the 16th so you could be --  
25 that you could leave by 12:00 or 12:30 to get back to

1 your homes?

2 COMMISSIONER GANT: 16th in the morning is  
3 fine for me.

4 THE CHAIR: It's Commissioner Gant who was  
5 going to be doing Leadership, not that it really  
6 matters.

7 COMMISSIONER BERGMAN: If they will be  
8 happy to do it, I'll be happy to do that.

9 COMMISSIONER GANT: Madame Chair, I was  
10 going to have the 16th for prep.

11 THE CHAIR: What about you, Millie?

12 COMMISSIONER POGNA: That's fine. I would  
13 like for us to get notice on our e-mails.

14 THE CHAIR: Can you be there on the 16th?

15 COMMISSIONER POGNA: Yes.

16 THE CHAIR: 16th for Health Leadership.

17 MS. CALLAHAN: CES is booked so we are  
18 actually beating on the State Bar or NMMA again. We  
19 will have a place and of course, notice this. I  
20 wanted to see if that would be helpful in tying some  
21 travel together so we wouldn't have to do separate  
22 trips.

23 THE CHAIR: I may try to stay over, too.  
24 We'll have to see.

25 COMMISSIONER BERGMAN: You'll be more than

1 welcome.

2 THE CHAIR: All right. Anyone else?

3 MS. CALLAHAN: Madame Chair, thank you.

4 THE CHAIR: We are adjourned.

5 (The meeting adjourned at 3:19 p.m.)

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1                   BEFORE THE PUBLIC EDUCATION COMMITTEE  
2                                   STATE OF NEW MEXICO

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15 therein stated.

16           In testimony whereof, I have hereunto set my  
17 hand on May 15, 2013.

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19                                   *Susan M. Hilton*

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SANTA FE OFFICE  
119 East Marcy, Suite 110  
Santa Fe, NM 87501  
(505) 989-4949  
FAX (505) 843-9492



MAIN OFFICE  
201 Third NW, Suite 1630  
Albuquerque, NM 87102  
(505) 843-9494  
FAX (505) 843-9492  
1-800-669-9492  
e-mail: info@litsupport.com