

1                   BEFORE THE PUBLIC EDUCATION COMMISSION

2                                   STATE OF NEW MEXICO

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9                   TRANSCRIPT OF PROCEEDINGS

10                                   PUBLIC MEETING

11   DAY TWO

12   December 13, 2013

13   9:00 a.m.

14                   Mabry Hall - Jerry Apodaca Education Building

15                                   300 Don Gaspar

16                                   Santa Fe, New Mexico

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A P P E A R A N C E S

COMMISSIONERS:

- MS. CAROLYN SHEARMAN, Chair
- MR. EUGENE GANT, Vice Chair
- MR. VINCE BERGMAN, Secretary
- MR. JEFF CARR, Member
- MR. GILBERT PERALTA, Member
- MS. MILLIE POGNA, Member
- MR. JAMES CONYERS, Member
- MR. TYSON PARKER, Member

STAFF:

- MR. PAUL AGUILAR, Deputy Secretary - Finance and Operations
- MR. TONY GERLICZ, Director, Options for Parents
- MS. KELLY CALLAHAN, Director, Charter Schools Division
- MS. ABBY LEWIS, Attorney for the PEC
- MS. BEVERLY FRIEDMAN, PED Liaison to the PEC

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1 THE CHAIR: Good morning. I call back  
2 into session this regularly scheduled meeting of the  
3 New Mexico Public Education Commission. I would ask  
4 Secretary Bergman for roll call, please.

5 COMMISSIONER BERGMAN: Commissioner Carr.

6 COMMISSIONER CARR: Here.

7 COMMISSIONER BERGMAN: Commissioner  
8 Conyers.

9 COMMISSIONER CONYERS: Here.

10 COMMISSIONER BERGMAN: Commissioner  
11 Parker.

12 COMMISSIONER PARKER: Here.

13 COMMISSIONER BERGMAN: Commissioner  
14 Peralta.

15 COMMISSIONER PERALTA: Here.

16 COMMISSIONER BERGMAN: Commissioner Pogna.

17 COMMISSIONER POGNA: Here.

18 COMMISSIONER BERGMAN: Commissioner Gant.

19 COMMISSIONER GANT: Here.

20 COMMISSIONER BERGMAN: Commissioner  
21 Shearman.

22 THE CHAIR: Here.

23 COMMISSIONER BERGMAN: Commissioner  
24 Bergman is here.

25 Madame Chair, you do have eight members

1 present, so you have a quorum.

2 Before we jump into our business, I  
3 thought I might like to note for the record, because  
4 I don't know how many soccer fans we have in our  
5 assembly, but the University of New Mexico Lobo  
6 men's soccer team made the Final Four. And anytime  
7 you make an NCAA Final Four in any sport, you've  
8 done something outstanding. They play Notre Dame  
9 this afternoon. So, as a UNM alum, myself, I'm  
10 proud of the Lobos.

11 COMMISSIONER GANT: And they just made the  
12 Lobos a bunch of money.

13 THE CHAIR: All right. As I announced  
14 yesterday at Agenda Item No. 6, Deputy Secretary  
15 Aguilar could not be with us yesterday, but he is  
16 here with us today. And we're going to ask for his  
17 report right now. And that way, if he does have to  
18 leave the meeting, then we will have gotten all the  
19 information out of him right away.

20 So, Deputy Secretary Aguilar, welcome.  
21 And whenever you're ready.

22 DEP. SEC. AGUILAR: Thank you,  
23 Commissioner. And I will actually have to leave.  
24 I've got to go get yelled at by the LESC today, so I  
25 have to go prep for that.

1 THE CHAIR: Okay. Understand.

2 DEP. SEC. AGUILAR: Commissioner, I have a  
3 couple of things that I want to visit with you  
4 about. And I'll go into what we just talked about a  
5 couple of minutes ago. The Chairman -- or the  
6 Chairwoman -- has asked that -- I'm really not this  
7 short -- that these chairs are uncomfortable and  
8 untenable. So, we're going to be looking at getting  
9 new chairs for Mabry so that you guys can have a  
10 little more comfort.

11 And, also, we've asked for -- I just  
12 talked to our person who helps with facilities. So  
13 we can get you some plugs -- power plugs on the  
14 dais, probably underneath, so that you're not  
15 tripping over your cables and whatnot. So --

16 THE CHAIR: Thank you for that.

17 DEP. SEC. AGUILAR: Thank you, Madame  
18 Chair. And, also, Madame Chair, in the back of the  
19 room -- come on forward, Mike. He doesn't know why  
20 he's here, so he looks --

21 MR. ARCHIBEQUE: What's happening? Yeah.

22 DEP. SEC. AGUILAR: This is Mike  
23 Archibeque. He's our Chief Information Officer.  
24 Mike, the Commissioners have asked that we go to an  
25 online agenda, which we're already doing -- not

1 agenda; book, and all that sort of thing. Bev can  
2 coordinate that.

3 But I'd like to get a quote. If you  
4 could -- sometime today, at the lunch break, if you  
5 could meet with Commissioner Shearman and give her  
6 the options that we have that, you know, that we use  
7 for our computers in terms of size, in terms of  
8 things of that nature, I would like to order  
9 computers for all the Commissioners.

10 MR. ARCHIBEQUE: Oh, laptops?

11 DEP. SEC. AGUILAR: Laptops, please. And  
12 I've been asked for one for Bev. And I'm kind of  
13 angry. She didn't ask me; she asked  
14 Commissioner Gant.

15 So, the question came up, would PED be  
16 maintaining them and, you know, supporting? And I  
17 said, "Yes." I wanted the Commissioners to see who  
18 you were and --

19 MR. ARCHIBEQUE: Okay.

20 DEP. SEC. AGUILAR: -- know who to yell at  
21 when things don't work.

22 MR. ARCHIBEQUE: And I woke up with a sore  
23 throat this morning, so I apologize for that. But  
24 no problem. We use a standard HP. And it's very  
25 similar to what Tony and Kelly have right here is

1 our standard.

2 MR. GERLICZ: This one?

3 DEP. SEC. AGUILAR: Commissioner Gant is  
4 requesting an Apple. I'm not sure we're going to be  
5 able to go that way.

6 MR. ARCHIBEQUE: We can support HP. It's  
7 a very good laptop. But I'll get the gentleman on a  
8 quote.

9 MS. FRIEDMAN: And, Mr. Aguilar, I'd like  
10 to also say that Mike is responsible for having  
11 wireless for you in this room every meeting that we  
12 have. His people come down and set that up for us  
13 all the time.

14 THE CHAIR: Now, that, we really do  
15 appreciate.

16 MR. ARCHIBEQUE: And we are currently  
17 supporting your web page, as well. And our web  
18 master, Scott Coons, out of my shop. And he does a  
19 fantastic job; I think you may have seen some of  
20 that. And we're totally open to any other  
21 modifications or anything that you wish. And, then,  
22 we'll be looking at supporting your HPs.

23 MS. BARNES: And, Mike, we're working with  
24 you, as well, for Susan Coates at Tony's, to have a  
25 SharePoint, access point, for them. So, we're



1 coordinating within your existing site as well.

2 MR. WILLIAMS: Great. And our gentlemen  
3 support the SharePoint database, as well as the  
4 applications that are developed with SharePoint.  
5 So, we support you in that way, as well. So, we do  
6 quite a bit for you all.

7 THE CHAIR: That will be great. Thank  
8 you.

9 DEP. SEC. AGUILAR: Thanks, Mike.

10 MS. FRIEDMAN: Thank you, Mike.

11 DEP. SEC. AGUILAR: So, Madame Chair,  
12 thank you, and Commissioners. I have about four or  
13 five different items I'd like to visit with you  
14 about. Some are informational, and then the last  
15 item, probably, we don't need discussion today. But  
16 I want you to think about it, and then we can make a  
17 decision, or the Executive Committee can visit with  
18 me on it.

19 But, first of all, I want to talk about  
20 our audits. The Moss Adams is the -- is our  
21 auditor. They do the audits for the Public  
22 Education Department, the Division of Vocational  
23 Rehabilitation; and 52 charter schools were audited  
24 this year. I know there are 53. I saw some heads  
25 pop up there for a moment. We have one charter

1 school whose audit cannot be completed at this time  
2 and, so, they have what's called a "disclaimer" on  
3 their audit.

4 Their financial -- their financials were  
5 in such a condition that the auditors could not form  
6 an opinion on the -- on the condition of their  
7 audit. And that's the McCurdy Charter School.

8 And, so, I don't have the date in front of  
9 me. About three weeks ago, I believe, the -- I  
10 suspended the Board of Finance of the McCurdy  
11 Charter School. And we have hired a -- we have  
12 hired an accountant and consultant who is a  
13 certified bookkeeper -- not bookkeeper -- a  
14 certified school business officer, as well as having  
15 her own accounting and bookkeeping firm -- with the  
16 intent of two things:

17 One, since the school is relatively new,  
18 their financials aren't that dated. So, what we've  
19 asked this consultant to do is to reconcile their  
20 books all the way to the opening day of the school  
21 that we went into operation. That's the first  
22 thing.

23 And the second thing is she is also  
24 supervising the day-to-day operations in terms of  
25 the finances of the charter school. Ms. Eileen

1 Marujo-Gallegos, who is our director of school  
2 budget, and I are now the two signers on any checks  
3 that are written by the charter school. They  
4 continue doing the processes -- the Board continues  
5 to operate the charter school. They continue to  
6 make recommendations on how they want to expend  
7 their funds. But we review all of those.

8 Part of the problem is -- and, so, it may  
9 be worse than it sounds, or it may not be as bad as  
10 it sounds. And I want to be very clear about that.

11 There is a disconnect between their  
12 accounting system, in-house, and their bank records.  
13 And, so, the audit indicated that they ended up  
14 fiscal year '13, which ended June 30th, 2013, about  
15 \$200,000 in the red. But because we don't have a  
16 significant -- not a significant -- because we don't  
17 have a bank reconciliation that ties, we're not sure  
18 if that's the case.

19 We were informed on October the 31st that  
20 they finished up October \$1.9 million in the red;  
21 yet, when we went to the bank and looked at their  
22 bank accounts, they had \$168,000 in the bank.

23 So, we've got a huge disconnect between  
24 their -- their accounting systems and their bank  
25 reconciliations. And that's the reason we took that

1 action. We just can't -- I couldn't tell you today  
2 whether they have enough cash to finish the year.  
3 They may have more than enough; they may not.

4 It was brought to our attention that they  
5 had used some of the lease purchase money -- the  
6 lease payment monies to make a payroll one time  
7 because they didn't have enough cash on hand.  
8 That's an audit finding, obviously. That can't be  
9 done. So, there were a number of issues that were  
10 raised.

11 And rather than -- and the Board is in --  
12 appears to be very engaged. They're smart folks,  
13 and they're -- I think that they just let this kind  
14 of get away from them, and the day-to-day operations  
15 sort of got away from them.

16 So, again, we've taken over their Board of  
17 Finance, and we're running their financial  
18 operations, as we speak. And, so, I have great  
19 confidence that we'll be reconciled. I can't tell  
20 whether it would be two weeks or two months. But  
21 we'll have their books in shape and ready for the  
22 next audit, going forward. So, I wanted to report  
23 that to you.

24 I want to stop there and answer any  
25 questions regarding that specific situation.

1 THE CHAIR: Mr. Gerlicz?

2 MR. GERLICZ: Madame Chair, members of the  
3 Commission, and Deputy Secretary, thank you for  
4 being here and explaining that. You'll see in your  
5 packet that there is some information on McCurdy.  
6 And in preparation for today's visit, I did ask the  
7 Chair of the Board, Ms. Deborah Bennett Anderson, to  
8 appear. She is here in the audience. She has  
9 brought materials that outline a chronology of  
10 events, is happy to answer any questions that the  
11 Commissioners have, or that the Deputy Secretary  
12 has; because, as the Deputy Secretary says, Chair  
13 Anderson has been very, very responsive, along with  
14 the rest of the Board, in addressing not only this  
15 issue, but in any conversation we've had about  
16 McCurdy, and is here to be free to offer some  
17 information or answer any questions that you might  
18 have.

19 THE CHAIR: Thank you for that. Any other  
20 questions, comments from Commissioners? Seeing  
21 none, Deputy.

22 DEP. SEC. AGUILAR: Thank you,  
23 Madame Chair. And, then, in general terms regarding  
24 audits, Madame Chair and Commissioners, we had, this  
25 week, the exit conference with all of our charter

1 schools. The State Audit Act requires that we have  
2 an exit conference with all -- I'm sorry -- that we  
3 have an exit conference with all of our component  
4 charter schools, and that it be done in person.

5 So, we had -- we asked for an exemption  
6 from the in-person requirement for the Gadsden  
7 Charter School, the charter schools in Las Cruces,  
8 in Deming, in Gallup, and the one charter school in  
9 Red River, because of the long distance. That  
10 in-person requirement is, again, a requirement of  
11 the State Auditor, not the Department.

12 And we've committed to the charter schools  
13 for next year -- so many of the charter schools have  
14 video-conferencing capability. And, so, we've  
15 committed to the charter schools for next year to  
16 see if we can -- not see if we can -- we will visit  
17 with the State Auditor and see if we can hold  
18 that -- that conference more through visual means or  
19 through a teleconference. We just need to have a  
20 mechanism of verifying that they're on the line or  
21 visible. And, so, we're not sure how to do that  
22 yet. We're working through that.

23 But to the point of some of the charter  
24 schools that called, it's difficult when charter  
25 school board members have different jobs and things

1 of that nature to drive two hours to come to  
2 Santa Fe for a 35-minute meeting. And, so, although  
3 we thank folks for eating here and spending their  
4 money while they're here and helping the local  
5 economy, it is an inconvenience. And, so, we're  
6 trying to mitigate some of that next year.

7 Now, with regard to the audit, again, as I  
8 mentioned, 52 charter schools were audited. This  
9 year, we had 144 of last year's findings resolved,  
10 and there were 82 new findings. I want to put that  
11 in perspective. Because as you know, a few months  
12 ago, the State Auditor wrote a letter to the  
13 Department regarding our audits and considering the  
14 at-risk issues with regard to audits.

15 I want to point out that, in 2011, just  
16 prior to us coming to the PED, there were  
17 195 findings statewide that were attributed to 36  
18 charter schools. So it's about 5.4 findings per  
19 charter, on an average.

20 In 2012, after we got here, there were  
21 185 findings, but there were 51 charter schools that  
22 were State-chartered charter schools. And, so, the  
23 findings are about 3.6 per charter school.

24 And this year, again, there were -- oh,  
25 and I didn't write that down. There are about

1 2.6 findings per charter school now.

2 So, you can see that we're working hard  
3 with the charters to try to help them improve their  
4 financial positions and their operations. And, so,  
5 we're very happy that the charter schools are  
6 working hard to be responsive.

7 There weren't -- there are two issues this  
8 year that are still of concern to us among a number  
9 of charter schools:

10 One is that there -- charter schools are  
11 not being particularly responsive with ensuring that  
12 their budget corrections are made and kept up to  
13 date. The Public School Finance Act requires that  
14 any adjustments to the budget be approved by the  
15 Secretary, in advance. And that's where you --  
16 those of you that have been on boards and  
17 commissions know about budget adjustment requests.

18 So, they're not doing their maintenance  
19 budget adjustment requests on a timely basis. And,  
20 so, they're expending money for -- and, again,  
21 not -- it's not a fraud issue or a horrible risk  
22 issue. But it is a budget issue, that folks are not  
23 ensuring that their budgets are aligned with their  
24 expenditures throughout the year.

25 And as you know, when you don't align your



1 budget with your resources and uses, that's how  
2 folks get in a little bit of trouble. So, we're  
3 going to be working with them to ensure that those  
4 things get done.

5 And, then, we had a request, and we had a  
6 special provision in our audit this year -- not in  
7 our audit, I'm sorry -- a special request for the  
8 auditors this year, that those charter schools that  
9 have contracts with food service management  
10 companies, obviously, those food service management  
11 companies are for-profit entities. So, they're  
12 designed to make a profit.

13 However, the provisions of The Federal  
14 nutrition guidelines make it clear that those  
15 companies cannot make a profit on the food,  
16 themselves. They can make a profit on preparing the  
17 food, distributing the food and those sorts of  
18 things, but cannot make profit on the food  
19 purchases, themselves.

20 And, so, that was something that we looked  
21 at with all of our -- well, with all schools; not  
22 just charter schools, with all school districts and  
23 charter schools that had these food service  
24 management contracts. And if a company makes a  
25 profit on food, that the profit needs to be returned

1 to the school or the district that's serving that.

2 And, so, it wasn't a huge issue amongst  
3 charters. But there were some instances where the  
4 money wasn't being returned to the charter. And,  
5 so, we're working with the food service management  
6 companies so that they understand that's a component  
7 of the contract, and to make sure that those funds  
8 are returned back to the school.

9 So, Madame Chair, with that, we also had  
10 two findings to the Department related to charter  
11 schools. And, although -- I like to apply what I  
12 consider to be a commonsense approach. It seems to  
13 me that when you look at the number of findings  
14 relative to the number of charter schools coming  
15 down dramatically over the last couple of years,  
16 we've got a finding that we're not providing enough  
17 guidance to the charter schools. And, so, one of  
18 the things -- it's frustrating.

19 So, as an example --

20 MR. GERLICZ: Tell them to wait a few  
21 years until we get to zero.

22 DEP. SEC. AGUILAR: As an example,  
23 Madame Chair, under the provisions of Senate  
24 Bill 446, the Charter School Division makes -- is  
25 supposed to make annual visits to all of the charter

1 schools. And there's a fiscal component to their  
2 checklist, and there's also a program component.

3 Since those provisions just took place in  
4 '13, we may have visited some charter schools in '12  
5 and then '13. And, so, how we log those things, I'm  
6 going to be working with Mr. Gerlicz and others, our  
7 school budget folks, to log our contacts with the  
8 charter schools to demonstrate -- it's a  
9 demonstration.

10 I mean, obviously we're working with them,  
11 but we weren't able to demonstrate in all cases that  
12 those were being made on a regular basis. And you  
13 know how audits are. If you can't demonstrate it,  
14 you pick up a finding.

15 But along that line, one of the things  
16 we're doing is we've committed, and we've already  
17 begun hiring, five additional auditors in our audit  
18 unit that will be focusing on working with school  
19 districts and charter schools to help them work  
20 through their audit -- not their audit, their  
21 financial -- and providing the oversight that we  
22 need for both the audit -- the daily operations  
23 regarding the audit.

24 But, also, if they receive federal monies,  
25 the Department received a finding that we're not

1 providing a sufficient oversight of our  
2 sub-recipients in the federal funds. So, we're  
3 adding five more staff that will be working  
4 specifically with our school districts and charter  
5 schools to assure that these compliance issues are  
6 met.

7 I am proud to announce the combined audit  
8 with the Public Ed Department, the Division of  
9 Vocational Rehab, and the Charter Schools had no  
10 material weaknesses this year. And the Department  
11 audit was down -- last year, we had 15 significant  
12 deficiencies; this year, we have six.

13 And, so -- and none of them were really  
14 related to financial issues. They were related, as  
15 I mentioned the sub-recipient monitoring, working  
16 with our charters on overseeing -- they were more  
17 compliance issues. And, so, we're pretty happy with  
18 the condition of our audit, as well.

19 And, so, Madame Chair, that's my report  
20 regarding the audit. I'll stand for questions on  
21 that, and then I have one more issue I'd like to  
22 discuss with you.

23 THE CHAIR: Okay. Are there any questions  
24 of Deputy Secretary Aguilar on the audit?

25 COMMISSIONER GANT: Good luck.

1 THE CHAIR: I just have one. You said  
2 there were 144 unresolved issues on the charter  
3 school audits.

4 DEP. SEC. AGUILAR: I'm sorry. No, there  
5 were 40 -- so, there were 185 findings last year;  
6 144 of them were resolved.

7 THE CHAIR: Were resolved?

8 DEP. SEC. AGUILAR: Yes, ma'am.

9 THE CHAIR: I'm sorry.

10 DEP. SEC. AGUILAR: And then there were 82  
11 new findings of various kinds for different things.  
12 So, we, the Charter Schools, netted out in a better  
13 position, as I've noted. So, those numbers are  
14 coming down.

15 THE CHAIR: Okay. Of those 82 new  
16 findings, I assume that means those were not repeat  
17 findings?

18 DEP. SEC. AGUILAR: Yes, ma'am. Those are  
19 new findings.

20 THE CHAIR: Okay. And were any of them  
21 significant or major findings?

22 DEP. SEC. AGUILAR: Madame Chair, as I  
23 noted, none were material weaknesses. If they were  
24 not- -- if they were noncompliant -- with the new  
25 reporting -- most of you are familiar with the term

1 a "qualified" or an "unqualified" audit. That term  
2 is no longer being used as of this year. It's now a  
3 "modified" or an "unmodified" audit. And none of  
4 the charter schools had modified audits this year,  
5 with the exception of McCurdy, which had a  
6 disclaimed audit.

7 THE CHAIR: Okay, thank you. Any other  
8 questions? Okay. Thank you.

9 DEP. SEC. AGUILAR: Okay. Madame Chair,  
10 the last item I'd like to discuss with the  
11 Commission -- and I don't need a decision today.  
12 You have a hearing, I believe, coming up -- I've  
13 been in contact with the Chair over this last week  
14 about an attorney to represent the Commission in  
15 this hearing that's coming up.

16 For whatever reason, the Attorney  
17 General's Office has chosen not to represent the  
18 Commission in hearings. And I am concerned about  
19 dual representation. And, so, what -- over the last  
20 couple of years prior to the Attorney General's  
21 Office being involved, we had Mr. Vigil as a  
22 contract attorney, if you recall. And in a  
23 cost-savings situation, we asked the Attorney  
24 General's Office to begin providing representation  
25 for the Commission.

1           This dual representation is concerning to  
2 me. And, so, I have talked to the Chair, and I'm  
3 offering to the Commission that we would go, again,  
4 to hiring an attorney under contract, full-time,  
5 that would represent the -- that would represent the  
6 Commission in all matters that are before it,  
7 including month-to-month representation.

8           Again, Madame Chair, I don't need a  
9 decision today, but it might be something for you  
10 and your colleagues to think about and then let me  
11 know how you feel about that, so we can go out to an  
12 RFP, and so that we can select an attorney to  
13 represent you, if that be the case.

14           THE CHAIR: Let me just speak briefly to  
15 that. Yes, Deputy Secretary Aguilar did mention  
16 this to me. I mentioned it to the other -- to  
17 officers, because, again, this probably will come to  
18 a vote of the Commission -- so, that we could not  
19 talk about this other than in an open meeting. But  
20 I have spoken to the other two officers. And now  
21 that it is out in the open and everyone can consider  
22 it, if you want to talk about that now, we can. But  
23 it's not on the agenda, so, of course, we cannot  
24 make any kind of decision.

25           But let me -- this is just Carolyn

1 speaking, not for the Commission, not for the EC,  
2 not for anybody else. I was -- I was Chair when --  
3 when the decision came from the Attorney General's  
4 Office that they could not represent us in appeals  
5 before of the Secretary. And that was as a result  
6 of a lawsuit that we filed against the Secretary  
7 about -- what? -- a year or so ago. Am I going too  
8 far, Abby? Okay.

9 MS. LEWIS: I would prefer if you -- if  
10 you want to say this now, it's fine. But I would  
11 prefer you introduce it under the agenda item of PEC  
12 Comments, and then we'll put it under there.

13 THE CHAIR: Let me just say what's in my  
14 mouth right now, and, then, if I go too far, you  
15 tell me.

16 When we filed suit against the Secretary  
17 thinking that we could appeal the Secretary's  
18 decision when she overturned one of our decisions.  
19 And if you all will recall, the judge said no, that  
20 we did not have standing and that we could not  
21 appeal the Secretary's decision.

22 At that time, the Attorney General's  
23 Office made us aware that they could no longer  
24 represent us in appeals before the Secretary. So,  
25 everything else, we do have the representation.



1 I, personally, appreciate Deputy Secretary  
2 Aguilar's offer to hire a full-time attorney for  
3 PEC. And I -- but I, personally, am very satisfied  
4 with the representation we have right now. With  
5 that said, I will hush. And if we want to talk  
6 about this more during PEC Comments, we can. I  
7 certainly don't want to get us into any kind of  
8 legal situation at this point.

9 Again, I appreciate your offer, but I want  
10 the other Commissioners to be very aware of  
11 everything that I know, okay? So, thank you for  
12 that.

13 DEP. SEC. AGUILAR: And, Madame Chair, one  
14 final thing, and, again, I was remiss to not mention  
15 earlier. I actually was reading this agenda item.  
16 I -- there's a note here. We are most sad to  
17 announce the departure of Kelly from our team. It  
18 is with a heavy heart that she forced me to accept  
19 her resignation.

20 THE CHAIR: She can be rather forceful.

21 DEP. SEC. AGUILAR: I'm not -- she can,  
22 and so can I. So, it was an interesting  
23 conversation. There was a little bit of wheeling  
24 and dealing, but it didn't work out for us.

25 I just want to publicly recognize Kelly

1 for the efforts that she has made. She stepped in  
2 at a time that -- that -- actually, she was brought  
3 in by a former director, who's in the audience, at a  
4 time when I think the Charter School Division was  
5 searching for direction. And I think that she  
6 provided that leadership and guidance to -- and the  
7 stability to bring -- to bring that -- the  
8 organization together and move it forward.

9 And, then, with -- now that Tony's there,  
10 I think they've made a great team. And it is  
11 actually more -- more than just sadness; I think it  
12 is a loss to the -- to the children of New Mexico.  
13 I know she's going to go work in what she calls an  
14 education field. But we're arguing about that, as  
15 well.

16 But I think that the children of  
17 New Mexico are -- have been the benefit of some  
18 outstanding work. And, then -- so, they're also  
19 going to be the recipient of a little bit of a  
20 transition. And we'll work hard to do well.

21 But I do want to wish Kelly the best of  
22 luck going forward. And I didn't realize this until  
23 I came to PED. We develop a pretty good -- kind of  
24 a family-ish relationship here that's kind of  
25 interesting. And Kelly will always be part of our

1 family here. And however we can support you, Kelly,  
2 you're always welcome.

3 MS. CALLAHAN: Paul, thank you very much.  
4 I really do appreciate it. It's been an honor. And  
5 I think that we're in a good place in charter  
6 schools. And it has absolutely been a team effort.  
7 This organization, the PEC, CSD, and the PED have --  
8 I think we've all worked tremendously hard to raise  
9 the level of accountability for charter schools.

10 And I think we're seeing the product in  
11 terms of performance. The school grades this year  
12 showed significant improvement for charter schools.  
13 The financials, it sounds like we're moving in the  
14 right direction. And I see -- I see a higher game  
15 being played in terms of schools performing.

16 And I think it's a -- it's a great  
17 pleasure to have been a part of that. And I hope to  
18 continue to be a part of education in New Mexico.  
19 So, thank you very much. I really appreciate your  
20 comments.

21 DEP. SEC. AGUILAR: Madame Chair, with  
22 that, that concludes my presentation, unless the  
23 Commission has other questions of me. Otherwise,  
24 I'm going to go prep for getting yelled at this  
25 afternoon.

1 THE CHAIR: Let me just say one thing,  
2 Deputy Secretary. I do appreciate your efforts in  
3 helping us to get an attorney to represent us in the  
4 hearing that's upcoming with Dream Dine'. I know it  
5 took your intervention to get that moving.

6 I am concerned -- it is a little late,  
7 and -- but we have an attorney. He was here  
8 yesterday. He did introduce himself. And, so, it's  
9 working.

10 So, I appreciate your efforts, and thank  
11 you for your work on our behalf.

12 Are there questions or comments from other  
13 Commissioners?

14 Okay. And, by the way, I want you to know  
15 we recognized Kelly yesterday, so we're not just  
16 sitting here ignoring her.

17 DEP. SEC. AGUILAR: Oh, no. I --

18 THE CHAIR: The truth is, at the end of  
19 the meeting today, the doors will be barred, and she  
20 cannot leave. So, you know, we have taken the  
21 action that we can.

22 DEP. SEC. AGUILAR: Commissioner, I  
23 appreciate that.

24 THE CHAIR: Thank you for your report.

25 DEP. SEC. AGUILAR: Thank you,

1 Commissioner. Have a good day, and enjoy the rest  
2 of the day.

3 THE CHAIR: And Happy Holidays.

4 DEP. SEC. AGUILAR: That's true. Happy  
5 Holidays to everyone.

6 COMMISSIONER GANT: And good luck to you  
7 this afternoon.

8 DEP. SEC. AGUILAR: I like the chuckle.

9 THE CHAIR: All right. Appreciate Deputy  
10 Secretary Aguilar's assistance in getting us new  
11 chairs; that will certainly be lovely. And  
12 computers, too. I know that's been a struggle for  
13 some Commissioners. And, so, we'll be well taken  
14 care of in that regard.

15 Let's move on to Item No. 9, Update and  
16 Clarification on La Promesa Amendment.

17 Ms. Lewis, please?

18 MS. LEWIS: I just put this on the agenda  
19 because I wanted to let the Commission know that the  
20 agreement that was reached on the La Promesa cap  
21 amendment escaped being reduced to writing. So, we  
22 went back and put it in writing.

23 It's exactly what you had voted on, pulled  
24 it right out of the minutes. But I just wanted to  
25 update and clarify for you that that has now been

1 reduced to writing and signed by the Chairwoman, as  
2 well as the head of La Promesa, and answer any  
3 questions you might have.

4 THE CHAIR: You're not giving me time to  
5 get all this signed here. You're supposed to talk  
6 longer.

7 MS. LEWIS: I'll talk a long time.

8 THE CHAIR: All right. Next is Item  
9 No. 10, Update for Options for Parents Director and  
10 Possible PEC Action on La Jicarita Charter School.  
11 Mr. Gerlicz?

12 MR. GERLICZ: Madame Chair, members of the  
13 Commission, we put this on the agenda because we  
14 wanted to bring to the attention of the PEC some  
15 concerns that we had have, and continue to have,  
16 about La Jicarita Community Charter School.

17 It's in their first year of operation.  
18 And we've had a number of concerns about the  
19 operations of La Jicarita, and, in addition to the  
20 operations, just the information that we were  
21 getting.

22 Those concerns are listed in your packet  
23 in Agenda Item No. 10, under the seven bulleted  
24 items that you see there. And we have much more  
25 detail under each of those bulleted items, should

1 you care for any of those additional informations  
2 under those bulleted items.

3 I do want to let the PEC know that the  
4 Charter School Division, because, in recent years,  
5 have established a much closer relationship with all  
6 of the schools with whom we work, we are on top of  
7 it and are working with the school to resolve these  
8 issues and get them on the right track, particularly  
9 since we know that the first year of operation of a  
10 charter school is one of the most challenging years  
11 of operation. It is important for schools to get  
12 off on the right foot, and we are doing what we can  
13 to help the school do that.

14 I've been in touch with the chair of the  
15 Board, Ms. Amanda Bissell, who could not make it  
16 here today. The other governing council members are  
17 here -- they are here.

18 MR. FERNANDEZ: Johanna DeBiase is here.  
19 She stepped out for a bit. She's the vice president  
20 of the governing council.

21 MR. GERLICZ: Thank you so much. Edwin  
22 Fernandez, in the audience, who is La Jicarita's  
23 business manager, who we've been in contact with  
24 regularly, particularly our liaison, Brad  
25 Richardson, who's in the audience, who has all the

1 details of school at his fingertips.

2 And we did ask the chair to be here today.  
3 She could not be here, unfortunately, but she did  
4 send her vice chair to be here. And they, the  
5 governing council, have drafted a letter to the PEC  
6 that I put on your places here this morning.

7 So, when she returns from wherever she  
8 went --

9 MR. FERNANDEZ: I'll poke my head out and  
10 see if I can find her.

11 MR. GERLICZ: -- bring her in here so she  
12 can address the PEC, because as you can see from  
13 this letter, the governing council has already taken  
14 some fairly dramatic steps. And this is, of course,  
15 news to us, as well. It doesn't come as a surprise,  
16 but it does come as news, that they have replaced  
17 their director, Mr. Wes Clarkson, who has resigned  
18 from his position on December the 6th, giving them  
19 his 30-day notice to do that. And they are already  
20 at work at finding an interim director.

21 My understanding is we can learn more  
22 about that today, that they have candidates online  
23 to replace that.

24 And you can see that the governing council  
25 has judiciously addressed each of these bullet



1 points that are in your packet. So, this is their  
2 voice. And, welcome.

3 MS. DeBIASE: Hi, good morning.

4 MR. GERLICZ: Could you say your name into  
5 the microphone? And say -- and any comments that  
6 you'd like to make to the PEC regarding that letter,  
7 or any additional information, now would be the time  
8 to do so.

9 MS. DeBIASE: Okay. Good morning,  
10 Commissioners. Okay, thanks. Good morning,  
11 Commissioners. My name is Johanna DeBiase. I am  
12 the vice president of the governing council of  
13 La Jicarita Community School and one of the  
14 cofounders.

15 I think the letter speaks for itself and  
16 answers a lot of the concerns. Yeah, I don't want  
17 to speak ahead of the game. I would rather take  
18 questions, if that works for everybody.

19 THE CHAIR: From my personal perspective,  
20 we just got this letter. I haven't had time to read  
21 it.

22 MS. DeBIASE: Okay.

23 THE CHAIR: So, I, personally, would  
24 prefer that you tell us what's going on. Don't  
25 necessarily read it to us, but just tell us.

1 MS. DeBIASE: Okay, sure. Basically,  
2 La Jicarita, we -- the governing council learned,  
3 maybe in late September or early October, that we  
4 were having some leadership issues. Our director  
5 was not fulfilling his job. We had -- he had hired  
6 a business manager that he told us was working  
7 towards her licensure, but she never did. And we  
8 quickly found out she wasn't qualified for the job.  
9 She wasn't doing what she needed to do.

10 And Edwin -- our business manager,  
11 Mr. Edwin Fernandez, can speak to some of the  
12 financial issues we have. He's our new business  
13 manager. And we asked the director to dismiss her.  
14 He wasn't overseeing her. He -- there were a lot of  
15 communication issues, leadership issues.

16 As soon as we started to realize that  
17 there was a problem, we underwent an evaluation  
18 process with the full school and the staff when the  
19 evaluation came back. It was really poor; his  
20 self-evaluation was equally poor. And soon after,  
21 he turned in his letter of resignation. So, we're  
22 currently looking at finding a new interim director.

23 As a board, we learned a lot from the  
24 experience: One, how important it is to have a  
25 strong leader; and, also, what we need to do

1 oversight-wise, how important it is for us to be  
2 even stricter than we were on oversight issues.

3           And that's the gist of it. There are more  
4 specifics in the letter, as far as getting  
5 facilities going. I mentioned the business manager,  
6 financial irregularities, hiring teachers. We had  
7 teachers -- with him hiring teachers that we didn't  
8 approve of, us letting him know we didn't like his  
9 hiring, and him sort of going ahead and hiring them  
10 anyway.

11           S.T.A.R.S. --

12           THE CHAIR: May I stop you right there?  
13 What were your objections to the teachers that he  
14 hired?

15           MS. DeBIASE: We didn't feel they were  
16 qualified enough. He didn't hire anyone bilingual.  
17 We have -- it's a dual-language school. They  
18 weren't -- they were -- he told us they were working  
19 towards licensure. We had one that they weren't  
20 fully licensed in elementary level. They were  
21 K-through-12 certified. And we didn't feel that  
22 they were a well-rounded group of people.

23           And we expressed our concerns to him,  
24 every step along the way during the hiring process.

25           But, again, there were some communication issues,

1 and he just didn't give us satisfactory responses,  
2 and he went ahead and hired them, which is his job  
3 to do. And at this point, early in the game, we  
4 were still sort of allowing him to do his job and  
5 not trying to micromanage him all the time.

6 So -- and we did have -- he did hire a  
7 licensed teacher, and we did have one receive their  
8 licensure. So, right now, we do have -- our  
9 teachers are mostly qualified, but we still don't  
10 have a bilingual teacher. And that's something,  
11 hopefully, with the new director coming in, we'll be  
12 able to reshape the staff and what it looks like so  
13 it's more well-rounded and more highly qualified.

14 THE CHAIR: And the financial  
15 irregularities, would you speak to those?

16 MS. DeBIASE: Mr. Fernandez can speak to  
17 that, more specifically. He also had trouble doing  
18 the S.T.A.R.S. reporting. He took it upon himself  
19 to do it without training. And the board -- we had  
20 to be -- we had a lot of issues. We had to call him  
21 every day to make sure he was on track and it was  
22 going to get done.

23 They went for training. Our office  
24 manager went with him, so, she's now fully trained  
25 in it. And we are now going to make sure that we

1 always have someone trained and accountable for  
2 S.T.A.R.S.

3           There were complaints from parents and  
4 staff. I mean, there were a lot of issues. It's a  
5 slow process. I think we did pretty well,  
6 considering. We saw them coming, and we were able  
7 to act and find, and now we're on track to find an  
8 interim director to start next semester. But we  
9 definitely learned a lot from the experience.

10           THE CHAIR: Mr. Gerlicz?

11           MR. GERLICZ: Madame Chair, members of the  
12 Commission, just to amplify that, you can see on the  
13 back page of the Jicarita item in your packet is  
14 that we are recommending a monthly -- we didn't call  
15 it a corrective action plan, but it actually is one.  
16 But we recommend that we're going to be in monthly  
17 contact with Jicarita through this transition,  
18 including site visits to the school, including  
19 visits with the governing body, including reading  
20 all their agendas and take a much more active  
21 approach, or active monitoring, of this school  
22 throughout the remainder of this year.

23           Any additional bullets that the Commission  
24 would want to put on there is fine, as well.

25           MS. DeBIASE: And we greatly appreciate

1 that. Any and all support is greatly appreciated  
2 from the PED.

3 COMMISSIONER CARR: Madame Chair?

4 THE CHAIR: Mr. Carr.

5 COMMISSIONER CARR: So, this brought to  
6 mind -- this is a question, then. Maybe it hasn't  
7 come up before. Is the relationship between the  
8 Board of Finance and the school's director pretty  
9 much the same as a superintendent and a school board  
10 in a traditional school setting, or traditional  
11 school district?

12 MR. GERLICZ: Madame Chair,  
13 Commissioner Carr, if I understand your question,  
14 you're asking whether the relationship between the  
15 director of the school and the governing body is  
16 analogous to a school board hiring a superintendent?

17 COMMISSIONER CARR: Yes.

18 MR. GERLICZ: If that's your question, the  
19 answer is yes.

20 COMMISSIONER CARR: Okay. And then  
21 further that question is, will that director have  
22 the authority to hire everybody without too much  
23 interference from the board?

24 MR. GERLICZ: That is correct. Madame  
25 Chair, Commissioner Carr, it is the principal, or

1 the head of the school, or the lead administrator --  
2 whatever they call themselves in charter schools --  
3 it is their responsibility to hire staff. It is the  
4 governing body's decision to monitor and oversight  
5 and hire and fire one person only, and that's the  
6 director, or the head of the school, the principal.

7 COMMISSIONER CARR: So, sounds like you  
8 were doing proper oversight.

9 MR. GERLICZ: Correct.

10 COMMISSIONER CARR: And -- but maybe you  
11 didn't move quick enough. And, so, your only  
12 decision to be made was to -- to get rid of the  
13 director, if he wasn't performing his duties  
14 properly or legally or whatever.

15 So, that's -- yeah, that's an extremely  
16 important thing to do. I -- this calls to mind --  
17 you know, that is the -- the importance of hiring  
18 somebody with knowledge and experience and the  
19 proper certification. And it sounds like he didn't  
20 think that was important, you know.

21 And, so, it -- and, obviously, maybe he  
22 didn't think it was important for himself, either.  
23 But I -- you know, I don't know all the details, so  
24 I'm not going to make a lot of -- I'm not going to  
25 make any judgments about it, necessarily. But I --

1 sounds like maybe you've figured it out, and you've  
2 got to be a little tougher.

3 That reminds me. I've got a first-year  
4 teacher this year, who, her only problem is she  
5 doesn't know how to be tough. She doesn't know how  
6 to be direct. But she's smart, and she's  
7 well-qualified. And that's typical of -- you know,  
8 that typically comes with not having experience of  
9 operating a school.

10 I hope everything -- I hope you get  
11 everything worked out, because I remember voting on  
12 this and going to the hearing and everything. And  
13 I -- I hope you can get it all worked out.

14 MS. DeBIASE: Thank you.

15 THE CHAIR: Could we have Brad, the  
16 liaison, come to the table, please? I'm sure he's  
17 got a lot of knowledge and information, and we may  
18 actually have some questions for him.

19 So, Mr. Gerlicz, you are recommending a  
20 corrective action plan for this school?

21 MR. GERLICZ: What I put in my writing is  
22 that we will be doing mostly reporting and engage  
23 the school on a reporting schedule to us, that we  
24 would then report to the PEC. And those bullets are  
25 listed in your packet.



1 Personnel are properly licensed. We want  
2 to stay on top of -- and especially now, with this  
3 new information that there's going to be an interim  
4 director, even more so. We want to make sure that  
5 the interim director is on top of his or her hiring  
6 decisions and making sure that everyone is properly  
7 licensed.

8 We want to ensure that the school has a  
9 properly licensed and capable business manager. We  
10 did learn, thankfully, and we were pleased to hear,  
11 that Edwin Fernandez, who was a former PED employee  
12 is handling and cleaning up the finances now, and  
13 catching it early, has agreed to stay at the school  
14 for the remainder of the year.

15 But that will be on the executive director  
16 or the new principal's plate to hire a new business  
17 manager. We want to stay on top of that, ensure  
18 that there are no further delays in reporting to the  
19 school, which was driving us nuts, whether it's  
20 S.T.A.R.S, or NPSI [ph], or ERB. And Brad can tell  
21 you the details of that.

22 The communication needs to be infinitely  
23 better than it was. We had a terribly difficult  
24 time. We want to monitor that. We want monthly  
25 updates on enrollment. We want monthly updates on

1 correspondence the school has had with parents and  
2 its Peñasco school partners, and the community, in  
3 general. We want to help the school get off on as  
4 good a foot as it can in its first year.

5 And, then, the monthly governing body  
6 agenda and minutes, we want. We want to make visits  
7 to the governing body. That's what we propose, and  
8 we do that on a monthly basis.

9 THE CHAIR: Okay. And you mentioned a  
10 partnership with the local district?

11 MR. GERLICZ: We ad- -- I may -- yes, in  
12 the sense that what we advocate, for what we give  
13 advice to our charters, be they State-chartered or  
14 locally-chartered, is to establish a good  
15 relationship with the district.

16 THE CHAIR: But has that happened?

17 MR. GERLICZ: I will let Brad and Johanna  
18 answer that. I think there have been issues. I  
19 don't know what the most recent update is.

20 MS. DeBIASE: Currently, we -- while they  
21 don't necessarily work with us, we don't have any  
22 problems with them. They have been minimally  
23 supportive. And we're good with that. That's good.  
24 We don't -- we can't ask for too much more. But  
25 there's no -- there's no discord between us.

1 THE CHAIR: Brad, can you give us just an  
2 idea of your workings with the school and how all  
3 these disconnects happened, how the problems  
4 happened, and it has gotten this far? Because  
5 they've had two planning years; is that correct?

6 MR. RICHARDSON: Yes, Madame Chairman,  
7 that's right.

8 THE CHAIR: And now started the school  
9 without a facility with an E-Occupancy. They're now  
10 in a facility, an approved facility. So, bring us  
11 up to speed, from your work and your perspective, on  
12 what's going on here and what's -- what's fallen  
13 through the cracks.

14 MR. RICHARDSON: Yes. Thank you,  
15 Madame Chair and Commissioners. The -- the  
16 experience that we've had, that I've had working  
17 with La Jicarita, has mostly to do with  
18 communications with the director. He was not  
19 responsive, particularly when there were issues that  
20 we did not know were percolating beneath the  
21 surface.

22 For example, the school facility. It  
23 happened that I was in the area and dropped by maybe  
24 two or three weeks before the school year was to  
25 open. And I thought, well, let me check in and see

1 how the facilities are looking.

2 And I caught him as he drove out of the --  
3 the campus area and said, "Well, how are things  
4 going?"

5 And he replied, "I don't know where my  
6 portables are."

7 And I said, "What do you mean, you don't  
8 know where the portables are? Do you mean they're  
9 en route, or they vanished? Or what does that  
10 mean?"

11 And he said, "No, I just don't know where  
12 they are."

13 And I said, "You do know that your school  
14 is to open in two or three weeks' time? You'd  
15 better find out where they are."

16 And, so -- and it sort of went downhill  
17 from there. That first week -- and I kept writing  
18 to him asking, "Where are you? What's going on?  
19 Where is this? Where are you in relationship to  
20 actually opening on time?"

21 And he had no answer. He never responded,  
22 really.

23 And at that time, Director Gerlicz asked  
24 Karen Ehlert and myself to go up and just visit.

25 And when we got up there -- this was the end of the

1 first week of school -- the facilities still  
2 weren't -- there was still construction going on.  
3 And, so, there was nobody there.

4 We had to ask the foreman, "Well, do you  
5 know where the director is?"

6 So, we found him. He was working in an  
7 office -- a temporary office. And we talked to him  
8 about it. Anyway, we sort of worked through that,  
9 but needed to report it.

10 And I said, "Look, you really do need to  
11 stay in touch with us, because this is a very  
12 serious issue."

13 Then things went along all right. And  
14 then I got a communication from Brenda Harris from  
15 PED, who's an investigator, I understand, with the  
16 Office of General Counsel, saying, "I can't get  
17 ahold of the head of the school, and he's hired a  
18 business manager who has no license."

19 And she then e-mailed me the string of  
20 communications that had no response to. So, I got  
21 in touch with the director and said, "You need to  
22 respond to this. This is serious."

23 He wrote to her with -- with an answer  
24 that really wasn't an answer, saying something along  
25 the lines, "Well, I think she applied for a license,

1 and she's" -- and the response from Brenda March  
2 Mares was, "No, that's not an answer. I need to  
3 know that she's not working in the capacity of a  
4 business manager, if she's not licensed."

5 Then, he wrote back and said, "Well, we've  
6 let her go."

7 So, I had to find out from him, "Well,  
8 who's taking her place? You have to have, you know,  
9 a business manager."

10 And I didn't hear back. And, so,  
11 eventually, I found out that -- I think it was at  
12 that point that the governing council hired Edwin  
13 Fernandez to pick that up, and, in my communications  
14 with Edwin, learned that there was a lot he had to  
15 unravel from this other business manager, and that  
16 the PED put them on a monthly reporting schedule  
17 rather than the quarterly reporting schedule,  
18 because of the kinds of irregularities: Not getting  
19 their reports in on time, not making payments to the  
20 retirement accounts, and so forth.

21 But when I've had subsequent conversations  
22 with Edwin, he tells me now that all of that has  
23 been straightened out and that the PED plans to put  
24 them back on monthly reporting, come January.

25 MR. GERLICZ: Quarterly?

1 MR. RICHARDSON: Excuse me. Quarterly  
2 reporting, yes, come January. And, then, of course,  
3 there were questions about licenses and so on,  
4 including whether or not the director himself was  
5 qualified to teach at the elementary level. He had  
6 a secondary license for teaching. But I understood  
7 he was teaching at the elementary level.

8 So, I had to write to -- ask Licensure to  
9 let me know whether or not he had a license for  
10 teaching elementary. And she informed me last week  
11 that he did not have a license to teach at  
12 elementary level.

13 So, it was -- it all seemed to be coming  
14 back to weaknesses and gaps in communication and  
15 leadership and having to spend so much time chasing  
16 down information.

17 The action, I think, that the governing  
18 council has taken to look for new leadership that  
19 will be more responsive and has more experience and  
20 more knowledge about what's required legally is --  
21 is probably -- will probably remedy this. I'm  
22 hopeful. And, then, if we can keep -- work with the  
23 school on a regular basis, I think we will have  
24 gotten past their darkest days.

25 THE CHAIR: And, then, could we hear from

1 Mr. Fernandez on the financials, please?

2 MR. RICHARDSON: Yes.

3 THE CHAIR: There are plenty of chairs up  
4 here, Brad; or right there around the table.

5 MR. RICHARDSON: I can pull a chair up.

6 MR. FERNANDEZ: Madame Chair,  
7 Commissioners, I left the school as contract  
8 business manager on June 30th. And I was asked by  
9 the governing council president if I could come back  
10 to help the school, because they needed a licensed  
11 business manager, on October the 16th.

12 And I said, "yes," to help the school.  
13 But upon returning, I found out that the -- the  
14 business manager that the director had hired --  
15 was -- well, you know, wasn't licensed, of course,  
16 but hadn't performed the business management duties  
17 for the month of July through the middle of October.

18 The accounting system -- we use AptaFund.  
19 The accounting system, the payroll module that she  
20 set up was set up incorrectly. The payroll reports  
21 for the Educational Retirement Board had not been  
22 filed through -- from July. The New Mexico  
23 Retirement Health Care Authority reports had not  
24 been filed. Pretty much nothing had been filed.

25 I contacted the -- our budget analyst



1 immediately, and the fourth quarter report for 2013  
2 had not been filed. So, I proceeded to do that  
3 immediately, working closely with our budget  
4 analyst. I'm glad to say that we are now current  
5 with all quarterly and monthly reports to PED, our  
6 budget analyst. She has indicated to me that she  
7 will recommend -- has talked to her supervisor about  
8 placing the school, La Jicarita Community School,  
9 back on quarterly reporting come the month of  
10 January.

11 We are all -- the school is all caught up  
12 with all monthly reporting, quarterly reporting. I  
13 stay in contact, communication, with the Charter  
14 School Division, Brad, our liaison, to inform him  
15 with what's going on and to ask for guidance on any  
16 questions I may have. So, at this point in time, I  
17 can say that everything is current. And financials  
18 are current and things are accounted for and  
19 reconciled.

20 THE CHAIR: Thank you. Were you not on --  
21 a part of the group that originally proposed this  
22 school?

23 MR. FERNANDEZ: Yes. Madame Chair, I am  
24 one of the -- I am the first business manager. And  
25 I'm the third business manager, now, so --

1 THE CHAIR: First and third. I don't mean  
2 to dominate the questions. Commissioner Bergman.

3 COMMISSIONER BERGMAN: Madame Chair, thank  
4 you. I've got a couple of things -- I'll start over  
5 here. Given that Peñasco is a small community, and  
6 you're somewhat isolated up in that beautiful  
7 valley, I am going to suspect you're going to have a  
8 difficult time finding a qualified director.

9 And I know it's been just -- what? -- a  
10 week. Have you begun your search yet? Are you  
11 having any success?

12 MS. DeBIASE: I do think that that's a  
13 great point. Thank you. But -- and when we hired  
14 Mr. Clarkson, he was the most qualified candidate  
15 that we had at the time. Now, we know to look for  
16 different qualifications.

17 We've just started the process, so we've  
18 just begun putting out ads. He gave us his 30 days,  
19 so he's still acting director at this point. And,  
20 hopefully, we'll have someone by January 1st.

21 We do have at least a couple of good  
22 candidates in mind, at this point. So, we'll see.

23 COMMISSIONER BERGMAN: Thank you. And I  
24 direct my comments to the director. Obviously, what  
25 you propose, the monitoring, is -- is more informal

1 than an actual corrective action plan. I notice you  
2 left it open-ended. Do you -- do you -- if that's  
3 the direction we choose to go, is that the way you  
4 would want it, just to be open-ended until you were  
5 satisfied you could satisfy us that everything --  
6 sounds like some of it has already been rectified.

7 So, you'd prefer it probably to be  
8 open-ended at this time, and probably less formal  
9 than a full corrective action plan?

10 MR. GERLICZ: Madame Chair, Commissioner  
11 Bergman, the thinking behind that is yes, you're  
12 right in that supposition. Because it has been  
13 three months since the school is opened. We'd like  
14 the school to have a year under its belt. And it's  
15 clearly been a bumpy beginning.

16 So, we feel that with that monthly  
17 monitoring, if they can get over this rough patch  
18 right now, it'll be bumpy somewhat for the remainder  
19 of the year, but, then, we'll be able to say, "All  
20 right. Now, it's time for a formalized corrective  
21 action plan."

22 And since they're in the second year of  
23 their existence, considering that they had two  
24 planning years, they have, then, four years with  
25 students, this being their first year with students,

1 but their second year of their charter. So, if, at  
2 the end of this year, we throw in the academic  
3 performances on top of this, then we see that we'll  
4 enter into a formal corrective action plan.

5 But right now, you're correct that the  
6 governing board has already taken steps to rectify  
7 the situation. This is a good move and good steps,  
8 and we just want to continue to monitor.

9 COMMISSIONER BERGMAN: Thank you for that.  
10 And since you just told -- I thought he might  
11 already be gone. Since he's still there for  
12 30 days -- I don't want to make this sound mean or  
13 anything. But I assume you're going to have very  
14 close oversight on him during the remainder of his  
15 tenure?

16 MS. DeBIASE: Yes, definitely. And it's  
17 only two weeks till -- make there's only  
18 one-and-a-half weeks left until Christmas break.  
19 And, then, he's pretty much done, formally done.  
20 So.

21 COMMISSIONER BERGMAN: Thank you. Thank  
22 you, Madame Chair.

23 THE CHAIR: Commissioner Gant.

24 MS. LEWIS: I just had a few questions  
25 about timing, in the event that the Commission wants

1 to undertake a corrective action plan. But I can  
2 ask that any time before the vote.

3 COMMISSIONER GANT: Madame Chair, members,  
4 just a couple of questions to clear up my mind a  
5 little bit. You purchased the -- the portables from  
6 Rio Rancho; is that correct?

7 MS. DeBIASE: (Indicates.)

8 COMMISSIONER GANT: So, it's all paid for?

9 MS. DeBIASE: The foundation, La Jicarita  
10 Community Foundation owns -- well, they have a  
11 loan -- they borrowed money from the --

12 MR. FERNANDEZ: May I answer it?

13 MS. DeBIASE: That would be great.

14 MR. FERNANDEZ: Madame Chair,  
15 Commissioner, the La Jicarita Community Foundation  
16 was set up to help the school. The La Jicarita  
17 Community Foundation borrowed \$450,000 from CSDC,  
18 the Charter School Development Corporation. They  
19 have a private loan with them. They're the ones  
20 that purchased the land, purchased the portables  
21 from Rio Rancho Schools, did all the infrastructure  
22 and development.

23 The property is owned, the buildings are  
24 owned, by the Foundation. The school rents the  
25 buildings, the property, from the Foundation.

1 COMMISSIONER GANT: That was one of my  
2 questions, sir. How many students do you really  
3 have?

4 MS. DeBIASE: We currently have  
5 37 students.

6 COMMISSIONER GANT: Okay. I -- it may not  
7 be a big issue right now, Madame Chair. But looking  
8 at the PSCOC lease assistance report for 2013-'14,  
9 which I have right here, you're listing 52. And it  
10 could come down. You need to check this out with  
11 the PSCOC, PSFA. You're listing 52; you're getting  
12 paid for 52, receiving money for 52 students. That  
13 could come back later on. When the 120-day average  
14 comes out, you may end up paying it back.

15 MR. FERNANDEZ: Madame Chair,  
16 Commissioner, thank you for that. I -- when I came  
17 back on board in October, some of the things that I  
18 had to work on were budget adjustment requests,  
19 seeking award letters and documentation for funds  
20 that the school was entitled to receive.

21 I submitted -- the letter from PSCOC, was  
22 available back since August. I submitted a budget  
23 adjustment request. The award letter was based on  
24 52 students. And it was, like, \$700-and-some per  
25 student. And that was, of course, originally part

1 of the budget process or plan.

2 What I did, and took it upon myself, to  
3 only budget the amount of -- funds available for  
4 37 students in the classroom. So the BR reflects  
5 only the amount available for 37 students, and not  
6 52. So, we are -- instead of seeking or getting the  
7 \$30,000-some, we have like \$28,000, should we remain  
8 constant with 37 students, that we'll be receiving  
9 from them.

10 So, I kind of initiated that to avoid any  
11 problem in having to refund any money back. We're  
12 only going to request funds based on the 37 students  
13 that we have.

14 COMMISSIONER GANT: Thank you,  
15 Madame Chair. I just didn't want you getting in  
16 trouble come spring, when the 80-, 120-day average  
17 comes out, and they say "What," you know; because I  
18 see this monthly, 'cause that's where I sit.  
19 Besides -- okay? And I don't want you in trouble,  
20 because that could end up being a lot of money,  
21 \$12,000, \$15,000, you've got to pay back. And we  
22 don't want to do that.

23 MR. FERNANDEZ: Thank you for that. But  
24 if I have the opportunity to curtail things that  
25 shouldn't happen, I certainly will. Thank you for

1 that information.

2 COMMISSIONER GANT: I'll be watching it  
3 from that end. Thank you. That's it.

4 THE CHAIR: Other questions?  
5 Commissioners?

6 Mr. Gerlicz, may I ask you why you have  
7 chosen to go the route of the monthly reports, and  
8 so on and so forth, rather than the formal  
9 corrective action? Because it really sounds like  
10 this school needs a formal corrective action plan.  
11 Going into the future, they don't know, truly --  
12 they're going to hire a new director. Hopefully, he  
13 or she will be magnificent. But I agree with  
14 Commissioner Bergman. Coming from a small  
15 community, somewhat isolated, as I am, folks just  
16 aren't standing in line to come to smaller places  
17 and very small schools.

18 So, they may or may not get a really  
19 outstanding director. And I sort of lean towards a  
20 more formal, structured approach to helping them  
21 correct all these issues. And there are a lot of  
22 issues. And they've got to be affecting the kids  
23 and their education. I certainly would think a  
24 corrective action plan would be much better.

25 MR. GERLICZ: Madame Chair, we could call



1 it what we like. I don't think it would change the  
2 actions that we intend to take with the school on a  
3 regular basis. If we want to make it a formal  
4 corrective action plan, I have no problem with that.  
5 If we want to do a monthly report, I have no problem  
6 with that. We're going to continue to do what we  
7 proposed here.

8 THE CHAIR: Right. So, Commissioners,  
9 what are your thoughts on a formal corrective action  
10 plan, as opposed to a less formal monthly reporting  
11 issue? Commissioner Carr.

12 COMMISSIONER CARR: Madame Chair, I -- you  
13 know, if you -- I'm not a lawyer, again. But -- we  
14 have one. But the -- you know, if you're putting a  
15 teacher on a PIP, and there are some serious issues,  
16 it has to be -- I mean, to really -- to -- and I  
17 hope it doesn't -- and I don't think it'll come to  
18 this. But, in any circumstance, if there comes a  
19 situation where we have to close the school down --  
20 and I sure hope we don't have to do that.

21 But in any particular situation, I believe  
22 that if it's a -- if it's formal, then you're on a  
23 much stronger legal ground if it comes to something  
24 more serious. If everything gets corrected, of  
25 course, it won't matter. But I think -- legally, I

1 think doing it formally is probably the best way.

2 THE CHAIR: Let's ask our legal counsel to  
3 speak to that.

4 MS. LEWIS: Commissioner Carr, you hit  
5 right on the timing questions that I wanted to ask  
6 of Brad and Tony, just to ensure that if you did  
7 decide a corrective action plan, that we have the  
8 timing down correctly, per the statute, and all the  
9 actions correct.

10 So, I just wanted to ask Brad or Tony or  
11 whoever has this knowledge, did this letter that you  
12 got in response from La Jicarita -- was that in  
13 response to a letter that you had sent them, or was  
14 it a verbal communication?

15 MR. GERLICZ: Attorney Lewis, my  
16 recollection is that we had sent La Jicarita what we  
17 were going to present to the PEC, and this was their  
18 response.

19 MS. LEWIS: And how long ago did they  
20 receive what you sent them?

21 MR. RICHARDSON: Commissioners, I -- I  
22 don't -- I'm not sure of the timing of this. But I  
23 do know that this has been a progressive set of  
24 communications from the -- from the Charter Schools  
25 Division to the school. I do believe that, as we've

1     been going along, the governing council has taken  
2     notice.

3             So, I think that what we are seeing is  
4     sort of the cumulative effects of the communications  
5     with the school. And I think what the governing  
6     council has been doing behind the scenes -- and I  
7     think Johanna can speak to that -- has been to take  
8     action, so that -- they've not been unresponsive.  
9     And I think, at the end, we said, you know, "We  
10    appreciate the responses that you've had, the  
11    communications we've had with you, as governing  
12    council" -- I've had communications with the  
13    governing council president. "We appreciate that.  
14    Nevertheless, we do need to communicate these issues  
15    to the authorizer, so that they're aware of that."

16            So, I take it as a good sign -- and all of  
17    the issues that we've raised so far have been  
18    addressed.

19            So, I understand what Commissioner Carr is  
20    saying, and I think maybe that's a good idea,  
21    because I am concerned, going forward -- one of the  
22    material terms of the charter is to implement a  
23    dual-language program. Currently, with the  
24    instructors they have, they're not prepared to  
25    implement that. It doesn't appear they're prepared

1 to implement that. So, I am concerned about that.  
2 That's the next hurdle to get over.

3 So, I -- I suspect that probably something  
4 more formal, where they are on watch, might not be a  
5 bad idea. But I don't want us to leave with the  
6 impression that the school has been unresponsive to  
7 the concerns that we've -- and they've addressed  
8 those concerns.

9 MS. LEWIS: Thank you. My legal advice to  
10 the Commission would be to present the school as  
11 soon as we can with a formal letter outlining the  
12 concerns that CSD has noted and observed and give  
13 them a reasonable opportunity to cure those. We  
14 might think about 30 to 60 days. I believe there's  
15 a meeting scheduled for almost every month next  
16 year.

17 So, if they are not cured, then I would  
18 advise a corrective action plan. But at this point,  
19 I would advise the formal letter first.

20 THE CHAIR: Commissioner Bergman.

21 COMMISSIONER BERGMAN: As you might have  
22 guessed, actually, I'm more, personally, right now,  
23 in favor of something a little less formal. A  
24 corrective action plan, just the term, has such  
25 legalistic implications for people.

1           It sounds like they've acknowledged what's  
2 going on. CSD is aware of what's going on. We're  
3 aware of what's going on. And as our attorney just  
4 stated, if it becomes necessary to do something like  
5 a formal corrective action plan, we have that option  
6 at this point to do so.

7           But like I say, I would probably lean more  
8 towards -- give them 60 days, because maybe in  
9 60 days, they'll be able to solve their new director  
10 problem, and, then, which would -- we have a  
11 February meeting. That would give us --

12           THE CHAIR: January and February, yes.

13           COMMISSIONER BERGMAN: So, just -- I'm  
14 speaking more personally. I'm just kind of an  
15 informal kind of guy. So, when it becomes necessary  
16 to do that, I'll support that. But I'd kind of like  
17 to keep it informal right now. Thank you,  
18 Madame Chair.

19           THE CHAIR: Commissioner Peralta.

20           COMMISSIONER PERALTA: Mr. Gerlicz, to  
21 your knowledge, in the past, has there been any  
22 other charter schools that went through this type of  
23 informal monitoring, month-to-month basis kind of  
24 deal, that you know of?

25           MR. GERLICZ: Since I have come on board,

1 Commissioner Peralta, I would say suffice to say  
2 that we are in touch with all of our schools  
3 regularly, either by phone or in conferences. I'm  
4 trying to think if there is a school -- and I turn  
5 to my colleagues out there -- was there a school out  
6 there that we can think of that we had a series of  
7 issues come up so rapidly? And I don't. Nothing is  
8 coming to mind.

9 This is a school that has been on radar  
10 since the beginning because of its two-year planning  
11 years, and then, still, as Brad was bringing to our  
12 attention, all of these additional things that just  
13 raised and raised. And I cannot recall since my  
14 time -- and I don't know, Kelly, if, since your  
15 time -- if that has occurred in the recent past.

16 COMMISSIONER PERALTA: So, would you say  
17 you are confident in thinking this is doable by the  
18 end of the school year?

19 MR. GERLICZ: Madame Chair, Commissioner  
20 Peralta, it's certainly doable. But it's certainly  
21 not doable. It all depends on what happens here on  
22 out. It all depends on leadership, which is always  
23 the key. We feel that we have good leadership now  
24 in the business office, with Mr. Fernandez at the  
25 school.

1           However, that's not going to be -- go  
2 beyond this year. It really does depend on who the  
3 interim director is. It depends on whether the  
4 governing body responds to our intervention about  
5 their oversight.

6           I am confident -- yes, I am confident that  
7 given the response that we've had so far, which has  
8 been positive, that it will continue to be positive,  
9 moving forward.

10           COMMISSIONER PERALTA: And if I may ask  
11 the Jicarita representatives, in worst-case  
12 scenario, if, for some reason, you cannot find the  
13 qualified leadership that you're looking for or your  
14 pool of candidates just wasn't quite the right fit  
15 or whatever the case may be, what backup plan might  
16 you have in order to be able to, somewhat, you know,  
17 function through the remaining part of the year?

18           MS. DeBIASE: Thanks. We already do have  
19 one -- one candidate that we like, but we are  
20 interviewing some more. And we have -- with the  
21 help of Expeditionary Learning, which is our school  
22 model, and the help of some of our sister schools  
23 around the area, we have located leadership support,  
24 people that we could contract with, if necessary.  
25 They're in Albuquerque, so they can't come to the

1 school -- they can't be at the school. But they  
2 have already said that they would be happy to help,  
3 if we find a leader that needs support, that they  
4 would -- we could contract with them to support the  
5 leader.

6 So, hopefully, we will find just the  
7 perfect person. But -- but even if we can't find,  
8 you know, the perfect person, I think that we can  
9 all work together now -- with all the knowledge that  
10 we've gained from this experience with our previous  
11 leader, to make sure that we can still grow to have  
12 the perfect leader. That person can become the  
13 perfect leader, and we can assist them even better  
14 now.

15 And with the help of the monthly reporting  
16 which I welcome, we can stay on task and make sure  
17 we don't fall behind again. So, I'm confident that  
18 we can make it work. And I appreciate the  
19 opportunity, as well.

20 COMMISSIONER PERALTA: Thank you.

21 THE CHAIR: Thank you. Commissioner  
22 Bergman.

23 COMMISSIONER BERGMAN: That discussion  
24 just suggested another question to me of  
25 Mr. Fernandez, just to make me feel a little more



1 comfortable. I know you're not intending to stay  
2 there forever. But are you committed to at least  
3 staying there until they find a qualified, licensed  
4 business manager, for some short term?

5 MR. FERNANDEZ: Madame Chair,  
6 Commissioner, you know, I -- I live in Peñasco. I  
7 am invested in the community. I am invested in this  
8 school, as a member of the community. There's been  
9 too many people that have worked too long and too  
10 hard to see this come to fruition and to make it a  
11 successful school.

12 Yes, I want to stay -- I can't let the  
13 governing council know this, okay? But I am willing  
14 to stay as long as necessary to ensure the success  
15 of the school, as the business manager, from the  
16 financial end of the school. So, yes, I would be  
17 willing to stay, as long as they find a qualified  
18 business manager that's licensed.

19 COMMISSIONER BERGMAN: Thank you for those  
20 comments. That certainly eases my concerns. Thank  
21 you.

22 THE CHAIR: Commissioner Gant.

23 COMMISSIONER GANT: Madame Chair,  
24 Ms. Lewis, maybe I heard it wrong. Did you say  
25 maybe we can put a letter, and then followed by a

1 corrective action plan?

2 MS. LEWIS: Yes, sir.

3 COMMISSIONER GANT: That makes it more  
4 formal. It's a timeline. It shows the steps that  
5 have been taken, if we come down to this -- which we  
6 hope won't happen. So, I do think we need to be  
7 more formal. Start with a letter saying what we  
8 expect. And if that doesn't happen -- anything  
9 doesn't happen by the February meeting, that's it.  
10 They get a corrective action plan. That's my view.

11 MS. LEWIS: We have noticed on the agenda  
12 that there may be action on this. So, any motion  
13 that you would like to make is allowable under the  
14 agenda, if you wanted to make an action for a formal  
15 letter, followed by a corrective action plan, if the  
16 conditions in the letter are not cured.

17 THE CHAIR: May I ask one more question,  
18 before we get to the point of a motion? I think  
19 we're getting fairly close.

20 Mr. Fernandez, how many members are on  
21 your Board of Finance?

22 MR. FERNANDEZ: There are six.

23 THE CHAIR: Okay. Would you tell me the  
24 makeup of the board, so on and so forth?

25 MR. FERNANDEZ: I'm sorry?

1 THE CHAIR: The makeup of that Board of  
2 Finance. You have a parent, a businessperson, a --

3 MR. FERNANDEZ: We have -- well, it would  
4 be Amanda and Johanna. It would be -- we have a  
5 parent, Maxine Roybal. We have two parents, Ramona  
6 and Maxine. We have a community member, who is  
7 versed in finance and understands finance. And  
8 that's Gloria Maestas.

9 And, then, there's the governing council  
10 president, who is a member of the community, doesn't  
11 have any children at the school. And then Johanna  
12 DeBiase, who is a member of the community, also.

13 THE CHAIR: And they are active. This is  
14 an active board.

15 MR. FERNANDEZ: Yes, all of them are  
16 active, yes, on a regular basis.

17 MS. DeBIASE: Can I add to that, too?

18 THE CHAIR: Yes, please.

19 MS. DeBIASE: I also -- we are a very  
20 active board. Our board meets weekly for about two  
21 to four hours a week, out of necessity, because  
22 there's so much happening, and there are so many  
23 action items to take care of.

24 THE CHAIR: You're talking about the Board  
25 of Finance?

1 MS. DeBIASE: Yes, our -- yes.

2 THE CHAIR: Okay. Thank you for that  
3 information.

4 Are there other questions, Commissioners?  
5 I sense a motion in the air. Is anyone ready to  
6 make that motion? Commissioner Bergman?

7 COMMISSIONER BERGMAN: Let me word it and  
8 see if everybody agrees with my wording.

9 Madame Chair and members of the  
10 Commission, I would move that, at this point in time  
11 with La Jicarita, that the PEC send a formal letter  
12 to the school that would list individually the  
13 bulleted items that are in the Executive Summary  
14 that CSD has proposed, and that there be a 60-day  
15 limit on that -- that we give the school 60 days to  
16 cure the concerns of both the Commission and the  
17 CSD, and that if those concerns are not met, that a  
18 more formal action along the lines of a corrective  
19 action plan may need to be done at our February  
20 meeting.

21 COMMISSIONER CARR: Second.

22 THE CHAIR: Yeah. Please, Abby.

23 MS. LEWIS: Sorry. I would just add to  
24 that, if you could, kind of a catchall for any other  
25 issues that may arise, so that if CSD notes

1 something to us that wasn't in these bullet points,  
2 that we can also include that in the letter.

3 COMMISSIONER BERGMAN: Do I need to  
4 restate the whole motion, or can I just add a  
5 sentence?

6 MS. LEWIS: There can be a friendly  
7 amendment, so somebody can stick that on.

8 COMMISSIONER CARR: I take back my second,  
9 so, you finish.

10 COMMISSIONER BERGMAN: Let me try and word  
11 it again, then.

12 MS. LEWIS: I would also ask that you  
13 clarify that it will be your legal counsel drafting  
14 the formal letter. Thank you.

15 COMMISSIONER BERGMAN: I'll probably  
16 forget half of what I just said.

17 Here, again, Madame Chair, members of the  
18 Commission, I would move the Public Education  
19 Commission send a formal letter that will be drafted  
20 by the PEC attorney to La Jicarita. And that letter  
21 will give them a 60-day deadline to cure the seven  
22 bulleted items that are listed in the Executive  
23 Summary that have been proposed by the CSD; and,  
24 then, also, to include that if anything comes to the  
25 school's attention or our attention in the 60-day

1 interim, that it would also have to be cured. Is  
2 that satisfactory?

3 MS. LEWIS: I'm sorry if I was unclear. I  
4 meant that would be contained in the letter. So,  
5 any other conditions need to be contained in the  
6 letter, rather than come up during the 60 days.

7 COMMISSIONER BERGMAN: Oh. Then our  
8 motion is premature, because the Chairman did not  
9 ask if anybody wants to put any other conditions on  
10 there.

11 MS. LEWIS: Well, I meant if anything  
12 comes to their attention. So, the seven bulleted  
13 items, as well as anything that comes to CSD's  
14 attention before the drafting of the letter, that  
15 will then be included in the letter.

16 COMMISSIONER BERGMAN: I would presume  
17 you're drafting the letter right away, aren't you?

18 MS. LEWIS: I'm on vacation next week.  
19 Well-deserved.

20 COMMISSIONER BERGMAN: With apologies to  
21 our stenographer, I would move, then -- I did not  
22 have a second, so what I said previously is gone;  
23 correct? Okay.

24 I would move that the Public Education  
25 Commission send a formal letter, drafted by the PEC

1 attorney, to the La Jicarita School, laying out the  
2 recommend- -- recommended seven bulleted items in  
3 the Executive Summary that CSD has proposed, plus  
4 any items or any other deficiencies that come to  
5 either the PEC's or the CSD's attention in the  
6 interim before the letter is drafted; and, that the  
7 school be given 60 days to try and cure these  
8 various bulleted items.

9 THE CHAIR: Not "try."

10 COMMISSIONER BERGMAN: Will cure the  
11 seven -- or the various bulleted items; and, that if  
12 that is not done in the 60 days, then the PEC will  
13 have to consider perhaps a more formal corrective  
14 action plan to be implemented with this school.

15 MS. LEWIS: Perfect.

16 COMMISSIONER CARR: Second.

17 COMMISSIONER BERGMAN: Thank you very  
18 much. I'm here all week.

19 THE CHAIR: I'm going to let that one sit  
20 for just a minute and let everyone think about it.  
21 We have a motion and a second on the floor.  
22 Commissioner Parker.

23 COMMISSIONER PARKER: Madame Chair,  
24 Commissioners, if I'm reading it right, CSD has  
25 recommended that there be monthly monitoring on the

1 school. It seems like the motion is just to get  
2 something taken care of within 60 days. After that  
3 60 days, if it's corrected to the opinion of the  
4 parties involved, is that monthly monitoring going  
5 to continue, or is it gone?

6 THE CHAIR: We can certainly make that a  
7 condition on the letter. But I don't know that we  
8 need to; because if CSD wants to monitor them  
9 monthly, certainly, they can do that.

10 MR. GERLICZ: Commissioner Parker,  
11 regardless, it doesn't matter. We're going to  
12 monitor them monthly.

13 COMMISSIONER CARR: There you go.

14 COMMISSIONER PARKER: Thank you.

15 THE CHAIR: Okay. Any other discussion or  
16 questions?

17 MR. RICHARDSON: Madame Chair, we have a  
18 question. Johanna has a question.

19 MS. DeBIASE: Yeah. I -- would we have  
20 60 days from the time we receive the letter, then,  
21 that the letter is dated?

22 MS. LEWIS: Yes. Under the law, there's  
23 three days for mailing, basically. So, I'll date  
24 the letter and then put it in the mail to you. So,  
25 there's an extra three days built in there for the



1 mailing.

2 MS. DeBIASE: And, then, also, the Item 7  
3 is complaints from parents. I'm not sure how we  
4 would address that, because we don't know what the  
5 specific complaints are from parents. So, either --  
6 so, what would that look like, a corrective action  
7 to --

8 COMMISSIONER BERGMAN: You're looking at a  
9 different list. You're looking at the list on the  
10 front page. The bulleted items are on the back  
11 page. They're different from what you're looking  
12 at. Parent complaints are not mentioned on the  
13 back.

14 MS. BARNES: May I show her the seven?

15 THE CHAIR: Please do.

16 COMMISSIONER BERGMAN: I assume everyone  
17 understood. Those are the seven. I didn't note  
18 there was a list on the front page, too. I'm  
19 talking about on the back page, the CSD  
20 recommendations.

21 MS. DeBIASE: Okay, yes. Mr. Gerlicz had  
22 read this earlier. Okay, thank you. Then, that was  
23 the only question I had.

24 THE CHAIR: Further discussion or  
25 questions?

1 Mr. Bergman, may we have a roll-call vote,  
2 please?  
3 COMMISSIONER BERGMAN: Commissioner  
4 Conyers.  
5 COMMISSIONER CONYERS: Yes.  
6 COMMISSIONER BERGMAN: Commissioner  
7 Parker.  
8 COMMISSIONER PARKER: Yes.  
9 COMMISSIONER BERGMAN: Commissioner  
10 Peralta.  
11 COMMISSIONER PERALTA: Yes.  
12 COMMISSIONER BERGMAN: Commissioner Pogna.  
13 COMMISSIONER POGNA: Yes.  
14 COMMISSIONER BERGMAN: Commissioner Carr.  
15 COMMISSIONER CARR: Yes.  
16 COMMISSIONER BERGMAN: Commissioner Gant.  
17 COMMISSIONER GANT: Yes.  
18 COMMISSIONER BERGMAN: Commissioner  
19 Shearman.  
20 THE CHAIR: Yes.  
21 COMMISSIONER BERGMAN: Commissioner  
22 Bergman votes "yes."  
23 Madame Chair, the motion, as stated,  
24 carries by eight votes.  
25 THE CHAIR: Thank you. Unanimous vote to

1 approve the motion to send a letter asking for  
2 correction of the seven bulleted items on the back  
3 side of the Executive Summary of -- from the  
4 Director.

5 I remind you that our February meeting is  
6 on the 28th. Ms. Lewis, does that give us  
7 sufficient time?

8 MS. LEWIS: I believe that gives us  
9 60 days from when I'll send it.

10 THE CHAIR: Should be plenty of time.

11 MS. LEWIS: My intent would be to draft  
12 and send it on the first day I return to work, the  
13 23rd.

14 THE CHAIR: So, with all that working, it  
15 should be sufficient to put it on the February 28th  
16 agenda. All right?

17 Okay. Thank you all very much. Thank you  
18 for being here.

19 MS. DeBIASE: Thank you very much.  
20 Appreciate it.

21 THE CHAIR: Next item is No. 11. Again,  
22 Director Gerlicz reports from Options for Parents  
23 and the Charter School Division. "A" is report on  
24 McCurdy Charter School. Mr. Gerlicz.

25 MR. GERLICZ: Madame Chair, members of the

1 Commission, I would ask the chair of McCurdy's  
2 governing body, Deborah Bennett Anderson, to have a  
3 few words with the Commission. We've heard the  
4 PED's response to the issues that have beset and  
5 befallen McCurdy.

6 I do, say on behalf of the governing body  
7 and on behalf of Chair Anderson, that they have been  
8 very, very responsive and appreciative of the PED's  
9 involvement with the finances of the school.

10 Chair Anderson, if there is any words that  
11 you wanted to give to the Commission on your own at  
12 this time, feel free to do so. As far as the PED's  
13 response is concerned, we heard it from Deputy  
14 Secretary Aguilar.

15 MS. ANDERSON: Madame Chair, I would  
16 respectfully request that knowing the Commission may  
17 have several questions, can we take a ten-minute  
18 break before I talk with you?

19 THE CHAIR: Certainly. That will be fine.  
20 Let's take ten minutes, come back at 20 till.

21 (Recess taken, 10:33 a.m. to 10:44 a.m.)

22 THE CHAIR: Let's resume our meeting.  
23 Before we get started with the next item, I'd like  
24 to call on Abby.

25 MS. LEWIS: I just wanted to introduce --

1 the Deputy Secretary and the Chair earlier were  
2 discussing that they had been assigned an attorney  
3 for the Dream Dine' appeal, if need be. And I just  
4 wanted to introduce him. He's in the audience.  
5 Seth McMillan is with Montgomery & Andrews, and we  
6 really appreciate him being here.

7 THE CHAIR: Thank you, Seth.

8 Now, then, Director Gerlicz --  
9 Director Gerlicz is not here. We're sort of a  
10 fragmented bunch today.

11 MS. ANDERSON: That's okay. I know the  
12 feeling.

13 THE CHAIR: Mr. Director, whenever you're  
14 ready.

15 MR. GERLICZ: Madame Chair, members of the  
16 Commission, I'm not going to repeat my former  
17 comments, and I'll just turn it over to the chair,  
18 Deborah Bennett Anderson, for her comments.

19 THE CHAIR: Thank you.

20 MS. ANDERSON: Excuse me. I'm struggling.  
21 That's not going to work. I'll just hold it. It's  
22 fine.

23 Madame Chair and the rest of the  
24 Commissioners, thank you --

25 MR. GERLICZ: And bring it close, Deborah.

1 MS. ANDERSON: Surely. During the break,  
2 I passed out a one-sheet chronology. If you will  
3 allow me, I'd like to demonstrate that, at least  
4 during our meeting -- or since our meeting  
5 September 26th, and when you approved our 12-month  
6 extension, that, indeed, the school had been working  
7 on the 18-month plan and so forth. And if you will  
8 allow me, I would like to at least cover that.

9 This is an abbreviated form of the report  
10 that we provided on November 14th to the Charter  
11 School Division. Obviously, you approved our  
12 12-month extension on the 26th of September. And  
13 the big issue at that time was whether or not the  
14 General Board of Global Ministries of the United  
15 Methodist Church would approve a resolution  
16 providing the 501(c)(3) McCurdy ownership of the  
17 property. And, indeed, on the 23rd of October, they  
18 approved that resolution. So, it clarified all the  
19 property title concerns about the property, and we  
20 initiated the -- I shouldn't say "initiated" -- we  
21 continued with the contract preparation.

22 We had a lot of interactions with Public  
23 School Facility Authority. I'm sorry that Martica  
24 is not here today, because PSFA has been incredibly  
25 helpful in terms of all of the infrastructure

1 issues. On the 4th, they said -- so, this was  
2 probably a week after your concurrence on the  
3 12-month extension -- they sent a representative out  
4 to relook at the proposed property in terms of the  
5 McCurdy Charter School campus.

6 And, then, on the 7th, we had  
7 representatives from the school, from HighMark, from  
8 the 501(c)(3) McCurdy. We all got together on the  
9 telecon, and talked about what the evaluation  
10 results were. So, I mean, this has happened -- they  
11 came out on a Friday, and they had the results on a  
12 Monday. And even, at that time, based on what they  
13 had seen, we were already talking about a weighted  
14 New Mexico Condition Index of about  
15 15-and-a-half percent.

16 And, as you recall, 22 percent is the  
17 State average for the weighted New Mexico Condition  
18 Index. So, the idea of using the new building, plus  
19 refurbishing two buildings got us well within the  
20 requirement of the PEC condition of approval.

21 And HighMark agreed to send a full-size  
22 set of 50-percent construction drawings to PSFA for  
23 their review. So, that was a very good interaction.

24 About a week later, I sent a list of  
25 questions to PSFA regarding their results, and we

1 met several weeks later to clarify that. And based  
2 on those kinds of interactions, there were some  
3 differences between the original evaluation and what  
4 the second evaluator had found. So, we were just  
5 trying to clarify so that everybody knew what was  
6 going on.

7 And at that time that you incorporated  
8 those clarifications, we were talking about a  
9 weighted New Mexico Condition Index of a little over  
10 10 percent. So, we were definitely improving on  
11 Halloween, HighMark and their subcontractor, Canyon  
12 Builders, came out. And they wanted to make sure  
13 that -- they were on the campus. And they wanted to  
14 make sure that the clarifications that we had  
15 provided, and PSFA's assumptions -- that they knew  
16 exactly what we were talking about.

17 So, we had a very good interaction on  
18 Halloween. And the intention was abatement and  
19 demolition of the three buildings proposed, after  
20 the Christmas break.

21 The contract activities, a lease-purchase  
22 option, was to be included in the lease document  
23 between McCurdy Charter School and the 501(c)(3)  
24 McCurdy. We had anticipated -- and I'm sorry. This  
25 is incorrect. Lease signing between those two



1 bodies was anticipated for the 21st, not the 22nd.  
2 And the closing between the 501(c)(3) McCurdy and  
3 HighMark was anticipated for the 22nd.

4 On the 21st, we had a teleconference with  
5 Deputy Secretary Aguilar and PED representatives.  
6 We were notified of the board of suspension -- Board  
7 of Finance suspension. And we notified the  
8 501(c)(3) McCurdy of that situation that evening.  
9 And the following day, on the 22nd, the HighMark  
10 legal counsel basically suspended the closure.

11 The status today. Where are we today?  
12 McCurdy has been meeting with -- McCurdy Charter  
13 School has been meeting -- I'll rephrase it.

14 PED has sent representatives to McCurdy  
15 Charter School in a very timely manner. They've all  
16 been incredibly supportive.

17 On the 26th, Secretary -- or Deputy  
18 Secretary Aguilar came to the school and spent three  
19 hours with us talking about what it meant to have  
20 the Board of Finance suspended and what we were  
21 talking about in terms of the potential lease with  
22 the 501(c)(3) McCurdy and the contract that would  
23 have between 501(c)(3) McCurdy and HighMark.

24 Very supportive of the school. I must say  
25 that under no circumstances was Deputy Secretary

1 Aguilar talking about this being punitive. They've  
2 been incredibly supportive, as has Charter School  
3 Division. We've had a lot of advocacy, as McCurdy  
4 Charter School has been dealing with this situation,  
5 I'll call it for lack of a better word.

6 We -- we know that, unofficially, the  
7 financial arm of HighMark is very concerned about  
8 the Board of Finance being suspended. We do not  
9 know what the final outcome of that will be in terms  
10 of potential procurement of the building. We really  
11 don't know at the moment. I'd like to believe that  
12 the governance board and the administration have  
13 been proactive in terms of trying to portray, and  
14 really embrace, a proactive stance.

15 We have already talked, in very general  
16 terms, with our staff, and we have not mentioned the  
17 word "audit," because we were under the impression  
18 that any findings, or whatever, were not public  
19 information until the audit is officially released.

20 And, so, we haven't used the phrasing  
21 about an audit. But we did tell the staff that  
22 there was a misalignment of the books, and that the  
23 State has the resources and the authority to come in  
24 and work with us, and that they shouldn't expect any  
25 changes in their paychecks, except maybe in the long

1 run, maybe there will be some clarifications in  
2 terms of their leave hours and things of that sort.

3 We believe, at this particular point in  
4 time, that the findings that Deputy Secretary  
5 Aguilar referred to when we received the official  
6 set of findings on the 28th of November, the  
7 findings that he talked about weren't listed in that  
8 particular way. They were -- they were much -- they  
9 were more articulate in terms of how the findings  
10 did not meet the criteria and did not meet the  
11 statute.

12 The findings that I believed Deputy  
13 Secretary Aguilar referred to were more the things  
14 that caused them to suspend the Board of Finance.  
15 But the actual findings by Moss Adams were  
16 submitted. There were 13 items provided, one of  
17 which was already resolved by the time we received  
18 the list, the final set. And we have already  
19 provided comments to the official findings. They  
20 were requested by Moss Adams last Friday. And those  
21 have already been provided.

22 And I guess, at this point, I am open for  
23 questions.

24 THE CHAIR: Thank you very much for that  
25 report.

1                   Commissioners, do you have questions or  
2 comments? Commissioner Bergman.

3                   COMMISSIONER BERGMAN: So, I guess,  
4 obviously, construction has not actually started  
5 on -- until now, apparently, the financial concerns  
6 of HighMark have to be answered, I presume, before  
7 they will proceed forward. So, you're kind of still  
8 in a bind, because I'm sure there's no -- I can't  
9 see that there's any day for a resolution yet. Is  
10 that your take on the situation?

11                   MS. ANDERSON: Madame Chair and  
12 Commissioner Bergman, I think that's a pretty fair  
13 statement. We do not know when or what it will take  
14 for the financial backers of HighMark to be  
15 satisfied. In the meantime, however, we have been  
16 giving significant consideration to what is Plan B,  
17 Plan C, and Plan D.

18                   And, in fact, Deputy Secretary Aguilar  
19 actually proposed a couple of things that if -- in  
20 case that should happen -- frankly, he didn't  
21 understand why HighMark would be concerned. He said  
22 he would be more than willing to talk with HighMark  
23 and talk in terms of the viability of the school.  
24 He has no questions about the viability of the  
25 school.

1           We -- as a point of clarification, when we  
2 started -- during our planning year, we had one  
3 business management agency that got us through our  
4 planning year. And, actually, we got through that  
5 audit with no findings. Some -- or they were, you  
6 know, little bitty ones.

7           And then he retired from that particular  
8 aspect. So, we took on another firm for the first  
9 seven months of the school year. It turns out that  
10 they were not familiar with AptaFund, which is the  
11 financial software. They ended up going through two  
12 of their financial people within that organization.  
13 So, we were getting more and more into a situation  
14 to where we really did not know where we were  
15 financially.

16           We fired them in January. We took on  
17 another business manager person directly on the  
18 campus. And she struggled with trying to figure out  
19 what had happened in that seven months, because this  
20 particular firm had taken certain documents with  
21 them. The reconciliation was not happening. We  
22 weren't getting good answers from them. So, she was  
23 trying to deal with what happened in that first  
24 seven months and carry on for the first -- for the  
25 remaining five months of the fiscal year. It was

1 not a good situation. It was not a good situation.  
2 So that's a clarification in terms of what happened.

3 So, we have since had conversations with  
4 our current business manager, and she knew that  
5 there was a seven-month black hole. So, I'm not --  
6 you know, I'm not, at this point, surprised that PED  
7 has chosen to take the action that they did. And,  
8 in fact, I welcome it, because we want to be a  
9 strong school, and we want our business management  
10 function, as well as our performance functions, to  
11 be rock-solid. That's our preference.

12 So, that was a long-winded answer to does  
13 HighMark want to do it or not.

14 COMMISSIONER BERGMAN: No, that's a fine  
15 answer, because it's a long-winded situation.

16 MS. ANDERSON: Yes.

17 COMMISSIONER BERGMAN: And as far as the  
18 PEC is concerned, it's going to affect -- we gave  
19 them a 12-month extension, and, unfortunately, I  
20 feel there's something that has to be done in that  
21 area at the proper point, because I have a feeling  
22 another extension is probably going to be warranted,  
23 because who knows when this is all going to -- but I  
24 guess we can worry about that down the road, too.

25 I certainly was pleased that you at least

1 got the national board vote and at least resolved  
2 the title issues, and at least that hurdle has been  
3 finally removed. So, surely, I guess, we can keep  
4 going forward.

5 Thank you, Madame Chair.

6 THE CHAIR: Thank you. May I just ask a  
7 question? I -- PEC did approve a 12-month extension  
8 to the 18-month plan. Where does that take you to,  
9 that additional 12 months? What was the date of the  
10 ending of that?

11 MS. ANDERSON: Madame Chair, that would be  
12 basically the 15th of February of 2015.

13 THE CHAIR: Okay. Okay. Thank you.

14 Commissioner Gant, did you have a  
15 question?

16 COMMISSIONER GANT: Madame Chair, members,  
17 personally, I don't see any construction -- whatever  
18 HighMark decides to do -- you know, it's December.  
19 You still have to draw up the plans -- I know you've  
20 got plans, 50-percent and all that. But I don't see  
21 it starting until the middle of the spring. And I'd  
22 be hard-pressed to be ready for -- you know, there  
23 was a certain standard set -- or agreements for  
24 class sizes and -- you know, all this stuff that had  
25 to do with facilities when the charter was

1 established.

2 And I'm wondering about the impacts to the  
3 education of the kids, regardless of what -- we  
4 adults can't seem to get our heads together. So,  
5 I'm having real concerns that, yeah, you can tell me  
6 that there's no impacts to the students. But I'm  
7 hard-pressed to believe that.

8 MS. ANDERSON: Madame Chair,  
9 Commissioner Gant, when the PEC agreed to a 12-month  
10 extension, we recognized -- I think we all  
11 recognized that it's -- it's not the optimum  
12 situation in terms of -- of space for kids. If the  
13 HighMark situation should be resolved in a somewhat  
14 timely manner -- and we're anticipating  
15 mid-spring -- then, part of the reason we've always  
16 been in favor of using HighMark is because of their  
17 expedited construction schedule. We believe that,  
18 you know, basically, if we can start in March-April,  
19 that the school building can be available in time  
20 for school to start, or soon after that, in 2014,  
21 which is well within the -- the agreed-upon February  
22 15th, 2015.

23 And even if we didn't move in until  
24 Christmas, that's still within the extension that  
25 was granted.



1           Now, I'm not going to sit here and tell  
2 you that it doesn't have an impact on the students.  
3 Frankly, when we had the discussion with staff, the  
4 first question they had was not about their  
5 paychecks, but, "Well, what about the building?"

6           And we said, "It is, for the moment, on  
7 hold."

8           And we were asked the second question:  
9 "Well, for how long?"

10           And I had to honestly say, "I don't know."

11           But right now, the PEC has graciously  
12 agreed to a 12-month extension. And should that  
13 change, then we will immediately notify the PEC,  
14 through the Charter School Division, and we will --  
15 as Commissioner Bergman said, we will go from there.  
16 Because I can't tell you what it will be right now.  
17 I really -- I really don't know.

18           COMMISSIONER GANT: Madame Chair, members,  
19 also, the impacts to kids, to students -- because  
20 there is, I'm sure. But what are parents saying?  
21 You made a promise to parents that their children --  
22 their students would be taken care of,  
23 educationally, in a certain manner, in a certain  
24 time frame, in a certain way. And it's not  
25 happening. So, what are parents saying?

1 MS. ANDERSON: I would qualify that  
2 slightly, because, frankly, we were taking our lead  
3 in terms of officially notifying parents of what's  
4 going on -- we were taking our lead from this PEC  
5 meeting and from -- from Deputy Secretary Aguilar.  
6 And we have a letter prepared for parents notifying  
7 them of the situation. But we were kind of waiting  
8 to see what the response was.

9 It is -- I mean, my director is sitting on  
10 the letter. We are prepared to send it out today.  
11 We're prepared to send it out Monday.

12 Parents have not been officially notified  
13 of the situation yet. Like I said, the -- the  
14 document that we got from PED notifying us of the  
15 board of suspension had -- the board of  
16 suspension -- of the Board of Finance suspension,  
17 excuse me -- it had supposed audit findings in it.  
18 And we didn't believing that that kind of a document  
19 would be publicly available. So, we were trying to  
20 be very careful of distributing the document and  
21 saying that the Board of Finance had been suspended.

22 So, it's kind of this play of, you know,  
23 when do you notify people. We knew that staff had  
24 already been questioning things, because of the  
25 signature authority and checks. But that's been a

1 week. We're prepared to notify parents.

2 I'm sure that everybody will be surprised.  
3 But they know of the 12-month extension. Everyone  
4 knows of the 12-month extension that PEC authorized  
5 two months ago. In terms of the HighMark building,  
6 they don't know that particularly, because they  
7 don't know of the Board of Finance being suspended  
8 yet, officially.

9 But like I said, there's a letter prepared  
10 in the wings to notify them. But we were kind of  
11 waiting to see what this meeting would say. And I'm  
12 sorry. I wish I could be more -- more accurate and  
13 succinct in that. But it's a balance.

14 COMMISSIONER GANT: My last comment --  
15 Ms. Lewis, you can tell me if I'm out of line -- but  
16 in deference to what Commissioner Bergman said, I'll  
17 be hard-pressed for another extension. I really  
18 will. If you think I'm out of line -- but I'm just  
19 making my comment now. Because there's been more  
20 than adequate time, in my opinion. And, so, kicking  
21 this can down the road -- and there is an impact to  
22 kids. And when the parents find out, I'm kind of  
23 wondering what's going to happen to your enrollment.

24 Thank you, Madame Chair.

25 THE CHAIR: Other comments? Let me just

1 say that when -- as your representative, your Chair,  
2 when Deputy Secretary Aguilar called to inform me of  
3 this action, he made very clear to me that -- he  
4 didn't just say it was his opinion; he said, "Their  
5 academic program is very strong."

6 I'm going to ask Director Gerlicz to pick  
7 up on that and tell us, in your opinion, the  
8 academic program and what kind of impact this action  
9 may, or may not, have on their program.

10 MR. GERLICZ: Madame Chair, members of the  
11 Commission, that question will be a very easy one to  
12 answer. McCurdy is an outstanding academic  
13 institution. Their three-year average is an "A."  
14 Their most recent score was a very high "B." That's  
15 one part of their academic performance.

16 Again, if you go beyond the grades, their  
17 Q1, Q3, where they rank with like-minded schools,  
18 they are all very, very high.

19 The history of the school is most  
20 interesting. It speaks to what can happen with --  
21 with visionary educators who won't let an idea die.  
22 And what I refer to is the fact that, as a  
23 long-standing private school, missionary-based,  
24 missionary-populated, back from the 1800s, McCurdy  
25 has had a long history in that Española Valley. It

1 was quite a job to transform it from a dying school,  
2 a dying private school, that was -- I'm not sure  
3 what the lowest enrollment numbers were, Deborah,  
4 but I recall something like 160 in there.

5 MS. ANDERSON: Two hundred.

6 MR. GERLICZ: Two hundred, perhaps down  
7 from what it used to be, and clearly unsustainable  
8 as a private school, to reform itself and rebirth  
9 itself as a public school, a public charter school,  
10 now has an enrollment of 580. That speaks enormous  
11 volumes as to the role that it plays in the  
12 community, and an incredibly important and exciting  
13 role that it plays in the community.

14 My speculation, Commissioner Gant, when  
15 the parents hear of that, it's not going to have a  
16 dent in their enrollment. That's my guess. I may  
17 be wrong. But that's -- in our visits to the  
18 school, it's an incredibly strong community, an  
19 incredibly strong faculty. It's a very -- I would  
20 place -- if we had to create tiers of governing  
21 body, A, B, C, D, this is in the "A" category.

22 They are professional. I would say that  
23 they are probably dying, as we speak, the fact that  
24 that this has occurred at McCurdy, this financial  
25 mess that has occurred at McCurdy. But I'm happy

1 that we have a board, as we do, for -- if this board  
2 was not as competent, and it happened in another  
3 school with a less competent board, we'd be even  
4 more serious. So, those are my comments on the  
5 school, Madame Chair.

6 THE CHAIR: Thank you. Is there action  
7 before this group on this issue? This is more of an  
8 information item?

9 Okay. Commissioners, I don't want to cut  
10 anybody off that has a comment or a question.  
11 Commissioner Bergman.

12 COMMISSIONER BERGMAN: That is the current  
13 enrollment is 580? Is that an accurate number?

14 MS. ANDERSON: Our cap is 584. We're  
15 currently sitting at 544 -- sorry. But, again,  
16 Mr. Gerlicz' comments are very accurate. To go from  
17 as a private school, where we had an enrollment of  
18 200, and to be able to serve even 544 kids in the  
19 Española Valley, I think, is a profound statement  
20 about how much we need an alternative option for --  
21 for students in the Valley.

22 COMMISSIONER BERGMAN: I suspect, as  
23 Commissioner Gant has indicated, we probably would  
24 like to hear, probably as early as possible, when  
25 you start getting feedback from your parents, once

1 you start hearing from your parents. I'm guessing,  
2 then, that it has -- so far, you're not really  
3 seeing an enrollment impact. I assume, even though  
4 you haven't been -- you've kept -- I don't even know  
5 how to word it. But we all know there's a bunch of  
6 people in McCurdy that know what's going on. Have  
7 to be. You can't keep a secret. If this happened  
8 in Roswell, everybody in Roswell would know about  
9 it.

10 Perhaps the Director is right. Perhaps  
11 Commissioner Gant is going to be right. As you hear  
12 from the parents, we would like to hear what they  
13 are saying. So, I would just like to say that.  
14 Thank you.

15 MS. ANDERSON: Professor -- Professor --  
16 geez, my words are all tangled. Commissioner  
17 Bergman, the point is well-taken. We will be more  
18 than glad to share comments and so forth. I think  
19 the bigger issue for the board is making sure that  
20 we learn all the lessons that we can from this.

21 We are going to be talking with Charter  
22 School Division about perhaps entering the  
23 performance framework at an earlier date, so that  
24 there's enhanced communication between Charter  
25 School Division and the school. We have talked very

1 seriously about reviewing our policies, but not only  
2 our policies, but our procedures, for how we  
3 implement those policies, to make sure that we don't  
4 end up in a situation like what we're in right now.

5 I mean, that's -- I have to say that the  
6 board -- that I'm embarrassed. I -- and I apologize  
7 on behalf of the school and the board for this  
8 situation having arisen in this form. But we're  
9 going to walk away much stronger as a school. And,  
10 somehow, we will face the situation in terms of our  
11 infrastructure. We don't know exactly today what it  
12 will look like. But we'll get there.

13 COMMISSIONER BERGMAN: Thank you. And it  
14 would be a shame if this did, at some point, begin  
15 to impact your students' academic and performance  
16 because of its outstanding nature. Then, it  
17 would -- then you could certainly say, then the  
18 students were being affected, and that would be a  
19 shame.

20 MS. ANDERSON: Absolutely. Absolutely.  
21 You are correct, sir.

22 COMMISSIONER CARR: Thank you. Thank you,  
23 Madame Chair.

24 THE CHAIR: Thank you very much. Do we  
25 have other questions or comments?



1 All right. We thank you very much for  
2 being here, and we look forward to hearing from you  
3 as this situation progresses and gets better.

4 MS. ANDERSON: Thank you very much. I  
5 appreciate that.

6 THE CHAIR: Thank you. Director --  
7 Director Gerlicz, could we ask you to continue with  
8 your report? And you have a written report in front  
9 of us. If you would go through that, and then we'll  
10 go on to your forms report.

11 MR. GERLICZ: Madame Chair, members of the  
12 Commission, it's essentially finished with McCurdy  
13 and La Jicarita's updates. Our sayonara to Kelly  
14 Callahan.

15 I want to send everyone to the brand new  
16 PEC website. Our CSD website has also been updated.

17 We are happy to get through the renewal  
18 period and on to the next round. Nothing more to  
19 report.

20 THE CHAIR: Okay. Thank you. Then we  
21 have Discussion of Approval Process for Charter  
22 School Authorization Forms.

23 MS. BARNES: Good morning. I'm Julia  
24 Barnes, of course, Madame Chair, members of the  
25 Commission.

1           The CSD, and including myself, are trying  
2 to start to establish a protocol that we can use  
3 with you. It's our understanding that you all would  
4 really like a comprehensive review of all of the  
5 various forms for all of the various things.

6           And sometimes, you should be careful what  
7 you wish for. And, so, we have started a type of  
8 protocol. It started two days ago with the working  
9 session. In my view, I'd like to, continually --  
10 and through the Director's report, kind of  
11 continually have an opportunity to talk to you about  
12 how we're going to work with the forms and work  
13 through the process, so that we have a good process.  
14 So, there are --

15           Let me take you under Tab 11 and just show  
16 you the start of a work in progress. I will credit  
17 this to Commissioner Bergman, who said, "You know  
18 what? I'm just not sure what all the forms were."

19           And I, was like, "Okay."

20           And then I went to go try to put all the  
21 forms together. And I was, like, "I feel like  
22 Commissioner Bergman. I don't know what all the  
23 forms are."

24           And CSD has worked so hard to try to pull  
25 together all of the forms, and it is a work in

1 progress.

2 So, what I've done here is pull them  
3 together by topic area. There's new application  
4 forms, number one. Then -- and this is in no -- I  
5 mean, it's kind of an order that makes sense in my  
6 brain.

7 Number two are renewal forms. We just  
8 went through that process. And there will be kind  
9 of a conversation soon about what worked, what  
10 didn't.

11 Number three is the contract and  
12 performance framework. That is grayed out, because  
13 those are the documents that we're starting on.

14 Then, number four are site-visit forms.  
15 And in my mind, that's kind of how do we roll out  
16 the performance indicators? Once a school  
17 establishes a contract with you and a performance  
18 framework for that year, that's going to be before  
19 the year starts. And, then, the Charter Schools  
20 Division is going to show up at the end of the year  
21 and say, "How did it go," and use the same document?  
22 How do we get that information back to you? What  
23 does the site visit look like, et cetera.

24 Then, number five is closure protocols.  
25 Again, that is in gray, because we are talking about

1 that now. That is actually on your agenda coming  
2 up.

3 Number six, which is not to minimize it or  
4 anything, but it's kind of the rest of it, which is  
5 some pretty substantial things. It's a work in  
6 progress of how PEC and CSD will work together, and  
7 any MOUs and any regulations. And there's a lot of  
8 building this complete package.

9 I've put it as number six, because, at  
10 least in my mind, it might work to try out some of  
11 these processes and then put them in writing. So, I  
12 know there's a draft of some of these, and we may be  
13 able to hit some of these as we go along.

14 But it kind of makes sense to me to know  
15 how the process is going to work through these  
16 working sessions and then put it in writing.

17 So, in my mind, how this works is, we work  
18 through this this spring and continually build a  
19 binder for everyone of forms that we've approved, as  
20 we approve them. And, then, each time we're ready  
21 for the next group -- well, let me just finish that.

22 So, the ultimate goal is to have a  
23 complete binder of all of the forms. Then once a  
24 year, as we come up to the -- when the applications  
25 for renewal should be posted, and when the renewal

1 should be posted, we could have a review in a timely  
2 way, so that if anyone wants to make any changes.

3 But I think Commissioner Shearman said the  
4 other day, "Is there going to be a time when we can  
5 stop looking at these forms?"

6 So, my goal is to really push through it  
7 this spring, and then each year, there's just an  
8 opportunity to say, "You know, is there anything  
9 that needs to be tweaked," but that the binder will  
10 be in somewhat final form.

11 So, why don't I pause right there and see  
12 if there's any questions before I tell you a little  
13 bit more about the details? Are we good?

14 Okay. So, let me tell you a little bit of  
15 detail about how I think this might work.

16 You'll see there on the chart, there are  
17 various target dates for when we're going to try it.  
18 I want to make the process as least confusing as  
19 possible. And the way that I propose to do that is  
20 to have, hopefully, a series of posted working  
21 sessions.

22 It seems like a good day for a working  
23 session for all of you who can attend, and anyone  
24 else that wants to attend, because it will be  
25 publicly noticed, is, for example, to have a working

1 session in January for documents that we hope to  
2 have you approve in February.

3 So, we have a working session. It ends up  
4 with some good input, but that a best draft is  
5 presented to you within the next couple of weeks  
6 that then is up for your consideration the month  
7 following.

8 So, a January working session results in  
9 better documents a couple of weeks after that and,  
10 potentially, a vote in February.

11 So, the kind of chaos I'm looking to avoid  
12 is a working session on a Thursday and -- or  
13 Wednesday, and documents approved on a Friday. It's  
14 too -- it's too much. I mean, Beverly was laughing  
15 at me today because I look like some kind of a bag  
16 lady with all of my pages. What I would like to  
17 also commit to is that CSD -- so let's take new  
18 applications which are scheduled for the January  
19 working session.

20 Right now, CSD is looking at the documents  
21 themselves. What does -- what do they, as a team,  
22 want to change, so that we get, for you, for the  
23 working session, their best thoughts on the process?  
24 So, these exact documents are kind of a  
25 place-holder. They may decide, "Oh, let's combine

1 these two; oh" -- whatever they decide. So, there's  
2 a best CSD draft.

3 Then there's dialogue in a publicly  
4 noticed working session where everybody talks about  
5 what needs to happen.

6 And, then, after the working session, a  
7 best draft is prepared for you to vote on.

8 I've also put -- so, I put in a CSD  
9 working session proposed date, the -- the PEC review  
10 date at the meeting where it would be noticed for  
11 action.

12 Then I start to show how the -- in the  
13 further columns, when things would be posted on,  
14 when you'd have an annual review and start to  
15 establish kind of a typical review process.

16 So, I will tell you my own view on the  
17 working session was I thought that was super. I  
18 like -- it's my own opinion, but I really liked  
19 having as many Commissioners there as possible. I  
20 really liked the ability to dialogue about that.

21 I know that Tony is very interested in  
22 finding a forum where there can be a dialogue. But  
23 that still meets the purposes of the Open Meetings  
24 Act. I thought it was great to get the input from a  
25 lot of other people who chose to come. That's my

1 own personal opinion.

2 And I guess what I'm looking for is a kind  
3 of a standard practice, where we're making sure  
4 we're on top of the documents and everyone's feeling  
5 comfortable with them.

6 So, I view it as a lot of work this  
7 spring. I'd like to commit that we are ready for  
8 any working session for you to talk about the  
9 documents in any manner, to find a way that makes it  
10 easiest for you to look at them, but that we get  
11 through them, and then I think there will be much  
12 less work to do in the future.

13 So, that's my goal. I do think that  
14 there's a lot, but I also think that, even in the  
15 working session we had the other day, there were  
16 things that came out of that working session the  
17 other day that I think are going to inform the  
18 application process and clarified an issue, at least  
19 of confusion to me.

20 Other people view it as like getting a  
21 root canal. I love doing that. I don't know what's  
22 up with me about doing that.

23 MR. GERLICZ: She loves root canals.

24 MS. BARNES: I do love root canals, a lot.

25 THE CHAIR: Julia is a glutton for



1 punishment.

2 MS. BARNES: A glutton for root canals.

3 And what I hope to do, finally, is each  
4 time we do it, to take a step back as a group and  
5 talk about, "How did that work," so that we can  
6 improve it.

7 So, it is a work in progress. What I'm  
8 hoping is a -- in my mind, it's kind of -- and I've  
9 put -- this was put in the agenda as a proposed --  
10 what's the wording? -- a proposed standing item in  
11 the Director's Report, or a proposed standing  
12 working session, or something that starts to be  
13 consistent, so that we know how we're going to get  
14 done the work that we need to get done.

15 I think that Abby, without speaking for  
16 her, wants to look at your protocols as part of this  
17 kind of system. I just see it as a reasonable way  
18 to get through a big body of work.

19 THE CHAIR: As always, Julia, I appreciate  
20 all the information here. Let me just say one  
21 thing. For those of you who were not able to attend  
22 the working session -- and it seems like probably a  
23 week ago, but I know it was Wednesday afternoon --  
24 we started at 2:00 and stayed until 6:00, and we got  
25 a lot done.

1           We worked from a document that Julia had  
2 prepared, like this. (Indicates.) It has all the  
3 sections of the contract that are -- needed work.  
4 There's input from the CSD; there's input from our  
5 attorney; there's input from Ms. Matthews, as a  
6 charter school attorney. It was public comment.  
7 Anyone -- it was open -- was invited to comment on  
8 it. And then we worked together to come to a  
9 consensus of how we felt things would work the best.

10           We didn't get finished. And that is  
11 Item No. 12 on our agenda today. And we're going to  
12 talk about that in just a minute. We're also going  
13 to talk about working sessions. But I think we  
14 would be better to do that when we get to our  
15 calendar, discussion of the PEC calendar.

16           I think this is a worthwhile endeavor.  
17 This is where PEC says, "This is what works for us.  
18 This is what does not work for us."

19           We talk to CSD; we talk to other people;  
20 we get our attorney involved; and we come up with a  
21 process that we all think is going to work for the  
22 best of all of us.

23           So, Julia, I just appreciate your efforts,  
24 so far. We're going to get this done. But I do  
25 think we're going to need to include working

1 sessions. I'm going to propose a working session  
2 before each one of your upcoming meetings to get  
3 this preliminary work done. That's -- those are my  
4 thoughts. Commissioner Bergman.

5 COMMISSIONER BERGMAN: Julia, again, thank  
6 you so much for your work. I would like to note  
7 that I share the Chairman's thought on these forms.  
8 I will eagerly look forward to the day when all we  
9 have to do with these forms is tweak them. But we  
10 are not at that point yet, in my humble opinion, and  
11 that's why I guess I have been somewhat forceful in  
12 making my -- and I think this might be an  
13 appropriate time for Commissioner Parker, since he's  
14 brand new.

15 What we have is we have certain time lines  
16 that, statutorily, have to be followed. And there  
17 is a rush on the contracts and on the applications,  
18 because January -- the first week in January -- the  
19 date fluctuates because of the calendar -- anyone  
20 that wants to start a new charter school has to file  
21 what's called a "letter of intent." They file it to  
22 the CSD, that, "Yes, we are going to apply to be a  
23 charter school."

24 Then, on July 1st, that is the deadline  
25 for any of those individuals or groups to actually

1 file an application. And history tells us that we  
2 will have more letters of intent than we will have  
3 applications. A lot of people find out, when they  
4 start doing the application, "Whoa, what did I get  
5 myself into here?"

6 And so it's imperative -- and we have to  
7 negotiate, with the people that we just dealt with  
8 yesterday, these performance contracts that were  
9 mandated by Senate Bill 446. Well, those all will  
10 be done starting in February.

11 So we're on a clock. The contract forms,  
12 we need to have done by February, so that the  
13 schools that are negotiating will have the forms  
14 that they know what they need to look at and what we  
15 need to look at.

16 Same thing with the applications. These  
17 people that filed their letters of intent in the  
18 first week of January, they're going to start on  
19 those applications right away.

20 So, we are on a clock. We have to get  
21 those forms revised and to these applicants as  
22 quickly as possible. So, that's why they're at the  
23 top of the list, the contract and the application.  
24 That's the time line we're looking at.

25 And it's an exciting time line, I can

1 assure you. It's always fun. But, again, thank  
2 you, Julia. And thank you, Madame Chair.

3 MS. BARNES: If I can adjust one more  
4 piece of the process that worked, in my mind. And  
5 as we go forward, we'll develop a protocol that  
6 we're all happy with. But I know that some of the  
7 Commissioners were unable to be at the working  
8 session. So, you -- I guess I offered -- I don't  
9 know how it happened -- but to do kind of an  
10 overview of what was the proposed revisions and what  
11 were the key points.

12 I have that prepared when we get to  
13 No. 12. But I will tell you that that worked well,  
14 for two reasons. One is it made me go back and say,  
15 "What did we achieve, and are my notes clear, and do  
16 I know what we said?"

17 The other is, is it put in writing -- it's  
18 a page and a half. But it put in writing the key  
19 tentative ideas that we came up with, and then I can  
20 show you, and we can -- on one of them, I want to  
21 say, "Commissioner Bergman, are we good on this  
22 one?"

23 So, it was a good recap and a writing of  
24 some of the key issues. So, that may be another  
25 tool that we use.

1           But I want it to be a process that we  
2 consistently use that everyone can expect that we  
3 can catch people up who aren't able to be here.

4           And I really liked the idea of it being  
5 publicly noticed. I thought that allowed the  
6 dialogue -- I don't know -- and, Tony, maybe you can  
7 jump in -- but it was a start of a dialogue that I  
8 think we had been looking for for a while, many of  
9 us.

10           MR. GERLICZ: Madame Chair, members of the  
11 Commission, and thank you, Julia, for your love of  
12 root canals, which is definitely needed in this  
13 process, because all of us would like to get to the  
14 point where we're no longer revising forms and get  
15 to the heart of the matter, and that's move  
16 education forward. And one of the things that I  
17 have always found lacking is that ability to  
18 dialogue with the PEC and the CSD about, "How do we  
19 do that?"

20           And it's way beyond forms, and it's way  
21 beyond what they look like, but it's how they're  
22 implemented: "What are we looking for? What  
23 thinking goes into it? What's our weighting of this  
24 and that?"

25           All of that is rich dialogue that we long

1 to have. And, hopefully, this process will lead us  
2 to be able to have that dialogue, which is really at  
3 the heart of the matter, far beyond these forms,  
4 which are necessary, I agree.

5 THE CHAIR: Thank you. Abby's not here.  
6 Julia, do we need to take action on this draft  
7 document you presented?

8 MS. BARNES: I don't think so. I mean,  
9 certainly, if you want to give me discussions -- I  
10 think it's just the way that we're going to work  
11 together. So, if there's something that didn't work  
12 for you, I think sometime, during this meeting  
13 someone should say, "Please do it this way," or  
14 "that way". Otherwise, I think it's going to be a  
15 work in progress.

16 I think the issues are going to be posted  
17 on the agenda, and the documentation, as it evolves,  
18 will continue to be posted. So, to me, there's  
19 flexibility.

20 I just don't want to be going down a road  
21 that is making sense to me and doesn't make sense to  
22 everyone else. So, if -- if you're comfortable with  
23 how we're starting to roll it out, then I don't  
24 think we need to take any action. But if you are  
25 uncomfortable, please let me know.

1 THE CHAIR: Commissioners? Is anyone --

2 COMMISSIONER BERGMAN: I am comfortable  
3 with the way it's laid out now.

4 THE CHAIR: Is everybody okay with it  
5 working this way?

6 COMMISSIONER BERGMAN: With the  
7 understanding that we can always tweak some dates or  
8 something.

9 MS. BARNES: Oh, this document will  
10 change. This chart is a moving target. But it is a  
11 chart that -- we will use the chart. But what it  
12 looks like -- and I'm a real fan of color, and they  
13 only print for you in black and white. But it says  
14 "red" at the top, that, in particular, I want CSD to  
15 be able to have an internal conversation about the  
16 best documents. They're already taking steps to  
17 look at the application process.

18 THE CHAIR: Yes, Commissioner.

19 COMMISSIONER BERGMAN: And I will note,  
20 just based on that comment, that your pretty colors  
21 you're using on all these documents won't print on  
22 my printer and my computer at home. So, I'll print  
23 out these documents at home. So, we've got to come  
24 to some other arrangement.

25 MS. BARNES: Let's talk to Mike Archibeque



1 about that, because I know you're a little -- I will  
2 just say, I share with you being a little bit of an  
3 old-fashioned guy, and I come from that school  
4 myself. And I still think it would be super to get  
5 you a great computer that allows you to print. Or  
6 we'll mail it to you.

7 THE CHAIR: Once he gets this new  
8 computer, it may burn up his old printer.

9 COMMISSIONER BERGMAN: The printer is  
10 fine. It's a color printer, and it's got a brand  
11 new cartridge in it. So, I thought it was my  
12 cartridge, and it still won't print. So something  
13 in the printing of the document at this end, the  
14 color won't come through. It's an HP printer, so  
15 it's their top of the line.

16 THE CHAIR: It's a driver.

17 COMMISSIONER GANT: If you get a  
18 Macintosh, that doesn't happen.

19 THE CHAIR: Thank you very much, Julia.  
20 Appreciate it. All right.

21 MS. BARNES: Just because Abby got here,  
22 Abby, we decided, since this is just a process and  
23 it'll be publicly noticed, that we didn't need to  
24 take any action, and no one really raised any  
25 concern about it. Did you --

1 MS. LEWIS: Take any action, based on?

2 MS. BARNES: That we're going to use the  
3 chart, and going to look at the documents.

4 MS. LEWIS: Oh, no. At the end, if they  
5 want to vote, they can take a vote. But I don't see  
6 any need.

7 MS. BARNES: It's just a process. I'm  
8 just double-checking. She asked my opinion, and I  
9 don't like to speak for Abby.

10 THE CHAIR: Thank you, Julia.

11 MS. BARNES: I'm going to stay here, just  
12 because there's some more things coming up.

13 THE CHAIR: Commissioners, I would ask  
14 that you look at Item No. 12, which is exactly what  
15 Julia has been talking about. It's the documents we  
16 were working on in the working session. We didn't  
17 finish, so they've been brought forward for us  
18 today.

19 I would suggest that we move Item 12 to  
20 just between -- just after Item 19. And the reason  
21 for that is, this could be a very lengthy item. And  
22 I would like to move it down, so that we can get the  
23 rest of the business taken care of. Then we can  
24 begin working on this item, and see how long it's  
25 taking us.

1           If it takes us longer than we want to be  
2 here today, then we'll talk about how do we finish  
3 it up. Is that all right with everybody, to move  
4 Item 12 down underneath the existing Item 19?

5           COMMISSIONER CARR: Madame Chair, is it  
6 possible we could do it after --

7           THE CHAIR: Commissioner Carr.

8           COMMISSIONER CARR: I'm sorry,  
9 Madame Chair.

10          THE CHAIR: Yes, please.

11          COMMISSIONER CARR: Could we -- is it  
12 possible to move it after 21? Because I don't  
13 know --

14          THE CHAIR: Is that -- it doesn't matter  
15 to me.

16          COMMISSIONER CARR: Because I -- if that's  
17 okay. Because I --

18          THE CHAIR: Move it after 21?

19          COMMISSIONER CARR: After 21.

20          THE CHAIR: Is that all right? Okay.  
21 Suits me. All right. So, it's after 21. All  
22 right.

23                 Then, I'm going to continue with the --  
24 with the numbers as they are on our agenda, so as  
25 not to add any more confusion.

1           Currently, No. 13 is Vote on Boards of  
2 Finance. Kelly?

3           MS. CALLAHAN: Madame Chair,  
4 Commissioners, the vote for the Board of Finance is  
5 required of new charter schools. New charter  
6 schools that were approved in September have 90 days  
7 to receive a Board of Finance approval from the  
8 Public Education Commission. They must bring forth  
9 documents that are -- that indicate they've done the  
10 required steps of meeting the minimum terms of what  
11 needs to happen for a Board of Finance.

12           So, on the last meeting, we had Health  
13 Sciences Academy, and we were lacking one document  
14 to ensure that they were -- had complete --  
15 completed the work that they needed to do. So, we  
16 have Health Sciences Academy, and we have also  
17 Explore Academy's paperwork submitted to the Charter  
18 Schools Division to meet the terms of becoming a  
19 Board of Finance.

20           And, so, at this time, Madame Chair, just  
21 so you would know, to save trees and, you know, the  
22 documentation, please know that Health Sciences  
23 Academy has submitted an entire packet, a complete  
24 packet that is and has been verified. We've gone  
25 through each of the documents. And Raphael is here

1 and did complete that on behalf of their board.

2 I also have Explore Academy's  
3 documentation. They have become a board. They have  
4 five members. So, they meet the statutory  
5 requirement. They have also submitted the paperwork  
6 that is required, the affidavits for a Board of  
7 Finance from their business manager, their  
8 affidavits from the board. And they also have the  
9 letter from Poms & Associates ensuring that they are  
10 going to be covered.

11 And, so, I have them, and they can be  
12 reviewed. They do meet all the terms of the Board  
13 of Finance. They are complete. They are notarized.  
14 And we have both sets for Explore Academy and Health  
15 Sciences Academy.

16 So, if you have any questions or concerns,  
17 we -- I can take those right now. But they do have  
18 complete school packages for a Board of Finance.

19 THE CHAIR: Kelly, what is your  
20 recommendation?

21 MS. CALLAHAN: Madame Chair,  
22 Commissioners, my recommendation is that both  
23 Explore Academy and Health Sciences Academy be  
24 approved as boards of finances so they can begin  
25 their operations of setting up their accounts with

1 the Public Education Department and their budget  
2 analyst.

3 THE CHAIR: Thank for you that.

4 Commissioners, you've heard the  
5 recommendation. There is -- there are proposed  
6 motions in your notebook under Item 13. The Chair  
7 would entertain a motion concerning Explore Academy.  
8 Commissioner Bergman.

9 COMMISSIONER BERGMAN: Madame Chair, I  
10 move that the Public Education Commission approve  
11 the Explore Academy Board of Finance applications,  
12 pursuant to NMAC 6.80.4.17.

13 COMMISSIONER POGNA: Second.

14 THE CHAIR: Thank you. We have a motion  
15 by Commissioner Bergman, second by Commissioner  
16 Pogna, to approve the Explore Academy Board of  
17 Finance applications. Is there discussion?

18 Commissioner Parker.

19 COMMISSIONER PARKER: Madame Chair,  
20 Commissioners, because of my joining of this  
21 Commission just a couple of weeks ago, I will be  
22 abstaining from this vote.

23 THE CHAIR: Thank you, Commissioner. Any  
24 other discussion?

25 Hearing none, Commissioner Bergman, may we

1 have a roll-call vote, please?

2 COMMISSIONER BERGMAN: Commissioner

3 Peralta.

4 COMMISSIONER PERALTA: Yes.

5 COMMISSIONER BERGMAN: Commissioner Pogna.

6 COMMISSIONER POGNA: Yes.

7 COMMISSIONER BERGMAN: Commissioner Carr.

8 COMMISSIONER CARR: Yes.

9 COMMISSIONER BERGMAN: Commissioner

10 Conyers.

11 COMMISSIONER CONYERS: Yes.

12 COMMISSIONER BERGMAN: Commissioner Parker

13 abstains. Commissioner Gant.

14 COMMISSIONER GANT: Yes.

15 COMMISSIONER BERGMAN: Commissioner

16 Shearman.

17 THE CHAIR: Yes.

18 COMMISSIONER BERGMAN: Commissioner

19 Bergman votes "yes." Madame Chair, by seven votes,

20 that motion has carried.

21 THE CHAIR: Thank you very much. The

22 official vote is seven in favor, one abstention, to

23 approve the Explore Academy Board of Finance

24 application.

25 Next, we will --

1 MS. CALLAHAN: Madame Chair -- excuse me,  
2 Madame Chair, Commissioners, I have more documents  
3 for you to sign.

4 THE CHAIR: Could we do them both at the  
5 same time?

6 MS. CALLAHAN: Absolutely. You're going  
7 to be signing, I guess, a lot in one of these  
8 categories before the end of the meeting. So, we'll  
9 just add it to your stack.

10 THE CHAIR: Okay. I get paid by the page.

11 MS. CALLAHAN: Thank you.

12 THE CHAIR: Commissioners, let's consider  
13 Health Sciences Academy. The Chair will entertain a  
14 motion. Commissioner Peralta?

15 COMMISSIONER PERALTA: Madame Chair,  
16 members of the Commission, I move that the PEC  
17 approve the Health Sciences Academy Board of Finance  
18 application, pursuant to NMAC 6.80.4.17.

19 COMMISSIONER BERGMAN: Second.

20 THE CHAIR: Thank you. Just for  
21 clarification, there is an error in our executive  
22 summary. It says "Explore Academy" again. Nice  
23 save there, Commissioner Peralta. You've heard the  
24 motion by Commissioner Peralta, second by  
25 Commissioner Bergman. Commissioner Parker.



1 COMMISSIONER PARKER: Madame Chair,  
2 Commissioners, as with the previous motion, I'll be  
3 abstaining from this vote due to my late arrival to  
4 the Commission.

5 THE CHAIR: Thank you. Further  
6 discussion? Commissioner Bergman, may we have a  
7 roll-call vote?

8 COMMISSIONER BERGMAN: Commissioner Pogna.

9 COMMISSIONER POGNA: Yes.

10 COMMISSIONER BERGMAN: Commissioner Carr.

11 COMMISSIONER CARR: Yes.

12 COMMISSIONER BERGMAN: Commissioner

13 Conyers.

14 COMMISSIONER CONYERS: Yes.

15 COMMISSIONER BERGMAN: Commissioner Parker  
16 abstains. Commissioner Peralta.

17 COMMISSIONER PERALTA: Yes.

18 COMMISSIONER BERGMAN: Commissioner Gant.

19 COMMISSIONER GANT: Yes.

20 COMMISSIONER BERGMAN: Commissioner

21 Shearman.

22 THE CHAIR: Yes.

23 COMMISSIONER BERGMAN: Commissioner

24 Bergman votes "yes." Again, Madame Chairman, by a  
25 seven vote and one abstention, that motion carries.

1 THE CHAIR: Thank you very much. The  
2 official vote is seven in favor of the motion to  
3 approve the Health Sciences Academy Board of  
4 Finance, with one abstention. Thank you, and  
5 congratulations to both schools.

6 Let's move on, please, to what is  
7 currently listed as Item 14, Preliminary Performance  
8 Contract Approval. Again, Kelly.

9 MS. CALLAHAN: Madame Chair,  
10 Commissioners, I'm going to defer to Julia for a  
11 discussion on this. And since we've had an  
12 update --

13 MS. BARNES: Well, and -- I think Abby can  
14 join in here -- actually, during the working  
15 session, there was an idea to actually have the new  
16 schools enter into an extension of time to do the  
17 ongoing contract -- you know, the negotiation of the  
18 ongoing contract, once they start. It is already in  
19 law that they need to come before you before they  
20 can open and get permission to commence operations.  
21 And they are already agreeing to do a checklist, a  
22 Planning Year Checklist.

23 The preliminary contract was proposed last  
24 year as kind of a gap measure between a new school,  
25 when they are allowed to open, and -- for their

1 planning year. The conversation at the working  
2 session was that it was possible that we didn't need  
3 a contract; what we need is an extension.

4 They're already obligated to come before  
5 you before they commence operations. They're  
6 already doing the planning year. And if we have  
7 them enter into an extension of the contracting  
8 time, the time to contract and negotiate with this  
9 Commission, it will achieve the same thing,  
10 probably, with less confusion.

11 So, I think at this point, CSD is  
12 recommending that there not be a planning year  
13 contract entered into -- preliminary contract, but  
14 that, instead, we -- we have you all sign off on an  
15 extension that we take to the schools.

16 The schools have -- and we already -- and  
17 we have them here -- agreed to an extension  
18 regarding the preliminary year contract, that  
19 includes -- let me read it -- our January meeting --  
20 "no later than the regular PEC meeting in January."

21 So, we have these documents that give us  
22 time for us to propose a different protocol for  
23 them. I think Kelly has already handed to Abby the  
24 form of extensions, or I handed them to you.

25 MS. CALLAHAN: No, I haven't.

1 MS. BARNES: No, we haven't. That's our  
2 proposal, to simplify the process, not have a  
3 preliminary year contract; have, instead, an  
4 extension of the time to negotiate. And the rest of  
5 it is taken care of already in law and in process.

6 THE CHAIR: Okay.

7 MS. LEWIS: I will review it very quickly.

8 MS. BARNES: I will tell you it's your  
9 form, Abby. You can review it, but it's probably  
10 good if you say, "Gosh, who drafted this?"

11 COMMISSIONER BERGMAN: It's somewhere in  
12 "Law 202" that you're supposed to read everything  
13 word-for-word, though.

14 THE CHAIR: Word-for-word.

15 Commissioners, the discussion I've just  
16 been having with Abby is whether or not we need to  
17 vote, as to whether or not we can sign these -- I  
18 can sign these extensions. I signed extensions  
19 yesterday for the renewal schools. These are  
20 extensions for the current new schools coming on  
21 board.

22 Does there need to be a vote to agree to  
23 an extension of the contract framework so that we  
24 don't have to do a preliminary contract, which seems  
25 a lot of wasted effort on my part?

1           What is your preference? Do we -- do you  
2 direct me to sign these on behalf of the PEC, or do  
3 we need to vote whether or not I can sign them on  
4 behalf of the PEC?

5           COMMISSIONER BERGMAN: If our attorney  
6 says we don't need a vote, I'm comfortable with you  
7 signing.

8           COMMISSIONER POGNA: Me, too.

9           COMMISSIONER GANT: Me, too.

10          COMMISSIONER BERGMAN: If it's legal.  
11 It's supposed to be legal.

12          THE CHAIR: Okay. Let's just stack them  
13 up here. Okay. Then, we'll just move forward. So,  
14 Abby, Julia, Kelly, are you asking to withdraw Item  
15 14, which is Performance Contract Approval?

16          MS. BARNES: Yes.

17          COMMISSIONER BERGMAN: These contracts  
18 will disappear that are in our binder, if we do it  
19 this way. They won't exist; right?

20          MS. BARNES: Yes. And the review of the  
21 template will disappear as well.

22          MS. CALLAHAN: Woohoo.

23          MS. BARNES: I want to say it's -- again,  
24 it's one of those issues that the law isn't --  
25 doesn't fill the process completely. So, we were

1 trying to figure out what to do with new schools.  
2 So, the law doesn't talk about preliminary year  
3 contracts, and now, none of us will have to.

4 THE CHAIR: I think it was just a stopgap  
5 in the first year. But we're much too sophisticated  
6 now.

7 MS. CALLAHAN: I concur, Madame Chair.

8 THE CHAIR: Ladies and gentlemen, it's ten  
9 minutes till noon. I would suggest we take till  
10 12:30 for lunch. Can we do -- is that all right  
11 with everybody?

12 COMMISSIONER GANT: Yeah.

13 THE CHAIR: We are recessed until 12:30.

14 (A recess was taken at 11:53 a.m., and  
15 reconvened at 12:35 p.m., as follows:)

16 THE CHAIR: Let us resume this meeting of  
17 the New Mexico Public Education Commission.

18 Commissioners, we're on Item -- current  
19 Item 15 of the agenda, Discussion and Possible  
20 Action on Closure Approval Process and Forms.

21 Abby and Julia, please.

22 MS. BARNES: Madame Chairwoman and members  
23 of the Commission, actually, the form is Kelly  
24 Callahan's form. So, maybe she should explain that.  
25 It is the -- the template is based off work that was

1 done on Village Academy, but I'll let her explain  
2 it, if you don't mind.

3 MS. CALLAHAN: Madame Chair, I bequeath  
4 the template to Julia.

5 MR. GERLICZ: You know this is her last  
6 Public Education Commission meeting.

7 MS. CALLAHAN: I'm sorry. I couldn't  
8 resist.

9 MS. BARNES: Does that mean you're not  
10 saying anything?

11 MS. CALLAHAN: No, I'm just kidding. That  
12 was a timing thing.

13 Madame Chair, Commissioners, the template  
14 that you see under Tab 15 is based on the work that  
15 we did last year for Village Academy. If you  
16 recall, Village, at this time last year, was not  
17 renewed, and we had to come up with something to  
18 create an orderly process to close a school. And  
19 the PEC did not have any experience with this  
20 process.

21 And, so, what I did is I took forms and  
22 protocols from APS, NACSA, and, I believe, Colorado,  
23 that we -- that I sort of -- I stole and put  
24 together into a template that would meet the needs  
25 of the Public Education Commission, as well as the

1 Public Education Department.

2 And, so, when I set this up, I -- I  
3 divided the two -- there's two big parts. There's  
4 the operational side of a school, student records,  
5 curriculum, teachers, notifications, information  
6 that would be necessary for the closure. And then  
7 there's a second part that is actually the business  
8 side of it, all of the financial inventories,  
9 auditing, et cetera.

10 And, so, Abby, Julia -- Abby, in her  
11 former role, Julia, and I worked with Village  
12 Academy to kind of walk through this process. And  
13 what I did for the PEC is I updated you monthly on  
14 this action plan worksheet so you could see the  
15 progress that was being made in terms of closure.

16 And, so, for -- and actually, Julia  
17 alluded to this earlier -- that sometimes it's good  
18 to walk through a system -- or a process -- and then  
19 write it down and see -- see what kind of pitfalls  
20 you're going to run into. And I have to say that we  
21 were very fortunate that we didn't really have too  
22 many issues.

23 The caveat on that statement is that the  
24 school had 28 students and was never very big and  
25 was very cooperative. And the district that the



1 school resided in was very cooperative. And, so, I  
2 think a lot of it, again, is communication, is work,  
3 with the -- a team, a strong team that can walk  
4 through these systems to ensure that, one, that  
5 everybody is noticed; and, two, that there is  
6 adequate accounting for student records, school  
7 property, assets, the building, et cetera.

8 So, the template is -- is -- I can say,  
9 personally, as the lead for the Village closure, was  
10 very effective for us. Julia, I don't know if you  
11 had any suggestions or change that you wanted to put  
12 in there.

13 MS. BARNES: (Indicates.)

14 MS. CALLAHAN: But we felt that it covered  
15 all of the areas.

16 That being said, anytime you're going  
17 through a closure process, there are going to be  
18 things that are going to come up that are  
19 situational. And I think that this process is  
20 flexible enough that you can deal with anything that  
21 comes up as an issue and put it into a category,  
22 help mitigate things that are going on.

23 But I think the biggest lesson -- and I  
24 think I said this in an earlier meeting. The  
25 biggest lesson that we learned about the closure

1 process is communication, communication,  
2 communication. You must be communicating with all  
3 of the stakeholders. And I think we did a really  
4 good job. We had a great team.

5 And we are still -- and to mention a time  
6 line, we began this process -- I believe the  
7 final -- when all of the legal steps were taken,  
8 they did -- Village tried to appeal, and they missed  
9 the deadline. And, so, by the time we were all said  
10 and done to get started on this, it was March.

11 I would say that, minimally, that you need  
12 six months to do this process. We are still  
13 carrying out some of the final auditing processes  
14 for Village. There's tasks/issues that have to be  
15 taken care of in January. So, almost a full year  
16 after the school was closed, you're still dealing  
17 with some of the issues that have come up.

18 So, it -- we compressed everything into a  
19 very short time line. And, again, we're fortunate.  
20 It was a small school. It was a middle school, so  
21 we didn't have to deal with transcripts, college  
22 notices, et cetera. So, you know, the type of  
23 school it is is going to impact how this is going to  
24 roll out.

25 The work that goes with the district -- if

1 you have a district that's not cooperating --  
2 because the Secretary -- Deputy Secretary -- made  
3 the decision that assets would revert back to the  
4 school district that the school is residing in,  
5 because neither the PEC, nor the PED, has any  
6 capacity to store hundreds of computers and monitors  
7 and gym equipment and paper and pencils and books  
8 and anything that would put a school together.

9 So --

10 THE CHAIR: So, Kelly, let me just be sure  
11 I understand you. Is that in the case of all State  
12 charter schools, or those who came to us as a  
13 district charter and then became a State charter,  
14 and they were just a State charter for a short time?  
15 It doesn't matter if they've always been a State  
16 charter; their assets are still going to revert to  
17 the local school district?

18 MS. CALLAHAN: I'm going to defer to Abby  
19 on that, because I'm not sure.

20 MS. LEWIS: Yeah. And I'm just -- Kelly  
21 is absolutely describing the process that we went  
22 through last year. But I need to tell you, legally,  
23 I completely disagree with the reading of the law  
24 that -- and I told everyone this at the time -- with  
25 Deputy Aguilar's reading of the law. The law is

1 very clear that the assets revert back to the State.

2 I guess, then, if he want- -- his thinking  
3 is maybe, then, the State can do what they want to  
4 with them? But the law says the assets revert to  
5 the State, unless there is a General Obligation  
6 Bond, I believe -- or some kind of bond. Then I  
7 think that goes back to the school district.

8 But as far as assets, books, pencils, and  
9 desks, to me, the law is quite clear on that. And  
10 with a State-chartered school, the assets go back to  
11 the State.

12 THE CHAIR: Who is the State?

13 MS. LEWIS: PED, versus Bernalillo, which  
14 is where they went; right?

15 THE CHAIR: I see. Okay, okay. But his  
16 ruling is it goes to the school district.

17 MR. GERLICZ: In that case.

18 MS. CALLAHAN: In that case. And probably  
19 in the case of TLC, depending on where that goes,  
20 because they reverted from APS, originally.

21 THE CHAIR: Right. Okay.

22 MS. CALLAHAN: And, so, again, timing.  
23 And the other issue that I think is critical in the  
24 discussion of closure is the fact that there is cost  
25 involved, not only resources of manpower and time,

1 but we had to hire some consultants. We had to  
2 do -- and that came out of CSD's budget. And I  
3 don't think that that is appropriate.

4 And, so, there needs to be some sort of --  
5 now that we may have a couple on the horizon, very  
6 quickly, those need to be -- that needs to be  
7 discussed. And I would recommend sitting down with  
8 Deputy Secretary Aguilar to look at the -- the  
9 costs.

10 Minimally, probably about \$25,000 of  
11 actual money, between consultants and supplies.  
12 Some of that can come out of the school budget.  
13 They have some carryover money. Village, we were  
14 very fortunate, was fairly flush. And, so, we were  
15 able to get -- but what happens is the money reverts  
16 to the general fund. And -- you know, so it -- so,  
17 we spent \$15,000, for example -- I don't know the  
18 exact amount -- but we spent that amount of money on  
19 consultants, and the money didn't come back to CSD.  
20 In other words, it came out of our operational  
21 budget.

22 And, so, my recommendation is that there  
23 be a meeting set up with the Secretary -- Deputy  
24 Secretary -- to discuss the logistics of the costs,  
25 because if you get a large school, which may happen

1 very soon, that's going to require a lot of extra  
2 work and a lot of manpower, not to mention storage.  
3 And we're still dealing with some of the records  
4 that are with Village. So, those kind of nuts and  
5 bolts of procedure, outside of this, kind of the --  
6 the prologue to the -- is it the prologue? No, the  
7 epilogue, whatever the ending is.

8 But whatever happens after you finish all  
9 this, there are still things that have to be taken  
10 care of, just in terms of logistics of storage,  
11 costs, and accounting. And, so, when you get to a  
12 high school, somebody's going to have to be the  
13 records custodian.

14 MS. BARNES: So, we need to -- what I  
15 think I want to say is that this is a template, and  
16 it's going to be important to apply it to any given  
17 situation. So, actually, I think we're going to get  
18 to a situation, but I don't think we need to spend a  
19 whole lot of time on how it will roll out in every  
20 single case, because I think every single case, the  
21 template is going to be utilized as a template, but  
22 adjusted for what needs to happen for that school.

23 So, actually, maybe what we can do is get  
24 a list of things that, in Kelly's mind, that are  
25 important to pay attention to as we close a school.

1 I just am mindful of how much is on the agenda; not  
2 to interrupt you too quickly, but --

3 MS. CALLAHAN: And, Madame Chair,  
4 Commissioners, just a note on this. I think that  
5 there -- there needs to be a lead person. There  
6 needs to be a person that is in charge of making  
7 sure that this gets followed and updated. And, so,  
8 I strongly recommend that you have a person who is  
9 the lead "closurer," go-to.

10 And, so, I'm not sure who that lucky  
11 person is going to be. But it can't be apportioned  
12 out. I just -- I don't think that's a -- you can  
13 delegate, but there has to be somebody who monitors  
14 this very closely.

15 THE CHAIR: Okay. Do we need to vote on  
16 this?

17 MS. LEWIS: On accepting the -- yeah.  
18 This item is on the agenda -- I'm sorry if I'm  
19 repeating something Kelly just said -- as a template  
20 for closures, in general. Under the statute, you're  
21 required to have a procedure for a number of things,  
22 among them closures.

23 So, we -- if you would like -- and I would  
24 advise that you do -- take a vote on whether or not  
25 to accept this template as the template going

1 forward for other closures.

2 MS. BARNES: And let me just clarify in  
3 terms of how we're handling the forms. This is one  
4 of the forms on that chart that would start, once  
5 you approved it, to build the binder. So, this is  
6 very consistent with the process that we're going to  
7 use for all forms.

8 COMMISSIONER CARR: Madame Chair.

9 THE CHAIR: Commissioner?

10 COMMISSIONER CARR: So, a point on the  
11 property. I mean, you know, whether -- I mean,  
12 that's a pretty big deal, whether or not the  
13 property goes to the local school district or it  
14 goes to the State. The local school districts would  
15 love it, and -- you know. And, obviously, they  
16 could -- if they don't have any use for that  
17 property, they can sell it and put that money in  
18 their general fund. The other -- or they can make  
19 money off it, whatever they want to do.

20 If we -- the State should do the same  
21 thing, you know. Unless it's set up -- unless maybe  
22 another school is interested in it, maybe a deal  
23 could be worked out -- but should sell that  
24 property. And then the money should pay for the  
25 cost of ending the school.



1           And, you know, those are all things that  
2           need to be worked out. Those are assets that are --  
3           that belong, in some form or fashion, either to the  
4           local district or to us. And those assets should be  
5           utilized, especially in these tight budget times  
6           that we're in, you know.

7           So, I think there -- we need to get  
8           some -- you know, I think we can approve this. But  
9           we need to get -- but, also, with the caveat that we  
10          get clarification -- maybe we get an official  
11          opinion from the Attorney General's Office as to  
12          where that goes.

13          MS. BARNES: Yeah, it looks like it's  
14          under 22-8B-B4(N), as in "Nancy," is one of the  
15          provisions of the law I think Ms. Lewis was talking  
16          about.

17          COMMISSIONER CARR: Oh, the actual  
18          statute?

19          MS. BARNES: Yes. So, again, I think it's  
20          potentially a good idea to say that we'll look into  
21          that.

22          COMMISSIONER CARR: Yeah.

23          MS. BARNES: I'm not sure, particularly if  
24          Paul Aguilar doesn't agree, we ought to have that  
25          conversation.

1           THE CHAIR: Commissioner, if you would  
2 consider maybe a motion to approve this template,  
3 but -- and add to that, that this question of  
4 ownership of a closed school's assets would be  
5 investigated at the same time, then, maybe that will  
6 get it all done.

7           Commissioner Bergman.

8           COMMISSIONER BERGMAN: Yeah, this is  
9 really just a general template. Every situation is  
10 going to be different, as Kelly noted. Small  
11 schools are going to be different than the large  
12 schools. But this lays out -- it's a plan, kind of  
13 like a building plan, building a building. There's  
14 all kinds of stuff that go into building a building,  
15 change orders and all the rest of that stuff.

16           In a big one, you know there's going to be  
17 a whole herd of lawyers involved, anyway, so  
18 everybody's going to be sure they get their cut of  
19 the pie at some point. So, I think what we're  
20 approving here is, yeah, let's go along with a  
21 general template.

22           And it goes along to a question I asked  
23 Kelly at a previous meeting. And you assured me  
24 that you had made very few changes. I thought you  
25 did a great job for the first closure on Valley and

1 that template used. In fact, I've seen nothing  
2 that -- you know, I'm a note-maker on my paperwork,  
3 and there's nothing I can make a note on this right  
4 now. I think you did a good job of it, and I think  
5 it's a good template. That's just my opinion.

6 THE CHAIR: The Chair would entertain a  
7 motion.

8 COMMISSIONER CARR: Madame Chair.

9 THE CHAIR: Commissioner Carr.

10 COMMISSIONER CARR: I make a motion that  
11 we approve the Charter Division's -- or the -- the  
12 Charter Division's template.

13 COMMISSIONER BERGMAN: Put the words  
14 closure plan. Put the word "closure plan" in there.

15 COMMISSIONER CARR: I'm getting there.

16 COMMISSIONER BERGMAN: Okay.

17 COMMISSIONER CARR: So, I'll start again.

18 I make a motion that we approve the PED's  
19 template for closure process and forms, with the  
20 stipulation that the acquisition of land that is  
21 owned by the schools -- gosh, darn; I'm not saying  
22 this right -- that it be clarified whether or not  
23 this land actually reverts to the local school  
24 district or the State.

25 MS. LEWIS: I'm sorry, Commissioner Carr.

1 Do you mean the land or all the assets?

2 COMMISSIONER CARR: Yes, the land and the  
3 assets.

4 THE CHAIR: So, the disposition of, not  
5 the acquisition of?

6 COMMISSIONER CARR: And the disposition  
7 of, yes. Yes. Well, we have to acquire it before  
8 we dispose of it.

9 THE CHAIR: Okay. I understand your  
10 meaning. Is that clear?

11 MS. LEWIS: No.

12 COMMISSIONER CARR: You want something  
13 more clear?

14 MS. LEWIS: Will you say it again, please?

15 COMMISSIONER CARR: Do you want me to say  
16 the whole thing again? Sorry.

17 I would like to make a motion that we  
18 approve the template, as presented by the Charter  
19 Division, for closure process and forms, with the  
20 stipulation that we investigate that -- that it be  
21 investigated that -- that the requirement of the  
22 land that is owned by the closed schools --

23 THE CHAIR: Assets.

24 COMMISSIONER CARR: -- and assets, that it  
25 be investigated as to whether or not the State

1 should acquire it and dispose of it, or the local  
2 school district should acquire it.

3 Does that work?

4 MS. LEWIS: Good enough.

5 COMMISSIONER CARR: Okay. I stumbled over  
6 that. Did you get that?

7 THE REPORTER: (Indicates.)

8 THE CHAIR: We have a motion. Do we have  
9 a second?

10 COMMISSIONER CARR: Second. Oh, I can't  
11 second.

12 THE CHAIR: You can't second.

13 COMMISSIONER CARR: You can see I'm all  
14 flustered now.

15 COMMISSIONER BERGMAN: Second.

16 THE CHAIR: Motion by Commissioner Carr,  
17 second by Commissioner Bergman, to approve the  
18 template, as presented, plus investigating the  
19 disposition of the closed schools' assets.

20 Is there further discussion? Commissioner  
21 Parker.

22 COMMISSIONER PARKER: Madame Chair,  
23 Commissioners, as with issues before, I'll be  
24 abstaining from this vote due to my recent arrival  
25 to the Commission.

1 THE CHAIR: I'm sorry. Say it again.

2 COMMISSIONER PARKER: Due to my recent  
3 arrival at the Commission, I'll be abstaining from  
4 this vote.

5 THE CHAIR: Thank you. Anything else?

6 Commissioner Bergman, may we have a roll  
7 call, please?

8 COMMISSIONER BERGMAN: Commissioner Carr.

9 COMMISSIONER CARR: Yes.

10 COMMISSIONER BERGMAN: Commissioner  
11 Conyers.

12 COMMISSIONER CONYERS: Yes.

13 COMMISSIONER BERGMAN: Commissioner Parker  
14 abstains. Commissioner Peralta.

15 COMMISSIONER PERALTA: Yes.

16 COMMISSIONER BERGMAN: Commissioner Pogna.

17 COMMISSIONER POGNA: Yes.

18 COMMISSIONER BERGMAN: Commissioner Gant.

19 COMMISSIONER GANT: Yes.

20 COMMISSIONER BERGMAN: Commissioner  
21 Shearman.

22 THE CHAIR: Yes.

23 COMMISSIONER BERGMAN: Commissioner

24 Bergman votes "yes." That's seven votes with one  
25 abstention.

1 THE CHAIR: Thank you very much. Motion  
2 passes with a seven-to-zero vote, with one  
3 abstention. Thank you very much.

4 Item 16, Discussion and Possible Action on  
5 PED/CSD Monitoring and Closure Procedures Memorandum  
6 of Understanding. Abby?

7 MS. LEWIS: I have not heard anything back  
8 from PED regarding the changes that the Commission  
9 approved last time. I sent it forward to PED to ask  
10 for their reaction and feedback and received  
11 nothing.

12 MS. BARNES: Madame Chair?

13 THE CHAIR: Yes.

14 MS. BARNES: I just suggest that we move  
15 this, along with No. 12, to the bottom of the  
16 agenda. We do have a draft, and we did have it at  
17 the working session, but you chose to start with the  
18 contract. So, we do have a proposal by CSD that  
19 then would need -- if it was agreed upon, we'd need  
20 to take it up to PED.

21 But we do have that. So, my suggestion is  
22 that this item be moved, along with No. 12, to the  
23 bottom of the agenda.

24 MS. LEWIS: That's fine with me, if, in  
25 the interim, I get to see it. If I'm not going to

1 get to see it till the last minute, it doesn't much  
2 matter when it comes up.

3 THE CHAIR: What is it? Is it in our  
4 binders?

5 MS. BARNES: It's not in your binders. We  
6 brought it to the working session to discuss it, and  
7 that's what we'd still like to do.

8 COMMISSIONER BERGMAN: I don't think we  
9 can take any action. I want to read it first and  
10 think about it for a while. Yeah.

11 THE CHAIR: Is this something we should  
12 put on the January agenda and --

13 COMMISSIONER BERGMAN: I think so.

14 THE CHAIR: Can we do that and give  
15 everyone time to look at it and move it to the  
16 January agenda?

17 MR. GERLICZ: January work session.

18 MS. BARNES: January work session, sure.  
19 We'd like to discuss it.

20 THE CHAIR: How about if we get it before  
21 the work session? Is it something, necessarily, we  
22 need to talk about in the work session, or can -- is  
23 it that lengthy, the changes?

24 MS. BARNES: It's not that lengthy. It  
25 just hits a couple of key points about how PEC --



1 CSD and PEC work together, which is why we wanted to  
2 discuss it. We have it available today, and I can  
3 pass it out today.

4 THE CHAIR: Okay. Why don't we move this  
5 to the January work session for action on the  
6 January agenda? Is that agreeable with everybody?

7 COMMISSIONER CARR: Does that require a  
8 motion?

9 THE CHAIR: Pardon?

10 COMMISSIONER CARR: Does it require a  
11 motion?

12 THE CHAIR: Does it require a motion?

13 COMMISSIONER BERGMAN: I don't know. But  
14 I would accept your offer of passing it out, so I  
15 can try and print it, if it's got colors on it.

16 MS. BARNES: I printed it out in color for  
17 you. There's not many changes. It warrants a  
18 discussion.

19 MS. LEWIS: Madame Chair, Julia, just a  
20 quick discussion. This is my failing memory. But  
21 did we not have a possible contract negotiation  
22 scheduled on January 9th now, which would limit our  
23 ability to have a work session on the same day?

24 MS. BARNES: Not that I know of.

25 MS. CALLAHAN: That was if they didn't

1 sign the extension, I think.

2 MS. BARNES: Right. Everyone has signed  
3 the extension.

4 MS. LEWIS: No, we've got one school --  
5 no. We've got one school that did not --

6 MS. BARNES: That school may sign the  
7 extension; we don't know. There's not someone  
8 scheduled.

9 MS. LEWIS: Okay.

10 THE CHAIR: Well, let's just make sure  
11 there's not.

12 MS. BARNES: We are.

13 THE CHAIR: If there's another school  
14 still in the works, let's just make sure it's not  
15 scheduled on the 9th.

16 COMMISSIONER BERGMAN: Yeah. It needs to  
17 be scheduled later in the month. So, by the end of  
18 January, we'll have a new form that we could use, if  
19 we have to do something in January with one school;  
20 correct?

21 MS. BARNES: I understand. I think we're  
22 going to be fine -- the school just asked. And, you  
23 know, the written decision hasn't been issued. And,  
24 so, I think that we can certainly let you know how  
25 that's going. They just said they wanted to take it

1 with them, which is completely fine. So, I'm not  
2 anticipating that it will be a January school, at  
3 all.

4 MS. LEWIS: Okay. Thank you.

5 THE CHAIR: All right. Then --

6 MS. BARNES: And you know what? I'm going  
7 to stand up and pass this form out to you now.

8 THE CHAIR: Please do. And while  
9 you're -- we have moved that item to January, okay?

10 Item No. 17, Update and Possible Action on  
11 Closure Procedures for The Learning Community  
12 Charter School.

13 Kelly?

14 MS. CALLAHAN: Madame Chair,  
15 Commissioners. So, now that we have a closure  
16 procedure -- I was anticipating a little bit, just  
17 so we could get a process started. As I mentioned,  
18 it's going to be -- it's a lengthy process, six  
19 months. And we need to start looking.

20 And, so, Julia, can you kind of help me  
21 walk through where we are with TLC and what we need  
22 to do at this point --

23 MS. BARNES: Sure.

24 MS. CALLAHAN: -- legally, with that part?

25 THE CHAIR: Julia, may I interrupt you

1 just for a moment, please?

2 Let the record note that Commissioner Carr  
3 had to leave for a few moments -- minutes -- but he  
4 will return shortly.

5 MS. LEWIS: Sorry. I'm just noticing that  
6 a couple of the lines on this page are half there.  
7 So, if you could e-mail it to me, please, so I  
8 can -- they're missing, the bottom half of the  
9 words.

10 MS. BARNES: Yes.

11 MS. LEWIS: Does everybody have the  
12 same --

13 MS. BARNES: It's actually Linda's  
14 printer, and we actually should look at that. This  
15 is actually the second or third time it's happened.  
16 So, there's a glitch in the way hers prints.

17 COMMISSIONER BERGMAN: Just as a matter of  
18 notice, that's exactly what it looks like when I  
19 print it out on mine. So, whatever her glitch is is  
20 my glitch, also.

21 MR. GERLICZ: I'm glad we have that in the  
22 record.

23 MS. BARNES: Let me just tell you, so that  
24 you can understand that draft. Our draft, back  
25 to -- to the document that just got handed out --

1 moved two sentences to the top of the MOU and then  
2 changed your language, Abby, and limited it to --  
3 the prior approval -- to only that Section F. I  
4 can't remember what the statute cite is, but --

5 THE CHAIR: What are we talking about?

6 MS. BARNES: Just explaining the copy --

7 MS. LEWIS: Explaining the changes --

8 THE CHAIR: Oh.

9 MS. BARNES: -- back on that former item  
10 that we passed out. I'll make sure everybody has a  
11 clean copy.

12 Back to TLC. Where we are in the process  
13 is that the Cabinet Secretary upheld the decision of  
14 the PEC. And there was a little bit of a delay  
15 while -- just on a discussion of the form of order  
16 from the Cabinet Secretary.

17 That form of order has been issued and has  
18 been filed. There is -- it has now triggered a  
19 period of time to appeal the decision to the  
20 District Court by TLC, because the PEC won't appeal  
21 that decision.

22 And I think, at this point, it would be  
23 helpful to understand what this body wants to do in  
24 terms of your -- your time line for closure.

25 So, that's where we are. I will say --

1 well -- and we're going to move ahead until -- if  
2 and when we're told to stop for the legal  
3 proceeding, we might do that. But we're moving  
4 ahead now. So, we're looking for clarity from you  
5 all regarding the time line for closure.

6 THE CHAIR: Julia, do you know what the  
7 deadline is for TLC to appeal to District Court?

8 MS. MATTHEWS: It's 30 days.

9 MS. BARNES: It's 30 days. But you're  
10 going to ask me from what date. So, Abby's going to  
11 look. Thank you, Patti, but -- the 30 days started  
12 on the amended decision. And I can also open my  
13 e-mail and find that.

14 COMMISSIONER BERGMAN: While we're all  
15 looking for that, I don't -- what can we do until  
16 they decide what they're going to do? There's  
17 nothing for us to do, is there?

18 MS. BARNES: Your decision has been  
19 upheld. I think you may go ahead.

20 THE CHAIR: So, really, what you're asking  
21 us to do is to declare a date that this school  
22 closes? Is that --

23 MS. BARNES: And approve a template for  
24 closure. Kelly has populated the template you just  
25 approved, with -- in anticipation that you would

1 approve it, which you did. And she's put in dates.

2 But we need to --

3 THE CHAIR: So, if -- let me just throw  
4 out a hypothetical here. Remember in the -- maybe I  
5 shouldn't say this. Remember in the debate when we  
6 had the hearing on TLC, we said either right now or  
7 at the end of the school year, we would close the  
8 school? Well, it didn't happen right then; that's  
9 for sure.

10 So, if we -- if we said, "Okay, the final  
11 date -- that school is closed as of their last day  
12 of school, whatever that date is," is that  
13 sufficient? Is that what you're looking for?

14 MS. CALLAHAN: Madame Chair,  
15 Commissioners, I'm thinking the fiscal year closes  
16 June 30th. Even though the school ends on, you  
17 know, May 25th, or whatever that date is, there's  
18 still a lot of things that have to happen in terms  
19 of student records and report cards and such. So,  
20 it would make sense to let them finish out until  
21 June 30th, so that there would be staff to do the  
22 distribution of testing assessment results, report  
23 cards, final billings, you know, those kinds of  
24 things.

25 THE CHAIR: Okay.

1 MS. BARNES: And, yes, that's what we're  
2 looking for, because we would like -- we would like  
3 the permission of the body to move forward with --  
4 with the work that needs to be done.

5 THE CHAIR: Okay. Commissioner Gant.

6 COMMISSIONER GANT: Madame Chair, I don't  
7 know how I was going to say this. But maybe we have  
8 to have a couple of dates: one, the last day  
9 students officially attend class, and, then, the  
10 date when the school officially closes. Does that  
11 make sense?

12 MR. GERLICZ: Well, their fiscal year  
13 happens after --

14 COMMISSIONER GANT: Right.

15 MR. GERLICZ: Right. And that would be  
16 the appropriate date.

17 COMMISSIONER GANT: We need to tell the  
18 students' parents what day they can expect the  
19 classes to be finished, and the school, as to when  
20 they are officially done.

21 MS. BARNES: Now --

22 MR. GERLICZ: Madame Chair,  
23 Commissioner Gant, I wonder if we could just say the  
24 school is just closed at the end of that fiscal  
25 year, allow them to finish out their academic



1 calendar, as is.

2 THE CHAIR: As it is published already?

3 MR. GERLICZ: As it is published already.

4 COMMISSIONER GANT: Fine.

5 MR. GERLICZ: Between school budgets and  
6 exam schedules and all of that already in place.

7 THE CHAIR: Do we -- do we know if the  
8 school is -- completes their academic year prior to  
9 June 30? I mean, it's a stretch to think they would  
10 still be in session after June 30. But perhaps we  
11 need to be sure of that.

12 MS. BARNES: I believe all schools have to  
13 be done before the end of the fiscal year, so --

14 MR. GERLICZ: Madame Chair, all schools  
15 always have students that never finish on time and  
16 need summer, or additional, work. In this  
17 particular case, that will be their responsibility  
18 to get that word out to all their students that they  
19 are done when they're done.

20 THE CHAIR: Okay. Commissioner Bergman.

21 COMMISSIONER BERGMAN: Madame Chair, well,  
22 this is a really interesting process, obviously.  
23 Let me just raise this as -- we don't know what  
24 they're going to do. We can start our process, of  
25 course. But what happens if we start our process,

1 we cause some disruption to this school, obviously,  
2 and they do go ahead and file a suit?

3 I assume -- I'm making an assumption, as a  
4 non-attorney, that as soon as the suit is filed,  
5 they're going to stop us from closing this school  
6 while the suit is being heard. We have lots of  
7 lawyers here to help us with that concept. And  
8 what -- just contemplating, down the road, a what-if  
9 situation.

10 What if they win their lawsuit, and we've  
11 already started closing the school down. What if?  
12 I probably shouldn't raise issues like that, but I  
13 think of things like that, and --

14 THE CHAIR: Abby, would you like to  
15 respond?

16 MS. LEWIS: They would have to  
17 specifically request a stay. So, just filing their  
18 appeal in District Court wouldn't mean that they  
19 have -- that they are allowed to stop the closure  
20 procedure. They would have to specifically ask for  
21 a stay, which I assume they would. But who knows?  
22 Maybe they'll drop the ball or decide not to, for  
23 reason.

24 Also, I found the amended order was signed  
25 by the Secretary on 11/19/13. So, if we start

1 counting the 30 days, the next day -- make sure that  
2 wasn't a weekend -- okay. So, if we start counting  
3 30 days on the 20th, then they have until -- how  
4 many days for Thanksgiving? One, Julia?

5 MS. MATTHEWS: You don't count holidays.

6 MS. LEWIS: Then it would be seven days,  
7 they have, a week, they have, to file in District.

8 THE CHAIR: Give us a date.

9 MS. LEWIS: 12/20.

10 THE CHAIR: 12/20.

11 MS. BARNES: And I think, Commissioner  
12 Bergman, if the judge tells this body to stop, then  
13 we stop. I think the what-if is pretty clear.

14 COMMISSIONER BERGMAN: Our concern is  
15 always for the students, though, see? And I'm  
16 thinking -- unfortunately, this whole process is  
17 disruptive of the students of that school; I  
18 understand that. And, so, I guess I'm thinking how  
19 can we do this with minimum disruption to the poor  
20 students? And I guess there's no way to really do  
21 that. If you have to go forward, you have to go  
22 forward.

23 MS. BARNES: If you allow the school to go  
24 to the end of the school year, you're not disrupting  
25 the classes.

1                   COMMISSIONER BERGMAN: I don't think we  
2 could ever tell a school, "You're closed tomorrow."  
3 You have to give them time.

4                   MS. CALLAHAN: It's going to be  
5 disruptive, no matter what you do. The interruption  
6 of notice, just by the reality that strikes when you  
7 send a letter that says, "We are closing as of  
8 June 30th," it's going to create a snowball effect;  
9 students probably leaving, my guess, a lot of  
10 turmoil from parents, and "Where are we going to go,  
11 what are we going to do," large kids' credits  
12 transfer.

13                   I don't think there's any way -- that is  
14 the most painful process in anything that we do in  
15 education is closing down a school. And -- but I  
16 think that, in fairness to the community, I think  
17 the sooner that we can start the process, the more  
18 time that they will have to make arrangements to do  
19 the things that they need to do; not just students,  
20 but staff, as well, looking for jobs, covering  
21 insurance. Those kinds of things are very real.

22                   And I think if we can be proactive and  
23 say, "Okay, this is hard; we know it. Please, you  
24 know, bear with us, and we will try to make this as  
25 less a disruption as we possibly can."

1                   COMMISSIONER BERGMAN: Well, let me --  
2 since we've -- by your count, they have another  
3 seven days. Where is the rush in us doing something  
4 today that could not -- what will we disrupt if we  
5 waited until their deadline passes, and we find out  
6 whether they're suing or not? Are we harming our  
7 process by waiting one more week? Can we say, "Now,  
8 if they don't, let's go ahead and" --

9                   THE CHAIR: No.

10                  COMMISSIONER CARR: Madame Chair?

11                  THE CHAIR: I'm sorry. I did not mean to  
12 interrupt you, and I apologize.

13                  COMMISSIONER BERGMAN: I'm just asking  
14 kind of a rhetorical question, throw it out there.

15                  COMMISSIONER CARR: Madame Chair.

16                  THE CHAIR: Commissioner Carr.

17                  COMMISSIONER CARR: I think we should --  
18 you know, we can't base what we do on possibility of  
19 what somebody else is going to do. I think we need  
20 to follow through and do what -- do our job, and  
21 whatever happens in the court happens. And then  
22 things may or may not change.

23                  But I think -- you know, we can't just go  
24 by assumptions that somebody may or may get a stay,  
25 may or may not file in court. We have to -- I think

1 we just need to move along. And then when we find  
2 out something for sure, and we have to change what  
3 we're doing, then we'll do it then.

4 COMMISSIONER PERALTA: Madame Chair.

5 THE CHAIR: Commissioner Peralta.

6 COMMISSIONER PERALTA: I agree with  
7 Commissioner Carr. We made a decision to close the  
8 school, and I think it is our duty now to determine  
9 and communicate that to the school district as to  
10 when that date comes. And, so, if and when, I'm  
11 ready to make a motion.

12 THE CHAIR: If you're ready, Commissioner  
13 Peralta, I'd be glad to entertain that motion. And  
14 if we want to use a suggested June 30th closure date  
15 as the end of the fiscal year, that seems to be the  
16 best course to take for a recommendation.

17 COMMISSIONER PERALTA: I would like to  
18 move that the date for closure for the TLC, The  
19 Learning Community Charter School, take effect on  
20 June 30th of 2014.

21 THE CHAIR: '13?

22 COMMISSIONER PERALTA: No, '14.

23 COMMISSIONER BERGMAN: We're talking next  
24 year.

25 COMMISSIONER POGNA: Second.

1 THE CHAIR: Second? We have a motion and  
2 second to establish a closure date for the TLC  
3 Charter School as June 30th, 2014. Is there  
4 discussion?

5 COMMISSIONER GANT: Yes.

6 THE CHAIR: Commissioner Gant?

7 COMMISSIONER GANT: Madame Chair, a minute  
8 ago, I thought we also had to approve the format for  
9 the --

10 MS. BARNES: Thank you. I was just  
11 thinking about that. Abby, I don't think they need  
12 to approve it. They've approved the template; they  
13 can use the template.

14 COMMISSIONER GANT: Madame Chair, I  
15 thought we had a discussion that we were going to  
16 approve the date of closure and the format to be  
17 used for the closure.

18 MS. LEWIS: That was the template that we  
19 approved a couple of agenda items -- we structured  
20 it specifically so we had that template approved  
21 before we took on this item.

22 MS. BARNES: Specifically, I think  
23 Commissioner Gant is saying we don't have -- the PEC  
24 does not have to approve the form of -- the  
25 TLC-populated template, because we're going to use

1 the template.

2 MS. LEWIS: The TLC template has been  
3 populated with dates?

4 MS. BARNES: Yeah.

5 MS. LEWIS: Then, yes, you would need to  
6 approve that one to be specifically applied here,  
7 rather than the general template.

8 COMMISSIONER GANT: Madame Chair, if I  
9 may, why don't we make two motions out of this: One  
10 for the closure date, and one for the use of the  
11 form, to be more clear?

12 COMMISSIONER BERGMAN: Or can you you do  
13 it in one motion?

14 THE CHAIR: The motion has already been  
15 made. Let's just go with the motion that's on the  
16 floor.

17 Is there discussion on the motion to  
18 establish June 30th, 2014, as the closure date for  
19 the TLC Charter School? Commissioner Parker.

20 COMMISSIONER PARKER: Madame Chair,  
21 Commissioners, I do agree that the end of the fiscal  
22 year would be a great time to be closing the school;  
23 however, because of my late arrival to the  
24 Commission, I will be abstaining from this vote, as  
25 well.



1 THE CHAIR: Thank you. Thank you.

2 Further discussion?

3 COMMISSIONER BERGMAN: Just, why I ask  
4 rhetorical questions, because it stirs debate. So,  
5 that's --

6 THE CHAIR: So, the issue before the  
7 Commission at this time -- I'm sorry. Commissioner  
8 Peralta.

9 COMMISSIONER PERALTA: A question on that  
10 template of approval that was just raised: Even if  
11 it's not stated in the agenda item, is that still --

12 MS. LEWIS: It's stated in the agenda. It  
13 would fall under -- I'm sorry; I'm reading the wrong  
14 one -- Update and Possible Action on Closure  
15 Procedures for The Learning Community. So, that  
16 encompasses the date, as well as this populated  
17 template.

18 MS. BARNES: And just to note, the  
19 populated template anticipates a June 30th closure  
20 date.

21 THE CHAIR: All right. So, the motion on  
22 the floor is to accept June 30th, 2014, as the  
23 closure date for the TLC Charter School. Is there  
24 further discussion among the Commissioners?

25 Seeing none, Commissioner Bergman, may we

1 have a roll-call vote?

2 COMMISSIONER BERGMAN: Commissioner

3 Conyers.

4 COMMISSIONER CONYERS: Yes.

5 COMMISSIONER BERGMAN: Commissioner Parker

6 abstains. Commissioner Peralta.

7 COMMISSIONER PERALTA: Yes. Yes.

8 COMMISSIONER BERGMAN: Commissioner Pogna.

9 COMMISSIONER POGNA: Yes.

10 COMMISSIONER BERGMAN: Commissioner Carr.

11 COMMISSIONER CARR: Yes.

12 COMMISSIONER BERGMAN: Commissioner Gant.

13 COMMISSIONER GANT: Yes.

14 COMMISSIONER BERGMAN: Commissioner

15 Shearman.

16 THE CHAIR: Yes.

17 COMMISSIONER BERGMAN: Commissioner

18 Bergman, "yes." And, again, Madame Chair, that's

19 seven votes to approve the motion and one

20 abstention.

21 THE CHAIR: Thank you very much. The

22 official vote is seven to zero, in favor of the

23 motion, with one abstention.

24 The Chair would now --

25 MS. CALLAHAN: Madame Chair, just a point

1 of clarification. Who is going to actually notice  
2 TLC that the date is June 30th? Is that something  
3 that the Commission needs to do? Is that something  
4 CSD needs to do, in terms of sending to the  
5 governing board, "At the December 13th PEC meeting,  
6 the official TLC closure date will be June 30th,  
7 2014," because I don't think -- I don't know if it  
8 was articulated -- I wasn't at the hearing. So, I  
9 don't know if it was articulated, even as an option,  
10 for them to know about June 30th.

11 COMMISSIONER BERGMAN: We have to send  
12 them a letter; right?

13 MS. LEWIS: Because we still have the MOU  
14 in place that we were just discussing, Commission,  
15 you can opt either to have me send the letter,  
16 which, in one argument, makes more sense; or, have  
17 CSD send the letter. I can see pros and cons for  
18 both. So, really, it's up to you. Not really cons;  
19 just pros and pros.

20 THE CHAIR: Commissioners, what's your  
21 pleasure?

22 COMMISSIONER BERGMAN: Well, we are the  
23 ones that took the action, but CSD was a part of us  
24 taking the action. So, I'm not sure -- who would  
25 actually be responsible for sending the letter?

1 Here, again, it would come down to you attorneys,  
2 who --

3 MS. LEWIS: It will still be signed by the  
4 Commission. But now, we're, you know, talking  
5 about -- well, okay. I guess my advice is that  
6 because this is a legal document, you should  
7 probably have me draft it, and I'll run it by CSD in  
8 case there's anything I missed or anything they  
9 suggested, is what I would advise.

10 COMMISSIONER CARR: That sounds good.

11 THE CHAIR: Works for me. Is that all  
12 right?

13 Okay. Then the Chair would entertain a  
14 motion as to the populated template. The  
15 information has already been populated for TLC.  
16 Commissioner Gant.

17 COMMISSIONER GANT: Madame Chair, members,  
18 I move that we accept and use the closure document  
19 for TLC, as formatted and populated. But I would  
20 like to add one thing -- and correct me if I'm  
21 wrong -- with the ability to change the format, as  
22 required, during the process of closure.

23 MS. LEWIS: Agree.

24 THE CHAIR: Do we have a second?

25 COMMISSIONER BERGMAN: Second.

1 THE CHAIR: Motion by Commissioner Gant,  
2 second by Commissioner Bergman, to accept the  
3 closure document template with the ability to make  
4 changes as needed. Commissioner Parker?

5 COMMISSIONER PARKER: Due to my recent  
6 appointment, again, I will be abstaining from this  
7 vote, as well.

8 THE CHAIR: Thank you. Thank you. Any  
9 other discussion? Commissioner Bergman, may we have  
10 a roll-call vote, please?

11 COMMISSIONER BERGMAN: Commissioner  
12 Peralta.

13 COMMISSIONER PERALTA: Yes.

14 COMMISSIONER BERGMAN: Commissioner Pogna.

15 COMMISSIONER POGNA: Yes.

16 COMMISSIONER BERGMAN: Commissioner Carr.

17 COMMISSIONER CARR: Yes.

18 COMMISSIONER BERGMAN: Commissioner  
19 Conyers.

20 COMMISSIONER CONYERS: Yes.

21 COMMISSIONER BERGMAN: Commissioner Parker  
22 abstains. Commissioner Gant.

23 COMMISSIONER GANT: Yes.

24 COMMISSIONER BERGMAN: Commissioner  
25 Shearman.

1 THE CHAIR: Yes.

2 COMMISSIONER BERGMAN: Commissioner  
3 Bergman votes "yes." Again, Madame Chair, that's a  
4 "seven" vote, and one abstention.

5 THE CHAIR: Thank you very much. The  
6 motion passes by a vote of seven to zero, with one  
7 abstention. Thank you all very much.

8 Item No. 18 on the agenda is Discussion  
9 and Possible Action on Approval of Dream Dine'  
10 Charter School.

11 Ms. Lewis, do you want Patti to come up?

12 MS. LEWIS: If she'd like to.

13 THE CHAIR: And while you all are -- if  
14 you'd like to come up, please do, Patti. While you  
15 all are getting documents out, I'd like to read a  
16 little introductory paragraph here.

17 "When a charter school appeals a decision  
18 from the PEC, New Mexico law states that the parties  
19 are strongly encouraged to continue discussion and  
20 negotiations in an effort to resolve the matter by  
21 agreement. Dream Dine' approached the PEC in this  
22 spirit through the PEC's attorney, and the Executive  
23 Committee undertook these negotiations on behalf of  
24 the Commission.

25 "We present to you today a settlement

1 agreement endorsed by us for your approval. You  
2 have been distributed copies of this" -- pardon  
3 me -- "of this agreement for your review."

4 And if you'd like to take a couple of  
5 minutes to read through this proposed settlement,  
6 then we'll move on to further discussion of the  
7 possible action.

8 Just to be sure we're doing this  
9 absolutely correctly, I'm going to ask Abby to read  
10 this into the record, so that we are sure we have  
11 all our bases covered.

12 MS. LEWIS: Okay. So bear with me now.  
13 It's of a couple of pages. But considering that it  
14 was drafted by lawyers, I think a couple of pages is  
15 great.

16 "Settlement Agreement between the  
17 New Mexico Public Education Commission and Gavin  
18 Sosa, applicant for Dream Dine' Charter School.

19 "This agreement between the Public  
20 Education Commission and Gavin Sosa, an applicant  
21 for a proposed public charter school to be known as  
22 Dream Dine', is entered this day, the 13th day of  
23 December, 2013.

24 "Whereas, on July 1, 2013, Mr. Sosa timely  
25 submitted his application for a charter school to

1 the Commission, by and through the Charter Schools  
2 Division, CSD, of the New Mexico Public Education  
3 Commission, NMPED.

4 "Mr. Sosa proposed to locate a charter  
5 school in Shiprock, New Mexico, that would be known  
6 as Dream Dine'.

7 "Whereas, the CSD recommended approval for  
8 the application and scored it the highest of all the  
9 applicants of the 2013 cycle, without conditions.

10 "Whereas, the Commission's September 27,  
11 2013, meeting, a vote to approve the application  
12 failed, and said vote was followed by a letter from  
13 the Chair of the Commission dated October 9, 2013,  
14 wherein the Commission stated its decision to deny  
15 the application and the reasons for denial.

16 "Whereas, pursuant to NMSA 1978,  
17 Section 22-8B-7, Mr. Sosa timely filed a notice of  
18 appeal of the Commission's denial of the application  
19 to the Secretary of the New Mexico Public Education  
20 Commission."

21 Should that be "Department"?

22 MS. MATTHEWS: Yes.

23 MS. LEWIS: Okay.

24 "The matter of Gavin Sosa v. New Mexico  
25 Public Education Commission appeal is currently set



1 for hearing before the Secretary on December 19th,  
2 2013.

3 "Whereas, on December 6, 2013, the  
4 Secretary extended the Commission's deadline for  
5 submitting its response to appellant's argument in  
6 support of appeal until December 16, 2013, pending  
7 discussions for resolving the appeal between  
8 Mr. Sosa and the Commission.

9 "Whereas, the Commission and Mr. Sosa  
10 desire to resolve the appeal amicably, pursuant to  
11 the terms of this settlement agreement, according to  
12 the terms set forth herein.

13 "Now, therefore, the parties agreed as  
14 follows:

15 "In exchange for Mr. Sosa clarifying  
16 provisions of the application, as set forth in  
17 Paragraphs 3 through 6 below, and other  
18 considerations stated herein, the Commission agrees  
19 to approve the application for a term beginning  
20 December 13th, 2013, through June 30th, 2019.

21 "Approval of the application shall be  
22 effected by a vote of the Commission on this  
23 settlement agreement during its scheduled meeting of  
24 December 12th to 13th, 2013.

25 "The Commission's vote shall constitute a

1 resolution of the appeal and shall not be the basis  
2 for reopening consideration of the application.

3 "In exchange for the Commission approving  
4 the application, Mr. Sosa agrees to clarify the  
5 application, as described in Paragraphs 3 through 6  
6 below, and to dismiss the appeal pursuant to  
7 6.80.4.14(D)(9) NMAC.

8 "The application will be clarified to  
9 articulate the following goal statements:

10 "Beginning with the first cohort of  
11 third-graders in 2016-'17, Dream Dine' students will  
12 outperform grade-level cohorts in the Central  
13 Consolidated School District by at least 10 percent  
14 in mathematics and ELA/literacy, as measured by the  
15 PARCC, Partnership for Readiness and College and  
16 Career Assessment.

17 "B. Dream Dine' fourth-grade students  
18 will demonstrate a 5-percent growth in mathematics  
19 and ELA/literacy performance, as compared to the  
20 third-grade baseline performance, as measured by the  
21 PARCC, Partnership for Readiness for College and  
22 Career Assessment, in the year 2017-'18.

23 "C. Beginning with the end of the first  
24 school year, May 2015, 80 percent of Dream Dine'  
25 students will demonstrate at least 10-percent yearly

1 growth in Navajo language proficiency scores, as  
2 measured by the Navajo Oral Language Assessments,  
3 pre and post-tests.

4 "D. Beginning in the first year, 2004-'15  
5 Dream Dine' will average 95-percent attendance rate  
6 for each academic year of the charter term.

7 "During..." -- this is going on to the  
8 next paragraph, No. 4.

9 "During the planning year, the applicant  
10 will clarify the application to state that the size  
11 of the school's governing body will be between five  
12 and nine members.

13 "Next, the applicant will review and  
14 clarify the selection process for governing body  
15 members, as stated in the application and attach  
16 bylaws to ensure that the provisions are not in  
17 conflict with the New Mexico Open Meetings Act, NMSA  
18 1978, Section 10-15-1, et seq.

19 "6. As a cure for reasons for denial, 4,  
20 5A, 5B, and 6, as stated in the letter of October 9,  
21 during the planning year, the applicant will work  
22 with its assigned New Mexico Public Department  
23 budget analyst to ensure that the Department  
24 approves a school budget commensurate with the  
25 educational and operational obligations as set forth

1 in the application, and as required to meet all  
2 State and federal requirements of a public school.

3 "7. The applicant will make every effort  
4 to meet the current deadline, as set forth in the  
5 Planning Year Checklist, School Year 2013 to '14.  
6 However, because the planning year has been  
7 truncated, except for the requirements concerning  
8 facilities, the deadlines, as set forth in the  
9 Planning Year Checklist, School Year 2013-'14, will  
10 be automatically extended for 60 days for the  
11 Dream Dine' Charter School.

12 "All requirements shall be complied with  
13 on or before September 1, 2014, unless otherwise  
14 extended by the Commission for good cause shown.

15 "8. The settlement agreement shall only  
16 be effective upon final action of the Commission in  
17 a public meeting, signature of its chair and  
18 Mr. Sosa or its designee, and only if accepted on  
19 its terms as drafted."

20 Then there's signature lines for you and  
21 Mr. Sosa to sign.

22 THE CHAIR: Commissioners, you've heard  
23 the provided settlement agreement. Is there  
24 discussion? Commissioner Carr.

25 COMMISSIONER CARR: Madame Chair, so the

1 Executive Committee -- were you guys part of this  
2 negotiation?

3 THE CHAIR: Yes, we were.

4 COMMISSIONER CARR: And, so, this is based  
5 on your recommendation?

6 THE CHAIR: This -- yes, this is based on  
7 our recommendation, after a great deal of -- of back  
8 and forth, refining, suggestions and refining the  
9 conditions and the responses in here.

10 Yes, it wasn't a quick -- a snap judgment  
11 or a snap operation on anybody's part. There's been  
12 a lot of thought and a lot of work that's gone into  
13 this. I, personally, feel this is the best  
14 settlement that we could bring to the Commission.  
15 That's my personal feelings.

16 You might ask Commissioner Bergman and  
17 Commissioner Gant if -- for their personal --

18 COMMISSIONER CARR: Yes, I'd like to hear  
19 from the rest of --

20 COMMISSIONER BERGMAN: No, I agree. There  
21 was a great deal of give-and-take on both sides, as  
22 is -- that's why it's called a negotiation. And I  
23 am comfortable -- I'm not comfortable that we're in  
24 this situation; none of us are. But I am  
25 comfortable that this will resolve it.

1           And I -- and this situation is just an  
2           example of why I am so fervent about our forms. It  
3           is why I am so fervent about our application forms  
4           and the need to revise them, so that we get them to  
5           the point where we don't have this problem, and that  
6           applicants, whoever they are, clearly understand  
7           what this Commission expects to see in an  
8           application. And that's why I am so fervent about  
9           it.

10           It really is. I'd rather we didn't have  
11           to go down these kinds of roads. And, so, that's  
12           why I say it's imperative that we get the  
13           application form done in the next month or so, and,  
14           hopefully, we're going to alleviate these kinds of  
15           situations in the future.

16           COMMISSIONER CARR: Okay.

17           THE CHAIR: Thank you. Commissioner Gant.

18           COMMISSIONER GANT: Madame Chair, members.

19           In my opinion, I guess this is the best we can  
20           expect. We were placed between a rock and a hard  
21           place, and they put a box around this Commission. I  
22           believe that if it went forward for the hearing,  
23           that the Secretary Designee, Skandera, would approve  
24           it for other reasons, okay?

25           I think this is the best we can do. And

1 if we want to control what's happening with charter  
2 schools, I guess we have to do this. Thank you.

3 THE CHAIR: Does that answer your  
4 concerns --

5 COMMISSIONER CARR: Madame Chair, yes.  
6 Yes.

7 THE CHAIR: -- Commissioner Carr?

8 COMMISSIONER CARR: It does.

9 THE CHAIR: Are there other discussions?  
10 Seeing none, the Chair would entertain a motion  
11 concerning this settlement agreement between the  
12 Public Education Commission and Gavin Sosa,  
13 applicant for the Dream Dine' Charter School.

14 MS. BARNES: Madame Chair, may I ask a  
15 clarification point? Since we've been working on  
16 extensions for all of the schools about when the  
17 contract would take place, I was just checking with  
18 Kelly. The Planning Year Checklist, one of the  
19 items in the Planning Year Checklist is the  
20 completion of the negotiation of the contract. So,  
21 in my understanding, that that would be extended  
22 until September 30th, because it's --

23 MS. LEWIS: September 1.

24 MS. MATTHEWS: I doubt that we need to do  
25 that, Julia. It wouldn't make sense to me that

1 you'd have your contract negotiations extending into  
2 the next fiscal year. I mean, I think the intent is  
3 to finish the contract negotiations this -- before  
4 the school year starts. Right, Gavin?

5 MR. SOSA: Correct.

6 MS. MATTHEWS: So, I mean, is that  
7 actually a specific deadline --

8 MS. BARNES: Yeah. I just asked Kelly if  
9 that was in the checklist. And she said that it  
10 was. So, I was just clarifying what you wanted to  
11 do, and then clarifying whether we needed an  
12 extension, because she just said, "Did you do one  
13 for Dream Dine'," and I said, "No."

14 So, I'm wondering if you could take care  
15 of that here, Patti.

16 MS. MATTHEWS: Madame Chair, members of  
17 the Commission, if we're going to be signing the  
18 extension, anyway, which, apparently, pulls it out  
19 of the checklist consequence -- or time lines --  
20 then we can, in that -- in the extension of the  
21 deadlines, set that deadline, I would assume,  
22 before -- what is it now, Kelly?

23 MS. BARNES: June, June 30.

24 MS. MATTHEWS: I absolutely would be able  
25 to just go along with the rest of the group on that



1 specific date. I'm more concerned about the -- you  
2 know, there's a huge number of policies, et cetera,  
3 that are required in that checklist that are  
4 time-consuming, you know. The contract  
5 negotiations, I'm sure the school would rather just  
6 get done and over with, so they know what's expected  
7 of them right now, and they can incorporate that  
8 into the planning process.

9 So, I think we can go along with that  
10 specific date, and we can -- rather than amend this  
11 settlement agreement, all we have to do is sign that  
12 agreement with a date specified, and I think that  
13 settles that piece.

14 THE CHAIR: Does that suit you, Abby?

15 MS. LEWIS: Uh-huh. Yes. Sorry.

16 THE CHAIR: Commissioner Bergman.

17 COMMISSIONER BERGMAN: So, are we  
18 saying -- and are you saying -- that we probably  
19 could just incorporate Dream Dine' into our calendar  
20 that we already have for all the other schools, so  
21 it will be accomplished, certainly, in plenty of  
22 time, as you've noted, for you to get your school up  
23 and running, the earlier, the better? Is that going  
24 to be acceptable to everybody?

25 MS. MATTHEWS: Madame Chair, Commissioner

1 Bergman, yes, that is exactly what we're saying.

2 THE CHAIR: Again, the Chair is -- would  
3 entertain a motion. Commissioner Bergman.

4 COMMISSIONER BERGMAN: Madame Chair, I  
5 would move that this settlement that has been read  
6 into the record and proposed be accepted by this  
7 Commission.

8 THE CHAIR: Do we have a second?

9 COMMISSIONER CONYERS: I'll second that.

10 THE CHAIR: We have a motion and second by  
11 Commissioner Bergman, seconded by Commissioner  
12 Conyers, to accept the settlement agreement, as  
13 proposed.

14 Let me just ask -- I noticed there's a  
15 blank where the 13th of December would need to be  
16 inserted in that first paragraph. And then you read  
17 a correction in the -- one, two, three, four --  
18 fifth paragraph, changing the word "Commission" to  
19 "Department"?

20 MS. LEWIS: Correct.

21 THE CHAIR: Does that need to be part of  
22 the motion, or is reading it into the record  
23 correction enough?

24 MS. LEWIS: It's fine. In my opinion,  
25 it's fine to initial just that change from

1 "Commission" to "Department." And I read it into  
2 the record. I changed it as I read it; right?

3 MS. MATTHEWS: We changed it as you read  
4 it. I think that should be adequate. And we can  
5 initial, on the signed copy, that word change.

6 THE CHAIR: Okay. So, we're all okay with  
7 the corrections? All right.

8 We have a motion and a second on the  
9 floor. Is there discussion? Commissioner Parker.

10 MR. PARKER: As with many other motions,  
11 I'll be abstaining, due to my recent appointment.  
12 However, I would just like to say thank you to the  
13 Executive Committee and the Dream Dine' School for  
14 working so hard to come to a common ground. I think  
15 that speaks volumes, so...

16 THE CHAIR: Thank you. Thank you very  
17 much.

18 Further discussion?

19 Commissioner Bergman, may we have a  
20 roll-call vote?

21 COMMISSIONER BERGMAN: Commissioner Pogna.

22 COMMISSIONER POGNA: Yes.

23 COMMISSIONER BERGMAN: Commissioner Carr.

24 COMMISSIONER CARR: No.

25 COMMISSIONER BERGMAN: Commissioner

1 Conyers.

2 COMMISSIONER CONYERS: Yes.

3 COMMISSIONER BERGMAN: Commissioner Parker  
4 abstains. Commissioner Peralta.

5 COMMISSIONER PERALTA: No.

6 COMMISSIONER BERGMAN: Commissioner Gant.

7 COMMISSIONER GANT: No.

8 COMMISSIONER BERGMAN: Commissioner

9 Shearman.

10 THE CHAIR: Yes.

11 COMMISSIONER BERGMAN: Commissioner

12 Bergman votes "yes."

13 Hang on a second. Madame Chair, it looks  
14 like I have four "yes" votes and three "no" votes  
15 and one abstention.

16 THE CHAIR: Okay. Let me fill this in.  
17 The motion was duly made, seconded, and, with four  
18 votes in favor, three voted against and one  
19 abstaining, the motion carried.

20 Thank you all very much. Oh. Do I need  
21 to read this whole thing?

22 MS. LEWIS: Uh-huh.

23 THE CHAIR: Okey-dokey. From here? Is  
24 that all right?

25 "Be it resolved by the New Mexico Public

1 Education Commission, as follows:

2 "Whereas, on June 1st, 2013, Mr. Sosa  
3 timely submitted his application for a charter  
4 school to the Commission, by and through the Charter  
5 Schools Division of the New Mexico Public Education  
6 Department, NMPED. Mr. Sosa proposed to locate a  
7 charter school in Shiprock, New Mexico, that would  
8 be known as Dream Dine'.

9 "Whereas, the CSD recommended approval of  
10 the application and scored it the highest of all of  
11 the applications of the 2013 cycle, without  
12 conditions.

13 "Whereas, during the Commission's" --  
14 pardon me -- "September 27, 2013 meeting, a vote to  
15 approve the application failed, and said vote was  
16 followed by a letter from the Chair of the  
17 Commission, dated October 9, 2013, wherein the  
18 Commission stated its decision to deny the  
19 application and the reasons for the denial.

20 "Whereas, pursuant to NMSA 1978, 22-8B-7,  
21 Mr. Sosa timely filed a notice of appeal for the  
22 Commission's denial of the application to the  
23 Secretary of the New Mexico Public Education  
24 Department. The matter of Gavin Sosa v. New Mexico  
25 Public Education Commission, appeal, is currently

1 set for hearing before the Secretary on December 19,  
2 2013.

3 "Whereas, on December 6, 2013, the  
4 Secretary extended the Commission's deadline for  
5 submitting its response to Applicant's argument in  
6 support of appeal until December 16, 2013, pending"  
7 discussion -- "discussions for resolving the appeal  
8 between Mr. Sosa and the Commission.

9 "Whereas, the Commission agrees to the  
10 terms of the settlement agreement between the  
11 New Mexico Public Education Commission and Gavin  
12 Sosa, Applicant for Dream Dine', a New Mexico public  
13 charter school, which settlement agreement is  
14 attached to this resolution.

15 "Whereas, the settlement will resolve the  
16 pending appeal and will effectuate approval of the  
17 Dream Dine' Charter School application, as set forth  
18 in the settlement agreement.

19 "Now, therefore, be it resolved that the  
20 settlement agreement between the New Mexico Public  
21 Education Commission and Gavin Sosa, Applicant for  
22 Dream Dine', a New Mexico public charter school, is  
23 hereby approved, and the Chair of the Commission is  
24 authorized to execute the settlement agreement and  
25 to approve the proposed dismissal of appeal attached

1 to this resolution.

2 "The motion was duly made, seconded, and  
3 four voted in favor, three voted against, one  
4 abstained. The motion carried."

5 Thank you all.

6 MS. MATTHEWS: Ms. Shearman, if I may, I'd  
7 like to drop this with the Secretary today, so that  
8 we have the dismissal in the record immediately. If  
9 we have time to execute documents, that would be  
10 great, unless that's too disruptive.

11 MS. LEWIS: I've already reviewed the  
12 order of dismissal that Patti drafted and approved  
13 it as to form. It's just a standard dismissal  
14 saying, "We've come to an agreement, and, therefore,  
15 there's no need for the appeal."

16 The other documents that would be executed  
17 are just the settlement agreement that was read and  
18 the resolution. So, I would advise going ahead and  
19 getting it done.

20 THE CHAIR: Okay. Does that require a  
21 vote?

22 MS. LEWIS: No, you've done all the votes  
23 you need to at this point. You just need to sign --  
24 more signatures.

25 THE CHAIR: Okay. Do I need to do that

1 right now, then? Why don't we take about a  
2 ten-minute break at this point, and I'll get those  
3 papers signed, and we can all come back at 10  
4 minutes till?

5 (Recess taken, 1:42 p.m. to 1:57 p.m.)

6 THE CHAIR: All right. We're already a  
7 little behind the curve, so let's get started back,  
8 please.

9 We are on Item No. 19, Report from PEC  
10 Legislative Committee and Possible Vote on  
11 Legislative and Constitutional Priorities.

12 Commissioner Carr.

13 COMMISSIONER CARR: Madame Chair, members  
14 of the Commission, I -- what I have, I guess, is  
15 pretty short.

16 I -- we voted on an amendment that was  
17 basically House Bill 492, that was vetoed last -- it  
18 was 392; you're right -- 392 -- which was vetoed  
19 last -- after the last session. We voted to go  
20 forward with an amendment that was basically -- that  
21 bill was, basically -- so, especially, our new  
22 Commissioner -- would have put us in charge of the  
23 Charter Division of the PED.

24 I have -- and I guess a version -- Senator  
25 Tim Keller, actually, I guess, presented yesterday,



1 to the LESC, a slightly amended version of that as  
2 an Act, actually, that was approved by the LESC  
3 yesterday. He thinks he fixed some things that  
4 would possibly avoid a veto.

5           However, also, I have found out within the  
6 last week that there -- Representative Rick Miera,  
7 the House Majority Leader, will be submitting to the  
8 Legislature an amendment that we had voted on  
9 previous to this one, House Bill 392, we'll call it,  
10 as an amendment.

11           But on the more -- what's the word for it,  
12 I guess -- more -- more invasive amendment, which  
13 would basically take us back to the 2003 statutes  
14 and Constitution, which would make this the State  
15 School Board again, with full oversight powers, and,  
16 then, we would select the Secretary of Education --  
17 the Superintendent of Education, however -- whatever  
18 name that may end up with.

19           The -- so, that was kind of surprising. I  
20 wasn't sure we were going to go there. I thought  
21 they were more amenable to the lesser amendment that  
22 we voted on. But it looks like there's a great deal  
23 of momentum to support the amendment that I put  
24 forth over a year ago.

25           So, that's going on. And I will get a

1 copy of -- Representative Rick Miera already drafted  
2 his own version of that amendment. After I leave  
3 here this afternoon, I'm going to go get a copy of  
4 that, and I'll make sure everybody gets a copy of  
5 the exact wording.

6 You know, everybody wants to change it  
7 around a little bit, you know. I think the basics  
8 are there, though, I'm sure.

9 The other thing that -- that I'm going to  
10 do is -- and this is another topic, based on the new  
11 teacher evaluation that's being put forth this year.  
12 Part of that evaluation actually docks down a  
13 teacher's evaluation if they miss more than two sick  
14 days, which I find personally outrageous and  
15 extreme. But I'm going to write a letter to the  
16 Attorney General's Office asking for an opinion as  
17 to whether or not that violates State or federal  
18 labor laws.

19 It will take some time, I understand, to  
20 get that back. But I'm going to -- as a Public  
21 Education Commissioner, I can write a letter to the  
22 Attorney General and ask for a decision on the  
23 legality of an action by, I guess, anybody in  
24 government, for that matter; right?

25 MS. LEWIS: I'm sorry? Yeah, as a

1 Commissioner, you can ask for an opinion from the  
2 AG. Is that what you're asking?

3 COMMISSIONER CARR: Okay. Yes. Yes,  
4 ma'am. Okay. So, that's -- those are -- that's my  
5 report. And I'll get you guys more information as I  
6 get it.

7 You know, things are going to be unfolding  
8 quite rapidly with the -- the Legislative Session  
9 coming up, and the interim committees are meeting  
10 and all that. So, I'll try to keep you guys  
11 informed as -- you know, just for your information,  
12 FYI e-mails. And, of course, you're welcome to give  
13 me a phone call, as well.

14 COMMISSIONER POGNA: Jeff, is this -- is  
15 this legislation -- is that pretty much  
16 confidential? Is it restricted? After you send us  
17 the copy that Rick Miera is going to send to you,  
18 can we discuss it?

19 COMMISSIONER CARR: It -- Representative  
20 Rick Miera has already made -- you know, what he  
21 was -- what he told me public. So, yeah, I don't  
22 think there's going to be anything secret about it.  
23 I'll get clarifica- -- I won't -- I'll let you know  
24 if -- I don't see any reason why it would be  
25 confidential.

1 COMMISSIONER POGNA: Okay. Thank you.

2 THE CHAIR: Other questions of  
3 Commissioner Carr? Commissioner Bergman.

4 COMMISSIONER BERGMAN: I don't have a  
5 question. But with more people jumping into the  
6 pool with their own plan, there's a danger that this  
7 thing is going to get so fragmented, we'll end up  
8 with nothing again. But I guess all we can do is  
9 try. Thank you.

10 THE CHAIR: Thank you. Any other  
11 comments?

12 Commissioner Carr, thank you for all your  
13 efforts and your work. I know you put a lot into  
14 this, and you will continue to put a lot into it  
15 during the session. I'm sure you'll be called to  
16 testify before various committees and so forth, too.  
17 And, so, we appreciate all your work. You may not  
18 be the only one called in to testify. We certainly  
19 appreciate everything you've done.

20 Let's move on to Item No. 20, which is the  
21 PEC Meeting Calendar. And, Commissioners, as we  
22 were talking about earlier, I think it's going to  
23 require that we have a workday, at least one, prior  
24 to each one of our scheduled meetings, at least  
25 through the spring. We'll just have to see. It's a

1 work in progress.

2 I don't know if we need a -- I don't  
3 believe we need to have a vote on setting those  
4 workdays. But I simply would like to have  
5 everyone's input and participation, to the extent  
6 possible. I know particularly those of you who  
7 work, getting another day or more off is -- may be  
8 an issue. But the more people that we can have at  
9 those work sessions, the more we're going to be able  
10 to get done, I think.

11 So, the other thing that we've been  
12 discussing here -- let me jump ahead, or behind, or  
13 whatever it is, a little bit. We moved Item No. 12  
14 down to the bottom part of the agenda. There is a  
15 lot to be done, still, in Item 12.

16 Commissioner Gant suggested that what we  
17 do, instead of trying to deal with Item 12 today --  
18 and it's already after 2:00 -- is allow Julia and  
19 Abby, and whomever else they feel could have good  
20 input into this, to work through the document,  
21 incorporate the changes that were talked about and  
22 pretty much agreed on during the work session, and  
23 then work through the rest of the document with  
24 their suggestions on -- knowing what we said on the  
25 first part of the document, work on the latter part

1 of the document to see if they can change it to,  
2 more closely, what they think we're looking for,  
3 give that to us -- and I know that Julia has a  
4 handout that's going to talk about what we did in  
5 the work session, sort of a synopsis, so everyone  
6 has a good understanding of what's going on.

7 Then, if we could set our work session in  
8 January, so that we work half a day on Wednesday,  
9 the 8th, and all day on Thursday, the 9th, I'm sure  
10 we could get all of this done, including the work on  
11 the MOU that Julia had in the stack for Wednesday; a  
12 day-and-a-half workday, and then have all of that on  
13 the agenda for action on the 10th of January,  
14 hopefully, we could get it all done.

15 And, then, looking forward, a workday on  
16 the 27th of February -- and these are just  
17 suggestions; we'll firm these up as we get closer to  
18 them, but I think they're going to be needed -- a  
19 workday on February the 27th, a workday on March  
20 27th.

21 COMMISSIONER BERGMAN: Now, that's the  
22 Spring Budget Workshop, too. The 26th and 27th are  
23 already the Spring --

24 THE CHAIR: The Spring Budget Workshops.

25 COMMISSIONER BERGMAN: And right now, we

1 have a couple of contract negotiations scheduled on  
2 the 25th. So, that's going to be a very busy week.

3 THE CHAIR: It sure may be.

4 MS. LEWIS: Also, Madame Chair, I will be  
5 out of town for the February meeting. Of course,  
6 somebody will be covering for me, so you won't be  
7 without counsel. But I'll be here -- I believe I'll  
8 still be here on the 27th, but I would have to check  
9 with you on that. But I'm hoping we can get it done  
10 in January.

11 MS. BARNES: We won't get everything done  
12 in January; but we may be able to miss a meeting for  
13 sure, a work session.

14 THE CHAIR: We've got a lot of documents,  
15 still, to go through.

16 MS. BARNES: I agree. And I'm not sure,  
17 actually, that CSD is going to have the time before  
18 the January meeting -- they're going to be ready on  
19 the application. But, you know, the renewal --  
20 there's a lot that they need to review, as well.  
21 So, I'd like to keep some kind of pace. But there's  
22 no reason we can't miss a very busy meeting.

23 THE CHAIR: All right. Let's just  
24 tentatively, then, plan on the -- half-a-day on the  
25 8th and all day on the 9th of January, the 27th of

1 February, and, then, at that -- in February, we will  
2 talk about the March workday.

3 MS. BARNES: Good.

4 COMMISSIONER BERGMAN: We certainly could  
5 take some time away from the budget workshop and  
6 skip some classes and go to a work session.

7 THE CHAIR: We'll just see if we need it,  
8 if everyone's ready for it, and so on. So, if that  
9 works preliminarily for everybody --

10 COMMISSIONER BERGMAN: We have to keep in  
11 mind that the staff presents at the Spring Budget  
12 Workshop. They do classes and stuff. So, yeah,  
13 there's a lot of considerations there.

14 MS. FRIEDMAN: Madame Chair.  
15 Madame Chair.

16 THE CHAIR: I know somebody's -- oh,  
17 Beverly. Sorry. I couldn't find you.

18 MS. FRIEDMAN: That's all right. May I  
19 work with Abby on the announcement for the January  
20 meeting, because if you're going to be meeting on  
21 the 8th, we have to announce that -- we're still ten  
22 days ahead of that to announce it. And we're  
23 talking about, probably, the 26th or the 27th of  
24 December.

25 So, if I can work with Abby on the actual



1 announcement, and, then, we would have to have a  
2 pre-conference -- agenda setting conference call to  
3 set the agenda. I think we can announce the meeting  
4 without having an agenda.

5 MS. LEWIS: We don't have to have the  
6 agenda setting meeting. It's been our procedure.  
7 But if we had to set the agenda, you know, if we  
8 can't all get on the phone at the same time, and the  
9 EC and you and I have to set it in an alternative  
10 fashion, that's okay, under the law.

11 MS. FRIEDMAN: Okay. Because I know that  
12 there will be people out of town over the Christmas  
13 holidays and everything like that. I just want to  
14 make sure that we're legal as far as announcing the  
15 meeting.

16 THE CHAIR: What are you thinking about  
17 for the conference call?

18 MS. FRIEDMAN: Next week would be great  
19 for me.

20 THE CHAIR: And Abby is out of town.

21 MS. FRIEDMAN: Yeah. Possibly the 23rd,  
22 which is a Monday.

23 THE CHAIR: A week from Monday.

24 MS. FRIEDMAN: A week from Monday.

25 THE CHAIR: Vince? Gene?

1 COMMISSIONER GANT: Yeah.

2 COMMISSIONER BERGMAN: I'm thinking. Are  
3 you talking about the 23rd of December, a Monday?

4 THE CHAIR: Yeah.

5 COMMISSIONER BERGMAN: I have family in,  
6 but they can go and visit the zoo or something, if  
7 they don't want to listen to me talk on the phone,  
8 yeah.

9 MR. GERLICZ: They can come to the PEC  
10 meeting.

11 MS. BARNES: Is there a time?

12 MS. FRIEDMAN: What time would be best?  
13 In the morning?

14 MS. LEWIS: I'm unavailable on the 23rd at  
15 11:30 until about 1:00. But other than that --

16 MS. FRIEDMAN: Can we meet at 9:00? Tony?

17 MR. GERLICZ: What date is that?

18 MS. FRIEDMAN: 23rd.

19 MR. GERLICZ: Of February? January?

20 MS. FRIEDMAN: No, no, no, of December.

21 COMMISSIONER GANT: Telephone call.

22 COMMISSIONER BERGMAN: Telephone call.

23 MS. FRIEDMAN: Agenda-setting call.

24 MR. GERLICZ: At what time?

25 MS. FRIEDMAN: 9:00.

1 MR. GERLICZ: I'll have to move things  
2 around. Yes.

3 COMMISSIONER GANT: Yes.

4 COMMISSIONER BERGMAN: Yes.

5 THE CHAIR: Yes.

6 MS. FRIEDMAN: 9:00 on Monday, the 23rd?

7 THE CHAIR: You will send an e-mail to  
8 remind us?

9 MS. BARNES: Also, if I might add one  
10 thing: For the working session meetings, I would  
11 like to notice them in a way that allows us to talk  
12 about any of the documents on the chart that might  
13 be ready. So, however we can do that -- like this  
14 time, it said specific things, and you had raised a  
15 concern.

16 I don't want any concern. If we're ready  
17 to talk about a document in a working session, we're  
18 ready to talk. So, that's what I'd like to do.

19 That doesn't mean we'll jump the gun. But, maybe --

20 COMMISSIONER BERGMAN: We're going to talk  
21 about forms, period.

22 MS. BARNES: And reference the chart,  
23 Abby, or whatever you want.

24 MS. LEWIS: If that's the preference of  
25 the Commission, I'm happy to draft it that way.

1 THE CHAIR: Good. So, we're all right  
2 with the calendar?

3 Let's move on to Item 21, PEC Comments.  
4 Let's just go around the table, see if anyone has  
5 anything to add.

6 Commissioner Conyers?

7 COMMISSIONER CONYERS: I really have no  
8 comments.

9 THE CHAIR: No?

10 COMMISSIONER CONYERS: No.

11 THE CHAIR: Okay, thank you. Commissioner  
12 Peralta.

13 COMMISSIONER PERALTA: Quickly, I see that  
14 we have this setting on our -- on our place over  
15 here. And I guess it's to showcase our new website  
16 and the color-coded thing that they did and what  
17 have you. It's all great. I'm glad to see it's  
18 been spruced up.

19 It's very nice, except that we've got some  
20 very important people missing in those chairs. Now,  
21 I thought it would be nice if we were able to see  
22 those Commissioners in that photo. And if you'd  
23 prefer to wait until our new chairs come in, so  
24 we're sitting higher, I'm up for that, too.

25 THE CHAIR: Deputy Secretary Aguilar has

1 asked for new chairs. I heard him say it this  
2 morning.

3 MS. FRIEDMAN: Madame Chair, if I may?

4 THE CHAIR: Yes.

5 MS. FRIEDMAN: Commissioner Peralta, we  
6 had a picture. The first picture that was placed on  
7 the page was a standard Commission picture. And I  
8 thought it was our Commissioners, because there were  
9 three people that I could identify as your current  
10 Commissioners.

11 Turns out it was a -- just a standard  
12 picture that they pulled off the web.

13 MS. CALLAHAN: A stock photo.

14 COMMISSIONER CARR: We were so  
15 good-looking that --

16 MS. FRIEDMAN: The comment was made that  
17 it would be best to have a picture that would not  
18 identify anybody, so that it would be able to be on  
19 there for a while.

20 I took two pictures today, and I can take  
21 another one before you all leave, if you would like,  
22 with my phone camera, and submit it to the IT office  
23 and ask them to put that particular picture on the  
24 web.

25 THE CHAIR: Oh, no. Oh, no. You use that

1 studio photo you've got of me. Because that's the  
2 most flattering picture I've had made in the last  
3 50 years. Oh, no.

4 MS. FRIEDMAN: The other option is just to  
5 leave that picture of the blank chairs. I know that  
6 that is kind of third-person, or, you know, very --

7 THE CHAIR: They can't bring in the  
8 pictures from the current --

9 MS. FRIEDMAN: No, because the pictures  
10 that are submitted for your Commission page, which  
11 is under the picture -- it says "Commissioners."  
12 You click on that, and those are your individual  
13 pictures.

14 THE CHAIR: Oh.

15 MS. FRIEDMAN: But for the picture across  
16 the top of the PEC web page -- it would be  
17 interesting if they could do that -- is to cut your  
18 faces and put them on your chairs, I guess, or  
19 something. But, basically, that's why that picture  
20 was chosen.

21 There are -- if you will notice when you  
22 can access the page, I made a couple of little  
23 changes to the Strategic Plan. The one that was on  
24 there was from 2004. And, so, I updated that. And  
25 we put some -- the district maps, I think, are still

1 on there for Commission seats.

2 The new directory includes Commissioner  
3 Parker. I think there are a couple of other  
4 changes. But I let Mr. Archibeque know that if any  
5 of you had any changes, any additions you would like  
6 to see on the page, let me know, and I can certainly  
7 get those changes made.

8 COMMISSIONER PERALTA: Okay.

9 THE CHAIR: My phone's trying to die. I  
10 can't have a dead phone. Commissioner Pogna.

11 COMMISSIONER POGNA: No, ma'am.

12 THE CHAIR: Commissioner Bergman.

13 COMMISSIONER BERGMAN: No, I've said  
14 plenty. Thank you.

15 THE CHAIR: Oh. All right. I have a  
16 couple of things to say, but I think I'll save mine  
17 till last.

18 I've asked Commissioner -- his name is  
19 "Gant" over here this time. I've asked  
20 Commissioner Gant to poll you, ask each one of you  
21 what kind of computer you want, because, if you'll  
22 remember, Deputy Secretary Aguilar said he was going  
23 to see about getting all Commissioners new  
24 computers.

25 Do you want -- they'll all be laptops.

1 But do you want one of those off-brand things with a  
2 picture of the fruit on it, or -- or, do you -- and  
3 he specifically asked me, did I want another big  
4 laptop, like I've got now, and I said, "Yes, because  
5 I don't see very well."

6 So, if you would let Commissioner Gant  
7 know your pleasures on a computer, then he can make  
8 that list and get it to the IT person.

9 COMMISSIONER BERGMAN: You mean, now, or  
10 in private?

11 COMMISSIONER GANT: Just send me a note.  
12 Please, e-mail me.

13 THE CHAIR: That would be better, just  
14 send him a note.

15 COMMISSIONER CARR: I just always believe  
16 that sometimes you get what you pay for. If you buy  
17 cheap stuff, you get cheap stuff, and it won't do  
18 what you want.

19 I understand that the PED has got a  
20 preference. And, also, as we all know well in this  
21 room, you're going to have to bring a three-year-old  
22 into this room to show me how to use the computer.  
23 Somebody is going to have to show me how to use it.

24 MS. FRIEDMAN: Madame Chair, when I  
25 discussed this with Mr. Aguilar after the last



1 meeting, I let him know that we would have work  
2 sessions before each of the meetings. And, so, one  
3 of those work sessions will probably be when those  
4 computers come in. And he would have someone here  
5 to train us.

6 We would also ask the Charter School  
7 Division computer person, Susan Coates, to guide us  
8 through to the SharePoint, where the information  
9 will be located, also. And, so, we will have some  
10 time.

11 But I will caution you that they are just  
12 the computers; they are not printers. There are no  
13 printers with the orders, unless you'd like to make  
14 that recommendation, or request.

15 COMMISSIONER GANT: Madame Chair, on the  
16 computers, just let me know what you want. But it's  
17 probably going to be a standardized set, like the  
18 Deputy said, HP. Well, I'm not so sure -- I've been  
19 through three HPs in the time that I've had one of  
20 these, so --

21 MS. LEWIS: Those last; they do.

22 COMMISSIONER GANT: But, anyway, I will  
23 look at the memory size and the Internet speed and  
24 all that kind of good stuff and put that information  
25 in. But I just want to know if you want HPs or -- I

1 don't even know what's out there anymore. If it's  
2 not this, then it's not a computer, so --

3 COMMISSIONER BERGMAN: I'm going to defer  
4 to you guys that know what you're talking about,  
5 because I don't have enough knowledge to tell you  
6 what I want, so...

7 THE CHAIR: But you can say, "I want a big  
8 screen; I want a little screen."

9 COMMISSIONER BERGMAN: I agree with you.  
10 These little teeny things about this big -- again, I  
11 would rather have something with at least a screen  
12 where -- because I do have a little trouble reading,  
13 too.

14 THE CHAIR: All right. Commissioner Carr?

15 COMMISSIONER CARR: Madame Chair, I have  
16 nothing else.

17 THE CHAIR: Commissioner Parker.

18 COMMISSIONER PARKER: Madame, Chair,  
19 Commissioners, I just want to say "thank you" for  
20 the warm welcome. Many of you have given me some  
21 side instruction on the smallest little things that  
22 have been very helpful. So, just, thank you.

23 THE CHAIR: We're glad you're here. Let  
24 me circle the wagons and come back --

25 COMMISSIONER GANT: Whoa, whoa, whoa.

1 THE CHAIR: I thought you already had your  
2 turn. Well, I'm just going to skip you, anyway.

3 COMMISSIONER GANT: You probably would.

4 THE CHAIR: Please, go ahead.

5 COMMISSIONER GANT: Commissioners, I did  
6 look at the website a little bit. And here's a  
7 couple of comments; you think about it.

8 On the left side of the picture of the  
9 empty chairs, what you do when you hit that "Home,"  
10 it takes you back to the PED. Well, once you're  
11 there, you can't get back to the PEC website.

12 So, we really don't need that on the site.  
13 At the bottom of the picture, where it says "PEC  
14 Home," next to that, put a "PED." If we want to go  
15 to the PED website, that would enable us to come  
16 back to PEC website real quick.

17 Also, I would suggest, on the right-hand  
18 side of the district maps, put a contact, where you  
19 just click that, and you can contact, quickly, the  
20 Commissioners, or what -- you know, they've got a  
21 "Contact Us" for the PED? We should have one for  
22 the PEC, also. See what I'm saying?

23 MS. FRIEDMAN: I think so.

24 COMMISSIONER GANT: We need to, as a  
25 Commission -- I looked at the mission/vision

1 statement. I think we need to sit down and look at  
2 that puppy, because that thing is older than I am,  
3 and that's old. All right?

4 And, then, there's some other changes.  
5 But those are the ones I saw, off the top.

6 Also, on the contract attorney, I'm quite  
7 happy with our arrangements now, and if we need an  
8 appeal attorney, then we hire one, as we need it.  
9 We don't always -- we don't always need an attorney.  
10 And, although, it would be a contract attorney, I  
11 guess, still, where does the money come from to pay  
12 for that? So I'm kind of wishy-washy.

13 We did the computers. Just to let you  
14 know, in the PSCOC business, one of the biggest  
15 items coming down from Charter Schools right now is  
16 a standardized lease assistance contract. And  
17 they've been working hard on that. They've had  
18 several public meetings on it.

19 The -- the Charter School folks, the --  
20 have been there in force, and it's been an  
21 interesting -- and it's getting close to being  
22 something that will really help the charter schools  
23 in the long run, and the taxpayers. So, I think  
24 it's a good deal.

25 And the last question -- and tell me,

1 Ms. Lewis, Abby -- not to talk about this one.

2 The Columbus appeal, where are -- what is  
3 going on with that thing? Does anybody know? The  
4 Columbus Charter School appeal? What's going on  
5 with that thing?

6 MS. BARNES: Maybe an e-mail didn't get to  
7 you. I'm -- I've been appointed as the PEC attorney  
8 in that matter. And we -- I filed a motion to  
9 dismiss, that the appeal is not timely. That will  
10 be finished with the briefing -- and I know  
11 "briefing" is a big word -- but by Monday. And,  
12 then, I have asked Dan Hill to please address that  
13 issue prior to briefing the entire appeal.

14 So, I'll let you know the outcome of that.  
15 But the motion to dismiss because it was untimely  
16 has been filed. A response has been filed. And I  
17 just need to get one more affidavit that -- and,  
18 then, we're going to ask them to decide that first,  
19 and, then, the other dates will be set.

20 My only concern, Commissioner Gant, is  
21 I -- you were on an e-mail. So, we just need to  
22 make sure that there's not a -- letting you know  
23 that already. So, I just need to make sure there's  
24 not a problem with that.

25 COMMISSIONER GANT: Madame Chair, Julia,

1 there were some things going on with family, and I  
2 may have missed it. It may have been there, but in  
3 the last three weeks, things have been going on.

4 MS. BARNES: Let me just tell you that I  
5 have an e-mail account I've had since the beginning  
6 of time when I had e-mail, and I have trouble  
7 getting rid of it because I like it. But it cannot  
8 send e-mail sometimes.

9 So, if you'll just double-check, so  
10 there's good communication.

11 COMMISSIONER GANT: Thank you. That's it.

12 THE CHAIR: Okay. My turn. I don't know  
13 if any of the rest of you have been getting these  
14 e-mails. Here is one. It says, "Ten new people" --  
15 I suppose they're "new," as opposed to "old" people.

16 But anyway, "Ten new people have recently  
17 signed Albert Simmons'..." -- this phone is smarter  
18 than I am.

19 MS. LEWIS: It's Change.org.

20 THE CHAIR: "...have recently signed  
21 Albert Simmons' petition, quote, New Mexico Public  
22 Education Commission make commuter science courses  
23 count toward graduation credit. Please help us make  
24 computer science satisfy existing high school  
25 graduation requirements for math or science."

1           There are now 290 signatures on this  
2 petition.

3           We don't have anything to do with that. I  
4 don't know. Other than delete, what I'm supposed to  
5 do with this? I hate for there to be 290 people out  
6 there thinking they sent this Commission a request  
7 to do something, and we're not even responding.

8           And, I also don't know how to stop this.

9           MR. GERLICZ: Welcome to the internet.

10          THE CHAIR: Pardon?

11          MR. GERLICZ: Welcome to the internet.

12          THE CHAIR: Yeah. Quit reading your  
13 e-mail, huh?

14          MS. FRIEDMAN: And your e-mails are public  
15 on that website.

16          THE CHAIR: Oh, yeah. Well, I haven't  
17 done a thing. They just get deleted, because I get  
18 10 or 15 of them a day, you know.

19          MR. GERLICZ: Madame Chair, a thought I  
20 did have around that issue was there is constant and  
21 ubiquitous confusion about what the Public Education  
22 Commission does, why does it exist, what is its  
23 purpose. I get it all the time in our world. And  
24 on the website, we should be clear, have a statement  
25 about what it is -- just do as much communication as

1 we can. And even to the level of specificity, so  
2 that, "The Public Education Commission does not make  
3 policy," or, "does not do this, does not do this,  
4 does do this, does do that."

5 COMMISSIONER BERGMAN: Great idea. But we  
6 have no control over a private individual who  
7 doesn't even do his homework and starts a petition  
8 without knowing what he's doing. We can't control  
9 that.

10 THE CHAIR: Well, really, my intent for  
11 bringing it up was to ask if there is someone in IT  
12 that knows more about this than I do that could go  
13 in and say, you know, "PEC doesn't do this, please  
14 quit signing that petition," or do I just ignore it  
15 and go on?

16 COMMISSIONER BERGMAN: Ignore it.

17 MS. FRIEDMAN: Ignore it.

18 MR. GERLICZ: Just push "Like."

19 COMMISSIONER CARR: Just "Like" it.

20 THE CHAIR: This is e-mail, not Facebook.  
21 And I don't like it; so, there. Okay. All right.  
22 I just wanted you to know.

23 The other thing I wanted to say today was  
24 we've talked a lot about the settlement agreement  
25 that we signed today. And I don't want to get into



1 territory that I shouldn't; so, Abby, keep me honest  
2 here.

3           There are things that the EC does that, by  
4 law, we, as -- either as a whole Commission or the  
5 EC, can do, like the conference call to set the  
6 agenda. If we get more people on there, then we  
7 have a quorum, and, you know, it has to be noticed  
8 and all that stuff.

9           This settlement business, one thing I'd  
10 like for everybody -- you probably already know  
11 this, but I want to be sure that you do.

12           Anytime the Public Education Commission  
13 differs from a recommendation of the CSD -- in other  
14 words, if CSD recommends that we approve an -- that  
15 an application be approved, and PEC decides to deny  
16 that application, then, at that point, PED/CSD does  
17 not provide legal assistance for us in that appeal.

18           They do, if we agree with the CSD's  
19 recommendation; for instance, Columbus Charter  
20 School. CSD recommended denying the application; we  
21 agreed. So, when they filed the appeal, Julia was  
22 assigned to handle that situation.

23           But on the Dream Dine', we voted contrary  
24 to the recommendation, so, that, at that point, a  
25 CSD or PED attorney -- it's a conflict of interest

1 for them to represent us.

2 In the past, they -- PED, in the form of  
3 General Counsel, has provided an attorney to  
4 represent us in that appeal. You heard me say why  
5 Abby is not representing us in appeal. That's a  
6 decision that the AG's office made. Fine. That's  
7 their business.

8 So, this time, my heartburn was not the  
9 amount of time that I and the other two officers  
10 spent on that settlement agreement and that Abby  
11 spent on it; she was a great deal of help. But my  
12 heartburn was that General Counsel did not appoint  
13 or retain an attorney to represent this Commission  
14 in that appeal until this week.

15 And you saw that gentleman walk in here  
16 and introduce himself -- was that Thursday? I'm  
17 losing track. I believe it was Thursday. There is  
18 a response document due on the 6th of December.

19 MS. LEWIS: Well, it's not due anymore.

20 THE CHAIR: Well, it was. It was. And,  
21 then, the hearing before the Secretary was scheduled  
22 for the 19th. How would you like to be an attorney  
23 to come into this situation with that little time to  
24 prepare?

25 It took two calls from me to Deputy

1 Secretary Aguilar and one call to the Secretary to  
2 get that attorney appointed for us. I was very  
3 disappointed that that happened the way it did.

4 If we're going to work together, and,  
5 certainly, we're all working hard to make that  
6 happen in a strong way, then everybody needs to be  
7 on board. And if PED General Counsel is responsible  
8 for assigning or retaining legal counsel for us in  
9 those particular appeals, then that needs to be done  
10 in a more timely manner, in my opinion.

11 I have said that to Deputy Secretary  
12 Aguilar. I said it to the Secretary on the message  
13 I left on her phone. And, now, I'm saying it to  
14 you. And I don't know if it'll make any difference.  
15 But I just wanted you all to know that I'm pretty  
16 disappointed in that.

17 I also thank Commissioner Carr -- pardon  
18 me -- Commissioner Bergman and Commissioner Gant,  
19 and Commissioner Carr, too -- but particularly, the  
20 other EC members -- for all the work and time they  
21 put in on that settlement. It was work that was  
22 well worth the time.

23 But I don't like working -- I don't like  
24 doing things that you all don't know about at the  
25 time it's going on. But if that's the way it has to

1 be, then that's the way it has to be, and we'll try  
2 to bring you all the information we can as soon as  
3 we can. Okay?

4 MS. LEWIS: I just wanted to let you know  
5 that if -- in the future, if you want to call a  
6 special meeting, then that might be an option, to  
7 bring the rest of Commission in. But it is  
8 difficult -- of course, I'm a big fan of the Open  
9 Meetings Act. But it does make legal representation  
10 a little bit challenging, because I can't  
11 necessarily, all the time, speak with you. I can  
12 extend you information, but we can't have a  
13 discussion with a quorum and myself, even if it's  
14 "Reply All E-mails." That's why you'll see, at the  
15 bottom of my e-mails, "Please do not Reply All."

16 So if it's the pleasure of the Commission  
17 that, going forward, there is more involvement by  
18 the full Commission, I just want to offer special  
19 meetings as a possible solution.

20 THE CHAIR: Okay. Thank you for that.  
21 And, of course, those have their own built-in  
22 problems.

23 MS. LEWIS: right.

24 THE CHAIR: So, anyway, anyone else have  
25 anything to bring before us? I thank you all for

1 being here, for all the work you got done.

2 MR. GERLICZ: Madame Chair.

3 THE CHAIR: Mr. Gerlicz.

4 MR. GERLICZ: Nothing new, but a  
5 reiteration of what I hope that Julia has started  
6 between us in these review of forms, which are all  
7 terribly exciting work, but important and necessary.

8 THE CHAIR: Remember, we asked for them.

9 MR. GERLICZ: They're terribly important  
10 and necessary. And "exciting" may be a stretch.  
11 But necessary, certainly, for us to do our work  
12 better. But what I want to thank Julia for is, in  
13 that process, in approving the forms, to wedge out a  
14 little bit to include more dialogue about on what  
15 basis do we make decisions, on what basis do we work  
16 together, and how we do that.

17 And germane to your point, Madame Chair,  
18 whenever PEC decides something different than CSD,  
19 it is an indication that we're not aligned, we're  
20 off. And it may be okay, and we certainly want to  
21 close that gap, if there's a gap. And just some  
22 continued dialogue about what we're looking for, how  
23 we vote, how we -- what the PEC would like from us,  
24 et cetera, the more we can do that, the more  
25 professional we're going to be, and the more aligned

1 we're going to be. So, thank Julia for that  
2 opportunity.

3 MS. BARNES: Madame Chair, do you want me  
4 to give this brief overview of what was discussed at  
5 the working session? Do you want me to --

6 THE CHAIR: Are you going to distribute  
7 those?

8 MS. BARNES: I can distribute those, and I  
9 can do it, just in five minutes just to recap. Or  
10 they can read it.

11 COMMISSIONER BERGMAN: Let them read it.  
12 Most of us were there, anyway.

13 THE CHAIR: And while Julia's doing that,  
14 I want to wish everybody a Merry Christmas, Happy  
15 Holidays.

16 Anything else to come before this  
17 Commission? The Chair would entertain a motion to  
18 adjourn.

19 COMMISSIONER GANT: So move.

20 COMMISSIONER CARR: So move.

21 COMMISSIONER PERALTA: Second.

22 THE CHAIR: We're adjourned.

23 (Proceedings in recess at 2:35 p.m.)  
24  
25

## 1           BEFORE THE PUBLIC EDUCATION COMMISSION

## 2                           STATE OF NEW MEXICO

3  
4                           REPORTER'S CERTIFICATE

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

12           In testimony whereof, I have hereunto set my  
13 hand on December 27, 2013.

14  
15  
16                           *Cynthia Chapman*

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