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BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPT OF PUBLIC MEETING PROCEEDINGS

March 8, 2013

9:00 a.m.

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

REPORTED BY: Cynthia C. Chapman, RMR-CRR, NM CCR #219
Bean & Associates, Inc.
Professional Court Reporting Service
201 Third Street, NW, Suite 1630
Albuquerque, New Mexico 87102

JOB NO.: 6805K (CC)

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



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

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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
MS. MILLIE POGNA
MS. CARMIE TOULOUSE
MR. GILBERT PERALTA
MR. JAMES CONYERS

STAFF:

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

MS. ABBY WEAR
Counsel for the CSD
Assistant General Counsel for the PED

MR. MARK REYNOLDS
MR. MIKE WILLIAMS
Counsel for the PEC
Assistant Attorneys General
State of New Mexico

MS. BEVERLY FRIEDMAN, PED Liaison to the PEC

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1 (March 8, 2013, 9:00 a.m.)

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

6 COMMISSIONER BERGMAN: Commissioner
7 Peralta.

8 COMMISSIONER PERALTA: Here.

9 COMMISSIONER BERGMAN: Commissioner Pogna.

10 COMMISSIONER POGNA: Here.

11 COMMISSIONER BERGMAN: Commissioner Carr.

12 COMMISSIONER CARR: Here.

13 COMMISSIONER BERGMAN: Commissioner Gant.

14 COMMISSIONER GANT: Here.

15 COMMISSIONER BERGMAN: Commissioner
16 Shearman.

17 THE CHAIR: Here.

18 COMMISSIONER BERGMAN: Commissioner
19 Bergman is here. Madame Chair, you have six members
20 present. At this time, you have a quorum.

21 THE CHAIR: Thank you, Mr. Secretary.
22 Commissioner Toulouse has let us know that she's on
23 her way. She's caught in that traffic accident just
24 outside of Bernalillo, and possibly Commissioner
25 Conyers is as well. But we'll go ahead and welcome

1 them when they get here.

2 Could we have the Pledge by Commissioner
3 Gant and the Salute by Commissioner Pogna?

4 (Pledge of Allegiance and
5 Salute to the New Mexico Flag.)

6 THE CHAIR: Thank you. Commissioner Carr,
7 Statement of Aspiration, please.

8 COMMISSIONER CARR: Thank you,
9 Madame Chair. I wanted to do this -- I -- my mother
10 is 87 years old. And I talk to her every morning
11 and every afternoon. And she almost died last fall,
12 but she came back fighting pretty hard.

13 And she remembers things that she never
14 told us before now that she's older. And she told
15 us an especially moving story which brought me --
16 kind of almost brought me to tears when she was
17 telling it to me. And she thought she had told me
18 this story before.

19 And it was about my grandfather. And it
20 relates to education. And it relates to a different
21 time in education. And I -- I always aspired to be
22 like my grandfather, who came from a situation where
23 his father died when he was a small child and had to
24 go live with his aunt and uncle. And my father died
25 when I was four years old. My father's father died

1 when he was 15. And I have this interesting
2 connection about having single moms.

3 When I die- -- when my father died, we had
4 Social Security. And he died -- he was a Vietnam
5 vet -- not a Vietnam vet -- a World War II vet, and
6 he died of service-connected disabilities. And we
7 had veteran's benefits. And we were able to stay
8 together as a family and work really hard.

9 And my grandfather was my father image.
10 And so anytime I hear anything about my grandfather,
11 I'm pretty connected, and my ears are wide open.

12 And it's not a long story. I'm making it
13 longer, giving you background. But the -- one of
14 the biggest stories -- and this is a prequel, a real
15 quick story -- is during the Great Depression, my
16 grandfather caught two people stealing watermelons
17 from his watermelon patch. And he had six children
18 to feed. They had a ten-acre garden. There's no
19 telephone. He knew who stole the watermelon. He
20 went to their house, and he told them to get ready,
21 "I'm taking you to the sheriff." And he took them
22 to the sheriff.

23 And -- and I always remembered that, that
24 in my -- and my grandfather -- it was always hard to
25 believe, because he was just this kind, sweet

1 gentleman, never had a bad word to say about anyone,
2 which I don't always do -- I wish I did more, but --
3 but here's -- so here's the story that kind of
4 floored me. My -- and I didn't know this.

5 My grandfather was the superintendent --
6 school board -- of a one-room school board --
7 school-room house, grades one through eight. His
8 family helped build that little house on donated
9 land. They decided they needed some extra money,
10 and they had a mill levy to -- for the school. And
11 there was a gentleman that was a good friend of his.
12 He was a national champion fiddle player, but he
13 didn't have any children. And he didn't want to
14 vote for this.

15 Now, we don't do things like this today; I
16 hope we don't. But my grandfather took him by his
17 collar and forced him into the schoolhouse to vote
18 for that mill levy. And -- and I was, like, wow,
19 you know. And that really floored me that that --
20 you know, that's why -- I guess one of the reasons
21 why I have education in my blood.

22 My mother observed that, and all of her
23 siblings, five of them. And she aspired to go to
24 high school. And she had to go to high school in
25 town about 20 miles away. She had to go stay in a

1 boarding house. There was no busing at that time.
2 She had to pay for her -- she had the choice of
3 either walking a long distance to school or eating
4 lunch. And -- and she aspired to -- she knew how
5 important education was, based on what her father
6 had demonstrated.

7 And I strongly recommend that nobody grabs
8 anybody by the shirt collar anymore. But you can --
9 you can persuade by words, you know, and kindness.
10 And -- and people did do things a little differently
11 70 or 80 years ago than they do now. But I just
12 wanted to share that story. And hope it was an
13 inspiration. It certainly is an inspiration to me,
14 encourages me to work harder and to think about my
15 grandfather, and to be kind, even though -- you
16 know, sometimes we make exceptions and sometimes we
17 shouldn't.

18 But the -- I -- there's something -- and
19 I'll -- I think I'll bring it up in the "Comments"
20 section, too. I had -- I had sent out a 100-page
21 report from the Economic Policy Institute to Carolyn
22 and Gene. And then I -- I left it up to them -- I
23 want hopefully everybody else to get -- I want
24 everybody else to get this. And the title of the
25 report is "Why Do International Tests Really Show --

1 "What Do International Tests Really Show About U.S.
2 Student Performance?"

3 And it gets into some really fine details
4 about comparing our tests with international tests
5 in other countries and how maybe we're not doing
6 quite as badly as we think we are. When you look at
7 things at first glance, it's really easy to just --
8 just jump to conclusions sometimes. But when you
9 dig a little deeper, and you -- and you -- you
10 really look at the details, you don't just look at a
11 headline or a -- or a catch phrase that the news
12 media picks up or something, but you dig a little
13 deeper, and then you find out the whole truth.

14 And the digger [verbatim] -- the more
15 deeper you go, the more, you know, truth you find.
16 And I'm going to -- I teach history, but I'm also a
17 historian; I do research. I know the more research
18 I do, the more I find the truth. And you hear one
19 statement -- it's good to dig a lot deeper.

20 This is a hundred-page report. And it's
21 really detailed. And they wanted to do more. And
22 they actually ran out of time because it was so
23 time-consuming to do what they came up with.

24 So I'll make sure we get that out there to
25 everybody. I think it's very worthwhile reading.

1 And I'll leave it at that. I was probably too long.
2 Thank you, Madame Chair.

3 THE CHAIR: Thank you, Commissioner Carr.
4 The next item on the agenda is the Approval of the
5 Agenda. Are there any corrections? Additions? Do
6 I hear a motion?

7 COMMISSIONER PERALTA: Move to accept the
8 agenda.

9 COMMISSIONER CARR: Second.

10 THE CHAIR: Moved by Commissioner Peralta,
11 second by Commissioner Carr, to approve the agenda.
12 All in favor, please say "Aye."

13 (Commissioners so indicate.)

14 THE CHAIR: Any opposed? The motion
15 carries.

16 Next item is Approval of the Minutes.
17 We'll start with the February 1st minutes. Anyone
18 have any corrections? Additions?

19 As I was reading through -- I've read
20 through these minutes in several sections because
21 they're pretty long. But it occurred to me,
22 particularly as I was looking at it last night -- I
23 think it would be a really wise idea for each of us
24 to go through these minutes every time and look at
25 what we said, because it's really hard for someone

1 else to remember exactly what you said and be
2 certain that we get it correct. And this is the
3 legal record of our meetings. And we do need it to
4 be correct.

5 So if everyone would sort of make that
6 part of your mission to read very carefully the
7 section on what you said, then we'll be sure to get
8 that correct. I would like to ask that we go to
9 Page 19, line 18 of the February 1st minutes.
10 Cindy, do these pages always correspond, the ones
11 that are printed in our book, with what's up on the
12 Web site?

13 MS. FRIEDMAN: Madame Chair, yes, ma'am,
14 they do.

15 THE CHAIR: Well, okay. That's because I
16 said the wrong page number. So I apologize. It's
17 actually Page 19, line 18.

18 If you will recall, this section of our
19 February 1st minutes was being read verbatim by our
20 attorney, Mark Reynolds, from a previous meeting.
21 We have already corrected this once.

22 Line 18, where it says, "You have
23 13 minutes..."? We corrected that earlier in -- in
24 the earlier minutes to 15. Does it need to be
25 corrected here as well?

1 MR. REYNOLDS: Yes.

2 THE CHAIR: Yes? All right. Then that is
3 one correction that I will bring to you.

4 Page 33, line 11. Let me ask again,
5 Cindy?

6 (A discussion was held off the record.)

7 THE CHAIR: So the word should be
8 "options," but if it was written that way, then I
9 suppose we need to leave it as "operations."

10 MR. REYNOLDS: Yes.

11 THE CHAIR: Okay. Then, on Page 95, line
12 5, Commissioner Carr, you said, "Madame Chair,
13 Maggie, you stole my question, one of them." I
14 believe that was "Carmie," was it not? Because
15 right above that -- pardon me -- right below that is
16 Commissioner Toulouse.

17 COMMISSIONER CARR: Yes.

18 THE CHAIR: So it should be "Carmie"
19 instead of "Maggie"?

20 COMMISSIONER CARR: Yes.

21 (A discussion was held off the record.)

22 THE CHAIR: So do we just leave it alone?

23 MR. WILLIAMS: No, you can correct it --
24 you're approving the minutes. It is a literal
25 transcription. But if you want to correct the

1 minutes to reflect what he intended, that's fine.

2 COMMISSIONER CARR: Okay.

3 THE CHAIR: Then we'll correct that to
4 "Carmie"? Okay, thank you.

5 COMMISSIONER CARR: Yes, that's good.

6 THE CHAIR: And those are all my
7 observations. On the February 1st minutes, does
8 anyone else have anything? Please let the record
9 note that Commissioner Conyers is here. Thank you.
10 Glad you're here.

11 If there are no further corrections to the
12 February 1st minutes, may I have a motion?

13 COMMISSIONER GANT: So move.

14 COMMISSIONER BERGMAN: Second.

15 THE CHAIR: Moved by Commissioner Gant,
16 second by Commissioner Bergman to approve the
17 February 1st minutes as corrected. All those in
18 favor, please say "Aye."

19 (Commissioners so indicate.)

20 THE CHAIR: Opposed? Motion carries.
21 We'll go to the February 26th minutes. Anyone have
22 any corrections? I would ask you to turn to
23 Page 16, lines 7 through 11. And I think, really,
24 this is what caught my eye so much last night when I
25 said we, each one, need to really look at what we

1 said.

2 On line 6, I was -- "Do I hear a motion?"

3 "Commissioner Carr: So moved.

4 "The Chair: Motion by -- almost called
5 someone a senator -- Commissioner Gant.

6 "Commissioner Gant: Second.

7 "Seconded by Commissioner Carr."

8 You can see I've got that all turned
9 around. Commissioners Gant and Carr, what is
10 correct here?

11 COMMISSIONER GANT: I did the second. I
12 did the second.

13 THE CHAIR: Commissioner Gant was the
14 second. Commissioner Carr made the motion?

15 COMMISSIONER CARR: Yeah, I made the
16 motion. That's right.

17 THE CHAIR: Okay. So how do we correct
18 that?

19 MR. WILLIAMS: Well, you just simply
20 reflect in the record who the motion is by and who
21 the second was by, and we'll just -- it should be
22 noted -- just interlineate, and we'll -- so,
23 basically, "Do I hear a motion?" And the motion was
24 by -- who did we agree upon the motion was by?

25 THE CHAIR: Carr.

1 MR. WILLIAMS: Carr. So that part is
2 correct.

3 COMMISSIONER CARR: And "Commissioner"
4 Carr, not "Senator" Carr.

5 MR. WILLIAMS: Yes. So right down here,
6 at line 11, it says, "The Chair: Seconded by
7 Commissioner Carr"; then what I would suggest is you
8 meant to say "Seconded by Commissioner Gant." Is
9 that correct?

10 THE CHAIR: Yes.

11 MR. WILLIAMS: Commissioner Gant is --

12 COMMISSIONER GANT: Yes.

13 THE CHAIR: Okay. All right. That should
14 take care of it.

15 MR. WILLIAMS: Yes.

16 THE CHAIR: Thank you.

17 COMMISSIONER CARR: And we should maybe go
18 ahead and remove -- I mean --

19 MR. WILLIAMS: I mean, you can strike some
20 of that.

21 COMMISSIONER CARR: And then strike where
22 I said, "You're promoting me to a Senator," because
23 that makes no sense, if you --

24 THE CHAIR: But it was said.

25 COMMISSIONER CARR: It was said.

1 MR. WILLIAMS: But at least it's
2 entertaining reading.

3 COMMISSIONER CARR: It is, yes. I watched
4 the Legislature yesterday. They were pretty
5 entertaining yesterday.

6 THE CHAIR: All right. Any other
7 corrections to the February 26 minutes? Seeing
8 none, may I have a motion?

9 COMMISSIONER GANT: So move.

10 COMMISSIONER CARR: Second.

11 THE CHAIR: Moved by Commissioner Gant,
12 second by Commissioner Carr to approve the
13 February 26 minutes. All those in favor, please say
14 "Aye."

15 (Commissioners so indicate.)

16 THE CHAIR: Opposed? Motion carries.
17 Thank you. Oh, by the way, everybody turn your cell
18 phones off or down or whatever, please.

19 Next item, Carl Perkins 2012 Final Report
20 of USDOE and 2013-'14 State Plan Update. Director
21 Spencer.

22 MR. SPENCER: Good morning. Good morning,
23 Madame -- good morning, Madame Chair. Good morning
24 members of the Commission and others present today.

25 My name is Eric Spencer here to give the

1 report for Item No. 3 on your agenda. There are
2 specifically two components to this report. One is
3 the approval of the Consolidated Annual Report for
4 the Carl D. Perkins Career Technical Education
5 Improvement Act that was submitted to Washington in
6 December -- about December 22, I believe. And you
7 all had received a preliminary report of what we
8 were going to be submitting to Washington in the
9 December 13 Commission meeting.

10 The second item that we need to address
11 today would be that of the approval for the draft of
12 the Year 7 update to the five-year state plan that
13 was submitted to Washington for the implementation
14 of the Carl D. Perkins Act.

15 So with regard to the first item,
16 preliminary information about that CAR, as I said,
17 was given to you all in the December 13th PEC
18 meeting. And much of the information that was
19 presented to you in December really did not change,
20 as the Consolidated Annual Report went into
21 development for its final submission.

22 In your packet, you do have a hard copy of
23 that particular report. Page 2 delineates a table
24 of contents for you to easily locate the
25 information. In the high-level view of this, there

1 are three different components to the annual report.
2 One is a narrative that specifically focuses on the
3 actions and the work that the State has performed
4 over the last performance period. And in this case,
5 that would have been School Year 2011 through --
6 through 2012. And there were nine required uses and
7 seventeen permissive uses of this federal act. And
8 there is report about the activity specific to what
9 New Mexico engaged in and how we did.

10 The second component of the report is a
11 financial status report. There is a final report
12 that is issued for school year 2010-2011 and an
13 interim report that is issued for school year
14 2011-2012.

15 And, finally, the third component of the
16 report is the summary of the data, participation
17 information, other indicators, such as technical
18 skill attainment, academic attainment, graduation,
19 et cetera. All of those reports or documents that
20 you see in that third section of the data and
21 accountability were all used as the source
22 documentation to write the narrative in the
23 Consolidated Annual Report.

24 If there was anything that I would -- if
25 you were to ask, for example, what should I focus on

1 in this particular report, I think Page 15 is of
2 critical importance. And we've reported here that
3 there are performance measures that institutions --
4 local school districts and post-secondary
5 institutions aligning must meet.

6 There are -- of the secondary performance
7 measures, there was one performance measure that was
8 not met by our secondary institutions, and that's in
9 the area of non-traditional participation. This
10 would be an example of encouraging a male student to
11 participate in what would typically be seen as a
12 female-dominated career path or occupational area.
13 And so we didn't meet that performance level. It's
14 known as Success 1 on Page 15.

15 Then, of the indicators that you see
16 delineated here for the post-secondary component, of
17 those six indicators, four of those indicators were
18 not met by post-secondary institutions. Those are
19 dealing with technical skill attainment, placement
20 and then non-traditional participation and
21 non-traditional completion.

22 The federal report -- or the federal
23 guidelines in developing the report require the
24 State to develop some action plans around those
25 levels of performance that were not met by either

1 the secondary or the post-secondary institution.
2 And so you can see on Page 16, 17, and 18, are a
3 synopsis of what those action plans are in terms of
4 the action that the State is going to engage in to
5 assist the Local Education Agencies and
6 post-secondary institutions in meeting their levels
7 of performance.

8 In the next PEC meeting that I would be
9 reporting to you, I'll be giving you an update about
10 the progress that the State is making with regard to
11 the implementation of those action plans at the
12 State level and the progress that the LEAs and the
13 post-secondary institutions would be making in their
14 respective plans as well. So I'll stand for any
15 questions on this particular item of the
16 Consolidated Annual Report.

17 THE CHAIR: Thank you, Mr. Spencer. Are
18 there any questions? Please let the record reflect
19 that Commissioner Toulouse is here.

20 COMMISSIONER TOULOUSE: And, Madame Chair,
21 may I please offer an apology? But there was a
22 major wreck on I-25 north. And they were taking us
23 all off Algodones and bringing us back on at
24 San Felipe; and there were a number of legislators
25 behind us, so they're late over there, too.

1 But I do apologize. I was on track to be
2 here on time for this one, but I-25 doesn't do well.
3 So thank you very much, everybody. And I apologize
4 to everyone here that I'm late. Thank you.

5 THE CHAIR: We're glad you're here.

6 COMMISSIONER TOULOUSE: Thank you.

7 THE CHAIR: Are there any questions?
8 Commissioner Gant?

9 COMMISSIONER GANT: Madame Chair,
10 Commissioners, Mr. Spencer. The ones I kind of have
11 trouble is with the non-traditional. Do you have
12 any wisdom -- words of wisdom why there seems to be
13 a decline in -- over time over the years in those
14 areas, and now we're seeing a lot of reds in those
15 areas? Do you have any words why this is happening?

16 MR. SPENCER: Madame Chair, Commissioner
17 Gant, if, before I can respond to the question, you
18 all -- in the second item of what we're seeking
19 approval for today is the revision -- or I guess
20 it's the revision to the State plan for Year 7. In
21 that particular document, under Levels of
22 Performance, you would have received a -- a
23 three-page document that shows the targeted levels
24 that the State was required to address with the
25 implementation of Carl Perkins. Then you would have

1 seen the 90-percent threshold, which is
2 essentially -- can be looked at as a safe harbor,
3 and then you'll see the actual levels of
4 performance.

5 So for those of you interested in looking
6 at the trend that Commissioner Gant is referring to,
7 that's where you would find it. And it's -- I'm
8 holding it here. It's a table in a Word document.
9 I understand that your hard copy doesn't have the
10 color, but your electronic copy does.

11 So to respond to that particular question,
12 those are certainly research questions,
13 Madame Chair, Commissioner Gant, that we're going to
14 try and get through; because when you take a look at
15 the levels of performance that the State was
16 required to achieve, for example, in Indicator
17 Success 1, which is the non-traditional
18 participation at the secondary level, we had targets
19 going from 2. -- 28.5 percent on upward to the
20 current year of 60 percent.

21 And so every year that the PED has to
22 negotiate these performance targets with the Office
23 of Vocational Adult Education, they're asking for a
24 continuous improvement in that particular target.

25 But then when you take a look at the level of

1 performance, you can see that there is actually
2 regression in those particular areas.

3 I believe that when we move to more -- I
4 guess implementation with the next step planning
5 model, beginning in the eighth grade moving into the
6 ninth grade, and implementing that with more
7 fidelity around the career planning component, we
8 might be able to get some more responses to that
9 particular question.

10 But, in working with the local education
11 partners, not necessarily at the secondary level,
12 but, specifically, at the post-secondary level, when
13 you're looking at indicators, 5-P-1 and 5-P-2, you
14 can see that we started off slow in participation
15 with an actual level of performance of 24 percent in
16 2007-2008, and then we see a high point in
17 2009-2010. It could have been that the data
18 collection system and the reporting and the fidelity
19 toward reporting had been improved during that
20 period of time to accurately capture a count of
21 those students participating in those
22 non-traditional programs.

23 What I'm not sure is why precisely the
24 performance measure, the actual level, went from
25 57.12 in 2010 to the 2011-2012 of 34.73 percent.

1 We've been working with our post-secondary partners
2 and institutions to try and identify what had
3 occurred in that area. And much of what we're
4 getting in terms of information is that, when you
5 take a look at 2010-2011, that was essentially a
6 peak of enrollment in the post-secondary
7 institutions as a response to the economic downturn
8 that occurred in 2008-2009.

9 And, as we saw an improvement in the
10 economy, although it was quite minimal, many
11 individuals left the post-secondary experience to
12 obtain work. And so, therefore, they're not able to
13 capture those particular completers and whatnot.

14 Now, as we move into the discussion for
15 the five-year revision, the Year 7 that we're going
16 to get into, you'll see in that document that we're
17 actually proposing a negotiated level of performance
18 of 40 percent rather than the 62 percent that the
19 Fed is holding us to in the current year. And part
20 of that is working with the stakeholders in the
21 community. They raised the issue of access and
22 equity.

23 And, really, what this measure means, if
24 you think about it in a very simplistic approach, is
25 that if we have to achieve at a 60-percent level of

1 performance in this indicator, that means that we
2 would have to see six males to every four females
3 in, let's say, a cosmetology program in our schools.

4 In taking a look at other states of like
5 size with regard to the size of their numerator and
6 denominator in this country, I haven't been able to
7 really see that many states are having to adhere to
8 such a high level of target. And so, in our
9 comparison to like-size states, it seems that this
10 target was not negotiated for New Mexico, perhaps in
11 the most realistic manner of what we can accomplish.
12 And so we're proposing to reengage that negotiation
13 with the Fed.

14 When I talk about the issue of access and
15 equity, what many of our post-secondary partners
16 have said is that, "Well, if you're asking for four
17 females" -- excuse me -- "six males in a cosmetology
18 program, knowing that there's class-size limits due
19 to accreditation, et cetera, then does that mean
20 that you're denying the access to female
21 participants in the rule?"

22 And it's a valid, legitimate argument that
23 we're going to take forward to the Fed: Perhaps
24 should it be a 50 percent target to insure equal
25 access? Those debates and dialogues still need to

1 occur.

2 COMMISSIONER GANT: When do you expect
3 these -- do you expect any changes soon? I mean, in
4 the next month, you've got to -- this has to kick
5 off pretty quick.

6 MR. SPENCER: Madame Chair, Commissioner
7 Gant, you're absolutely right. I have to upload and
8 submit this -- this seven-year revision to the Fed
9 in the latter part of March; March 21st, I believe,
10 is the date, or 22nd. Once I submit the report to
11 the Fed in that grant application, it's going to
12 open up the dialogue for the negotiations.

13 And when you take a look at the handout
14 that I've provided to you in your -- in your
15 revision packet, we're anticipating negotiating with
16 the Fed those more realistic levels of performance.

17 Now, in preliminary conversations that
18 I've had with the Fed about -- well, I'm negotiating
19 level of performance on behalf of the State for
20 2013-2014, but what can the State do in the
21 2012-2013 year to renegotiate that level of
22 performance that they're holding us to of the
23 62 percent?

24 And there are a couple of items of
25 criteria that they have indicated would allow us to

1 renegotiate those; for example, a natural disaster.
2 We haven't had one. And so when you take a look at
3 what they allow for renegotiation, we don't qualify
4 for renegotiation of the current year.

5 So what will happen is, probably, in the
6 next two weeks, we'll be uploading this revised
7 document to the Fed to open the level of
8 negotiation. And from what I understand is that the
9 State can essentially propose what they want to
10 propose. We've worked with our Information
11 Technology bureau who house the data to determine
12 if, in fact, can LEAs really meet these levels, and
13 does the trajectory of the data demonstrate that
14 these are reasonable levels to pursue?

15 And the answer to that is yes. So once we
16 hit cement, the Fed receives our proposal, and then
17 they're going to be in touch with my office to start
18 opening the dialogue about validate and justify why
19 you're proposing what you're proposing. And my
20 understanding is that the Fed can come back and
21 propose their own. We can hopefully consider that.
22 But ultimately, the federal government is going to
23 tell us what that target level will be.

24 What we are doing to help mitigate the
25 issue is that, in the budget that I'm submitting for

1 the proposed Year 7, there's going to be a revision
2 to that budget for two reasons: One reason is
3 sequestration is going to have an implication on
4 that particular submission. And then the second is
5 that when we go back and take a look at the
6 Consolidated Annual Report and the performance
7 action plans that we have submitted to change the
8 trajectory of where that data is headed with
9 non-traditional completion and participation, we're
10 looking at doing more work with our partner at
11 Santa Fe Community College who is responsible for
12 providing technical assistance and guidance and
13 coaching to school districts in post-secondary
14 institutions across the state about bringing about
15 this non-traditional awareness and how do you bring
16 that into the career guidance and counseling systems
17 in schools so that we can insure that all
18 individuals attending our schools know that they
19 have the option to enter in any of these career
20 pathways, whether it's traditional or
21 non-traditional; based on their current interest
22 inventory, job placement, is there a job in the
23 local area for them.

24 COMMISSIONER GANT: Thank you. So is it a
25 month off? Two months off? You know, school starts

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



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

1 in August. When will you finalize your negotiations
2 with the feds?

3 MR. SPENCER: My understanding is that the
4 final negotiation would come before July 1, because
5 what happens with the way that the Perkins Grant
6 works is the federal government is going to initiate
7 what they call a preliminary grant award letter to
8 us on July 1 and attach to that award -- they
9 typically attach levels of performance that they're
10 expecting the State to hold to.

11 COMMISSIONER GANT: And, Madame Chair,
12 members, the last question was going to be on the
13 financial picture, sequester and all that. I think
14 the drop-dead date is the 28th of March or something
15 like that. So you don't know numbers yet, do you,
16 about financials or anything like how the sequester
17 is going to impact Carl Perkins or anything like
18 that, do you?

19 MR. SPENCER: Madame Chair, Commissioner
20 Gant, the budget that you see is based on the
21 current year allocation. So we're presuming we're
22 going to receive flat funding from this year to next
23 year. However, all of the guidance that we have
24 received from our -- from our liaison at the Fed and
25 other resources is to plan for about a 5.1-,

1 5.2-percent reduction to Perkins.

2 But that can get tricky. This state could
3 receive an 8-percent reduction, for example, while
4 sequestration may call for a 5.1. And the reason
5 for that is, at the federal level, when Congress
6 allocates what the budget amount is, the Office of
7 Vocational Adult Education then has to take a look
8 at census information for every state participating.
9 Embedded within that census is the number of
10 5-to-17-year-olds living within the geographic
11 boundary of the school district, and then the
12 proportion of those that are living in poverty.

13 Based on the results of that census or
14 ratio to proportion, the federal government will
15 allocate those dollars to states. There's a "hold
16 harmless" clause in the federal legislation to
17 safe-harbor states that would drop below, say, for
18 example a \$250,000 allocation. So they're going to
19 preserve certain funding thresholds for states. And
20 if the sequestration and population dictates that
21 there's going to be a significant reduction in any
22 one of those states, well, they're going to take it
23 from those that are already above that particular
24 funding threshold.

25 So to answer pointedly to your question,

1 it could be anywhere between a 5 and 8 percent for
2 Perkins. And the Local Education Institutions and
3 post-secondary institutions were given that guidance
4 as they planned their next year budget.

5 COMMISSIONER GANT: Thank you,
6 Madame Chair.

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

9 COMMISSIONER CARR: Madame Chair, I do.

10 THE CHAIR: Commissioner Carr.

11 COMMISSIONER CARR: I didn't have a
12 question before we started talking. But as you were
13 mentioning national disaster, we've had a great
14 recession for the last four -- four-and-a-half
15 years. And if I can think of one thing different in
16 the last four or five years -- and six or seven
17 years ago -- was the fact that there's a lot more
18 economic suffering been going on. And -- and that,
19 certainly, many studies show that that reflects
20 performance in the schools as well. So I -- that is
21 a suggestion, that we have had a -- maybe not a
22 natural disaster, but a national disaster.

23 THE CHAIR: Commissioner Toulouse.

24 COMMISSIONER TOULOUSE: Madame Chair, if
25 we're going to talk about natural disasters, we have

1 our drought. No -- and it's --

2 COMMISSIONER CARR: It's true.

3 COMMISSIONER TOULOUSE: We will not have
4 water; our ranchers are having to sell off. Our
5 farmers are not going to have enough water to grow.
6 So those children out of all of those rural areas
7 are going to be in even worse poverty than they're
8 in now this year than they were last year. So I do
9 think we have a natural disaster, because most of
10 those counties have been designated disaster areas.

11 THE CHAIR: Thank for you that
12 observation. Any other questions? Discussion?
13 Hearing none, the Chair will entertain a motion.
14 And if you'll notice at the beginning of Item 4 in
15 your books, there is a proposed motion. We're not
16 held to that, but if someone likes that motion and
17 would like to make it?

18 COMMISSIONER GANT: Madame Chair?

19 THE CHAIR: Commissioner Gant.

20 COMMISSIONER GANT: Madame Chair, members,
21 I move to accept the 2012-2013 Consolidated Annual
22 Report and to approve the 2013-2014 State Plan
23 Revision for the Year 7 with authorization to adjust
24 the budget to align to the guidance from the Office
25 of Vocational and Adult Education, OV --

1 COMMISSIONER CARR: Sorry.

2 COMMISSIONER GANT: -- and to adjust the
3 levels of performance to align to the stakeholders'
4 input and guidance from the OV.

5 COMMISSIONER CARR: Second. Sorry.

6 THE CHAIR: Motion by Commissioner Gant,
7 second by Commissioner Carr, to approve the report
8 and adjust the levels. Is there any discussion?
9 All those in favor, please say "Aye."

10 (Commissioners so indicate.)

11 THE CHAIR: Any opposed?

12 MR. GERLICZ: Motion carries. Thank you,
13 Mr. Spencer.

14 MR. SPENCER: Thank you, Madame Chair.
15 Thank you, members of the Commission.

16 THE CHAIR: Our next item on the agenda is
17 Report from the Secretary-Designate. And
18 Mrs. Friedman has let me know that she's heard from
19 Deputy Secretary Paul Aguilar that he will not be
20 able to be here this morning, but he does add that
21 he had nothing of great importance to bring to us at
22 this meeting. So we'll catch up with him at the
23 next, after the legislative session is over.

24 Moving to Item 16 -- 16? -- 6. I'm
25 getting this meeting over quickly. Report from

1 Options for Parents and the Charter School Division.
2 Director Gerlicz.

3 MR. GERLICZ: Madame Chair, members of the
4 Commission, we've had another very busy and good
5 month in the Charter School Division. All of them
6 were days in paradise, I might add.

7 We were reminded very, very clearly of the
8 importance of the work that we do and the greatness
9 of the work that we do when we saw the students at
10 the Roundhouse on February 26, which was Charter
11 School Day. And there was a long line of students
12 that proceeded to the microphone to extol the
13 virtues of the education that they were receiving,
14 how much they enjoyed the opportunity that they had
15 to learn in different ways -- really quite
16 inspiring. And it's great to be reminded of the
17 fact that we really are in this for young people
18 every now and then.

19 And later on -- and today, I'm sure they
20 are also stuck in the same traffic jam -- we will be
21 hearing from students from the ACE Leadership High
22 School about their amendment. And, Madame Chair,
23 members of the Commission, this is something that I
24 will try and get before the Commission at every
25 meeting, some presentation by students from some

1 school, just to keep us reminded that this is really
2 the heart and soul of the work that we are doing.

3 If you'll notice in my report on No. 7,
4 there is a bit of an invitation. Of course, it's
5 completely voluntary. We are sponsoring two
6 sessions at the spring budget workshop on our new
7 amended Charter School Act.

8 One, we are asking the -- the heads of
9 schools, the principals that have recently gone
10 through this process, Amy Duran, Stephanie Belmore,
11 and Glenna Voight, who are all here or will be here
12 this morning, to sit on a panel for everyone else in
13 attendance so that they can learn what it was like
14 to go through the process. And we will do a
15 presentation and then have a question-and-answer
16 period from the principals who have done that.

17 And I thought it might be a nice addition
18 to have members from the Charter School Committee,
19 if they would like to sit on that panel as well.
20 You can inform me of that later on.

21 We had a very, very fine session with our
22 new applicant training recently. And as you see in
23 No. 9, this is a report from our staff. And you can
24 see how -- how professionally and how quickly they
25 responded to my request to give us all an abstract,

1 a quick abstract, on their recent site visits.
2 These are all first-year schools that we have
3 visited, and we have finished with the first-year
4 schools. I won't go through those reports, but my
5 hat is off to the staff, Ms. Karen Ehlert, Mr. Brad
6 Richardson, Shelly Cherrin, Rachel Stofocik, and
7 myself, who all contributed to these abstracts.

8 And if you'll look at item No. 10 on my
9 report, the work continues. We will do the same
10 with our second-year schools, which are less in
11 number. And these second-year schools are where
12 they are in their renewal cycles. So this is the
13 second-year schools.

14 The third-year schools, there are 13 of
15 them. We will try and get to both second- and
16 third-year schools before -- and I think we will.

17 The fourth-year schools, I actually -- my
18 apologies, I should have added another column of
19 fourth-year schools. There are eleven of them, and
20 I will get those out to you later. And those are a
21 higher priority, because they will then go through
22 the same process that we recently went through in
23 their renewal with the amended Charter School Act in
24 the fall.

25 So there are eleven of those schools, and

1 we will be doing training for all of those schools
2 as well.

3 In addition to that, we have provided
4 governing council trainings, both in Albuquerque and
5 in Santa Fe. And on that, we are collaborating with
6 the New Mexico Coalition of Charter Schools to
7 provide that. Again, the thrust of building bridges
8 and working together with other folks doing similar
9 work is important. And we are also finding that
10 there is tremendous need on the governing-council
11 level for continuing education and training.

12 And, Madame Chair, that is a summary of my
13 report. Thank you.

14 THE CHAIR: Thank you, Director Gerlicz.
15 I want to commend you. We asked for a report of the
16 site visits very recently, and here they are. And I
17 appreciate that very much. The information is -- is
18 just what we need. And I appreciate your following
19 through on that.

20 MR. GERLICZ: Madame Chair, members of the
21 Commission, the thanks really go to the members of
22 my staff. They were the ones.

23 THE CHAIR: And I just wanted to make one
24 other observation. I was noticing on No. 5 that
25 Shelly Cherrin will be leaving. And we will sorely

1 miss her. She has been an outstanding staff person
2 and great help to this Commission. So we will
3 certainly miss her. Commissioner Gant.

4 COMMISSIONER GANT: Madame Chair, members,
5 I'd like to voice also my appreciation for this
6 report. And I'll be a little blunt here. This is
7 my second term on this Commission. And as some of
8 the Commissioners remember, we asked for things like
9 this report over time. And sometimes we were told,
10 "Read the school report card on the Internet, and
11 that's your answer."

12 Well, report cards on the Internet are
13 not the answer, the whole answer to what's going on
14 in the schoolhouse. And I appreciate the effort you
15 and your staff put into this report. I see a lot of
16 concerns. And I do have a lot of questions. But
17 I'll send them to you, the questions I have.

18 But there's a couple of them, like SAMS,
19 you know, I really wonder about that school. I
20 wonder about Sage, you know, and what's going on
21 down in that school.

22 So, Madame Chair, I will send the
23 questions through you to Mr. Gerlicz and CSD. But I
24 do appreciate this report. This is exactly what we
25 need as authorizers to know what's going on in the

1 field and not wait down to the fifth year and say,
2 "Oh, we should have known that," and didn't; or, "We
3 should help them correct the -- the school correct
4 what's wrong," and we didn't.

5 We're remiss in both areas that we
6 don't -- we want them to be successful, or we
7 wouldn't authorize them. And there's a couple in
8 here that are very successful that you've reported.
9 We want them to all be like that. But if we don't
10 know they're not being successful, we can't fix it.
11 And reports like this -- and this -- and I go back
12 to my comments that, when Deputy Aguilar was here,
13 I've talked to other leg- -- to legislators -- your
14 list of the -- the third-year, whether it's 11,13,
15 or whatever it is, with a staff of six, you've got a
16 lot of work to do.

17 And my point is, somehow they've got to
18 get you more people to do a quality job that you, in
19 your mission statement, say you're going to do.
20 You've got a great mission statement. Unless you've
21 got the people to do it, you're not going to get it
22 done. Thank you, Members.

23 THE CHAIR: Thank you.

24 COMMISSIONER TOULOUSE: Madame Chair?

25 THE CHAIR: Commissioner Toulouse.

1 COMMISSIONER TOULOUSE: Madame Chair, I
2 know I'm talking today. I'll try not to talk as
3 much. I want to say, as a new member to this Board,
4 and not knowing what they got before and not knowing
5 exactly how you did things, this kind of thing is
6 extremely helpful to me in looking at how I have to
7 do a job going forward as -- you know, this
8 Commission is always in the middle of something.
9 And so this is very helpful to me.

10 And I like this format, and I like the
11 information and the honesty with which it's
12 presented. It's balanced. And so if you would pass
13 my thanks on to your staff, too. And thank you,
14 Madame Chair.

15 THE CHAIR: Thank you. Any other
16 comments?

17 MR. GERLICZ: Madame Chair, if I may,
18 members of the Commission. In addition to these
19 reports, again, all kudos and bravos to the staff
20 who just responded just like that. (Indicates.)
21 But, in addition, we are working -- and thanks to
22 Brad Richardson, who has taken the lead on this
23 particular style, we are working on a document that
24 we can synthesize a school's essential six-year life
25 span into one document. Of course, it will be long

1 and numerous pages.

2 But if we could figure out -- and we
3 will -- in one document that we could all grab, like
4 this, and see a six-year record of schools with, not
5 only the report card, but all of the other things
6 that the amended Charter School Act asks for, that's
7 some of the high-level work that we are engaged in.
8 And we are getting closer and closer to that.
9 Again, hats off to the staff for really responding
10 to our vision and stepping up in that way. Thank
11 you.

12 THE CHAIR: Thank you. That sounds like a
13 tremendous idea, to have one document for the entire
14 life of the school. That would be very helpful.
15 Any other comments? Thank you, Director.

16 We'll move on to Item No. 7, Action on
17 Contracts with Charter Schools. Mr. Director,
18 you're up again.

19 MR. GERLICZ: And, Madame Chair, members
20 of the Commission, this is the time when we get to
21 see the fruits of everyone's labor, as we know the
22 amended Charter School Act, which passed in 2011,
23 has ratcheted up our work, our observation, and our
24 performance. And it's a new style of authorizing
25 schools as well, where we enter into negotiations

1 with the school.

2 And it's been a fascinating and very
3 rewarding process from our end at the Charter School
4 Division. It requires all of us to get to know
5 these schools exceedingly well and much better than
6 we did before.

7 And it was a pleasure for us to work with
8 the three schools that are on the agenda: Horizon
9 Academy West, Media Arts Collaborative, and
10 North Valley Academy. And I'm sure that they are
11 ready to answer any questions that you might have of
12 them of the process.

13 But, from our perspective, they presented
14 goals; we asked them about it; they responded; they
15 asked us what we meant; we responded; they
16 clarified; we responded. And back and forth it
17 went, numerous times, until we sat down with the
18 Charter School Committee of the Public Education
19 Commission, and they asked questions. And those
20 goals continued to be refined until we arrived at a
21 document that we could all feel very good about.

22 And that document is in your packet,
23 therefore. That's the charter school contract, as
24 resultant of that negotiation process.

25 So we can begin with Horizon Academy West.

1 And it certainly is our recommendation that the
2 contract that is presented be approved. And I'm
3 sure they are ready to stand for any questions that
4 you might have. And I invite Ms. Amy Duran and
5 Cynthia to do that. And I see their governing
6 council chair here as well. Thank you for being
7 here.

8 THE CHAIR: Director, I notice in your
9 comments here, you talk about going through,
10 quickly, a blank contract before we actually get to
11 one of the completed ones. Just so all of us
12 understand everything that's in this contract, those
13 pieces that were negotiated and those pieces that
14 are boilerplate that are the -- what's the term? --
15 material terms of the contract, could you just
16 highlight those for us, please?

17 MR. GERLICZ: I can. Yes, Madame Chair,
18 members of the Commission. The original idea was to
19 utilize this projector and put on the screen
20 actually a copy of the contract so we could all look
21 at it. And we were just unable to get the details
22 together to do so.

23 The contract looks like this. It is
24 approximately 70 pages long. (Indicates.) And we
25 certainly will not go through it all because it is

1 in your packet.

2 In addition to the contract, is a second
3 document called the "Performance Frameworks." Now,
4 the important thing to remembering about these two
5 documents is the following: This charter school
6 contract lasts for five years. These performance
7 frameworks last for one year.

8 When we do our site visits, as you saw in
9 the report, and we continue to ratchet up our
10 follow-through, these indicators that are on these
11 performance frameworks, we will revisit and say,
12 "How did we do?"

13 And if the school says, "We're good, we
14 want to keep them the same," great; if, "We want to
15 change them," great. And we will put additional
16 indicators on them, and we will have new performance
17 contracts. And in that way, schools continue to
18 revisit their work, and we continue to support them
19 and revisit their work as well.

20 So in these performance frameworks, I
21 would say there are three things that all
22 Commissioners need to remember. Think of it as a
23 mobile hanging equally from the ceiling in three
24 parts. One is academic; one is organizational; and
25 one is financial. The schools need to demonstrate

1 excellence and greatness in all three areas. This
2 is our goal; this is everyone's goals.

3 Academics, let's look at that component.
4 Think of another mini little mobile under Academics.
5 The school report card, A through F, is a part of
6 that, for all schools, charters included. But a
7 departure that charters have from traditional
8 schools are the following:

9 Charters have a specific mission. That's
10 why their schools were created. That's why their
11 schools are in existence. They have set some
12 specific goals relative to their mission. And this,
13 to me, is a very exciting component of this law. If
14 you're a tech school, what are some tech goals that
15 you want to set? If you're an arts school, what are
16 some specific arts goals you want to set? If you're
17 expeditionary learning, what are specific to your
18 mission that you want to set? If you're media, and
19 so on and so on.

20 Traditional schools do not do that.
21 Traditional schools do not have the option to do
22 that. Charter schools do, and it elevates and
23 highlights their uniqueness -- and, I think, extreme
24 uniqueness -- in my opinion.

25 The third par of that mini mobile under

1 Academic is Optional Supplemental Goals. And those
2 are similar, although not necessarily tied to their
3 mission. They may be; they maybe [verbatim] not be.
4 Suppose a school has poor parental involvement and
5 they set that as a goal. Great. That can be an
6 optional supplemental. They don't have to, but if
7 they put it in there, they will be held accountable
8 for it. They do that for themselves. We are aware
9 of that. We're negotiating. So there are three
10 parts in the "Academic" now that charter schools
11 have set goals.

12 The Organizational part of that mobile:
13 Is the school governed well? Is the school being
14 run well? Are all the policies in place? Are
15 governing councils doing their job? And we will
16 analyze that. That is an extremely important
17 component for charter schools, as well as for any
18 organization, nonprofit or profit: Are they
19 governed well.

20 And then the third part, Financial, is
21 equally as important. Are schools financially
22 solvent? Are they solid? Are there any problems?
23 And those three component areas hang in balance.

24 That is a very high-level snapshot of the
25 work that we have been doing with these three

1 renewal schools that have just gone through the
2 process. And it has been quite involved. It's been
3 months long in this process, which is why,
4 Commissioner Gant, to your concern, we have -- and I
5 think there is some movement on that -- we have a
6 budgeted position for an -- what's called an EAO,
7 Educational Administrator Operational. The request
8 that we put in is to change that to an Educational
9 Administrator Advanced, because this is high-level
10 work that we are engaged in, and we want an
11 experienced educator who's been around, et cetera,
12 to do that work, because you can see that the work
13 that we are doing is now far greater and of higher
14 quality than ever before in these three frameworks.

15 Thank you, Madame Chair. That's an
16 overview. I'm happy to answer any questions from
17 anyone.

18 THE CHAIR: Thank you very much.
19 Questions? Okay. We are considering Horizon
20 Academy West. Commissioners, have questions?
21 Commissioner Bergman.

22 COMMISSIONER BERGMAN: Not a question.
23 It's -- this has all gone down very quietly and with
24 very little publicity. But these first three are a
25 momentous occasion in this state, because this is

1 new. Ultimately, every charter school in this state
2 will have a contract with the Public Education
3 Commission or their local authorizer, whatever the
4 case might be.

5 And it was an interesting process. I sat
6 in on it. And the Options for Parents and CSD staff
7 just worked -- who knows? -- probably thousands of
8 hours on this. We approved at the appropriate time
9 all the various documents, the worksheets and
10 everything else that are involved. But it is a
11 momentous occasion. And these are the first three.
12 So I -- somehow, they probably go down in the
13 history books. So, again -- but I wanted to note
14 that.

15 MR. GERLICZ: Madame Chair, Commissioner
16 Bergman, Horizon Academy West, I think, has a couple
17 of firsts. They were the first authorized by the
18 PEC back in 2007, and now they're the first under
19 this new --

20 THE CHAIR: All right. Are we ready for a
21 motion on Horizon Academy West?

22 COMMISSIONER PERALTA: Madame Chair?

23 THE CHAIR: Commissioner Peralta.

24 COMMISSIONER PERALTA: I'd like to move to
25 approve the contract presented by Horizon Academy

1 West.

2 COMMISSIONER BERGMAN: Second.

3 THE CHAIR: Motion by Commissioner
4 Peralta, second by Commissioner Bergman, to approve
5 the contract presented by Horizon Academy West. Any
6 discussion? Do we need a roll call?

7 MR. REYNOLDS: Madame Chair, take a
8 roll-call vote on this issue.

9 THE CHAIR: Thank you. Mr. Secretary,
10 roll call, please.

11 COMMISSIONER BERGMAN: Commissioner
12 Peralta.

13 COMMISSIONER PERALTA: Yes.

14 COMMISSIONER BERGMAN: Commissioner Pogna.

15 COMMISSIONER POGNA: Yes.

16 COMMISSIONER BERGMAN: Commissioner
17 Toulouse.

18 COMMISSIONER TOULOUSE: Yes.

19 COMMISSIONER BERGMAN: Commissioner Carr.

20 COMMISSIONER CARR: Yes.

21 COMMISSIONER BERGMAN: Commissioner

22 Conyers.

23 COMMISSIONER CONYERS: Yes.

24 COMMISSIONER BERGMAN: Commissioner Gant.

25 COMMISSIONER GANT: Yes.

1 COMMISSIONER BERGMAN: Commissioner
2 Shearman.

3 THE CHAIR: Yes.

4 COMMISSIONER BERGMAN: Commissioner
5 Bergman votes "yes." Madame Chair, the vote is
6 eight to zero. The motion is approved.

7 THE CHAIR: Thank you, Mr. Secretary. By
8 a vote of eight to zero, unanimous, the contract
9 presented by Horizon Academy West is approved.
10 Congratulations.

11 (Applause.)

12 MR. GERLICZ: Madame Chair, members of the
13 Commission, if I may, hats off to all of the members
14 of Horizon Academy West for having worked very, very
15 hard on their end and worked with us extremely well
16 in this whole process. Thank you.

17 THE CHAIR: Next, we'll consider the
18 contract of Media Arts Collaborative Charter School.
19 Are their representatives here today?

20 MR. GERLICZ: Madame Chair, members of the
21 Commission, I do not see them in the audience. And
22 I have not had communication from them. So I do not
23 know whether they're in that traffic jam or -- they
24 are coming from Albuquerque.

25 THE CHAIR: Okay. Director, I don't know

1 that I asked you for a recommendation on the first
2 school. Do you have recommendations for us on
3 these?

4 MR. GERLICZ: I think I did write that in
5 each of these, that we did recommend approval of the
6 contract. Thank you for reminding me.

7 THE CHAIR: Thank you.

8 MR. GERLICZ: We do have representatives
9 of North Valley here.

10 THE CHAIR: Okay. Are there questions,
11 comments, from Commissioners? Hearing none, are we
12 ready for a motion? Commissioner Pogna?

13 COMMISSIONER POGNA: Madame Chair, I move
14 to approve the contract presented by Media Arts
15 Collaborative Charter School.

16 THE CHAIR: Do I hear a second?

17 COMMISSIONER TOULOUSE: Madame Chair, I'll
18 second.

19 THE CHAIR: Commissioner Toulouse. Motion
20 by Commissioner Pogna, second by Commissioner
21 Toulouse, to approve the contract presented by Media
22 Arts Collaborative Charter School. Is there any
23 discussion? Hearing none, we'll move to a roll-call
24 vote.

25 COMMISSIONER BERGMAN: Commissioner

1 Peralta.

2 COMMISSIONER PERALTA: Yes.

3 COMMISSIONER BERGMAN: Commissioner Pogna.

4 COMMISSIONER POGNA: Yes.

5 COMMISSIONER BERGMAN: Commissioner

6 Toulouse.

7 COMMISSIONER TOULOUSE: Yes.

8 COMMISSIONER BERGMAN: Commissioner Carr.

9 COMMISSIONER CARR: Yes.

10 COMMISSIONER BERGMAN: Commissioner

11 Conyers.

12 COMMISSIONER CONYERS: Yes.

13 COMMISSIONER BERGMAN: Commissioner Gant.

14 COMMISSIONER GANT: Yes.

15 COMMISSIONER BERGMAN: Commissioner

16 Shearman.

17 THE CHAIR: Yes.

18 COMMISSIONER BERGMAN: Commissioner

19 Bergman votes "Yes." Again, Madame Chair, by an
20 eight-to-zero vote, the contract is approved.

21 THE CHAIR: Thank you, Mr. Secretary. It
22 is a unanimous vote of the PEC to approve the
23 contract presented by Media Arts Collaborative
24 Charter School.

25 We next move to the North Valley Academy.

1 Do we have representatives of that school?

2 UNIDENTIFIED SPEAKER: Yes, ma'am.

3 THE CHAIR: I certainly would be happy to
4 ask for any presentation you want to make at this
5 time, if you want to?

6 UNIDENTIFIED SPEAKER: Madame Chair,
7 members of the Commission, there will be no further
8 comment.

9 THE CHAIR: Thank you. Commissioner --
10 pardon me. Director, your recommendation is to
11 approve; correct?

12 MR. GERLICZ: Madame Chair, members of the
13 Commission, it is. I might add that, for us, this
14 was, again, a very, very good and worthwhile
15 process. We may remember that North Valley Academy
16 was approved not for the five years, but for three
17 years. And I could say that, as an educator and as
18 an administrator, that I've been extremely pleased
19 by the response from Principal Belmore and their
20 governing chair who is here today, and their vice
21 chair, who have used this process to highlight some
22 deficiencies in their school and capitalize on the
23 strengths of their school.

24 And I think it's been a very, very fine
25 process for a school like North Valley, and we

1 recommend approval of the contract.

2 THE CHAIR: Thank you, Mr. Director. Are
3 there comments or questions from Commissioners?
4 Hearing none, the Chair would entertain a motion.
5 Commissioner Gant?

6 COMMISSIONER GANT: Madame Chair, I move
7 that we accept the contract with North Valley
8 Academy.

9 THE CHAIR: Do I have a second?

10 COMMISSIONER CARR: Second.

11 THE CHAIR: Second by Commissioner Carr.
12 Motion by Commissioner Gant, second by
13 Commissioner Carr, to approve the contract presented
14 by North Valley Academy. Further discussion?
15 Mr. Secretary, we'll have a roll-call vote.

16 COMMISSIONER BERGMAN: Commissioner
17 Peralta.

18 COMMISSIONER PERALTA: Yes.

19 COMMISSIONER BERGMAN: Commissioner Pogna.

20 COMMISSIONER POGNA: Yes.

21 COMMISSIONER BERGMAN: Commissioner
22 Toulouse.

23 COMMISSIONER TOULOUSE: Yes.

24 COMMISSIONER BERGMAN: Commissioner Carr.

25 COMMISSIONER CARR: Yes.

1 COMMISSIONER BERGMAN: Commissioner
2 Conyers.

3 COMMISSIONER CONYERS: Yes.

4 COMMISSIONER BERGMAN: Commissioner Gant.

5 COMMISSIONER GANT: Yes.

6 COMMISSIONER BERGMAN: Commissioner
7 Shearman.

8 THE CHAIR: Yes.

9 COMMISSIONER BERGMAN: Commissioner
10 Bergman votes "Yes." Again, Madame Chair, by an
11 eight-to-zero vote, the motion has been approved.

12 THE CHAIR: Thank you, Mr. Secretary.
13 It's unanimous. The Commission approves the
14 contract presented by the North Valley Academy.

15 (Applause.)

16 THE CHAIR: Commissioner Gant.

17 COMMISSIONER GANT: Madame Chair, members,
18 with the other Commissioners' agreement, maybe we
19 could hear a few short comments on how the
20 representatives of these two schools felt about the
21 process you all just went through for this contract.
22 I think it would be enlightening.

23 Some of us didn't get to sit in on the
24 down-in-the-weeds part. So if you've got any
25 comments you'd like to share with us, please.

1 MS. BELMORE: Madame Chair, members of the
2 Commission and CSD, as --

3 THE CHAIR: Let me interrupt you just a
4 minute. Please state your name and your position
5 for the reporter.

6 MS. BELMORE: Thank you. Stephanie
7 Belmore, Principal, North Valley Academy Charter.

8 I'd like to say that, as the new
9 administrator at North Valley Academy, as
10 Mr. Gerlicz said, the process was so enlightening,
11 but so valuable, because it really let us look at
12 this school in the eyes of accountability. And I
13 think that the Charter School Act clearly emulates
14 the fact that accountability is definitely a
15 priority, especially in the education -- not only in
16 the charter school, to be an innovative educational
17 institution, but to move our school forward.

18 We definitely appreciate the three-year
19 contract, and I think we stated it in a lot of our
20 paperwork, that, for us, this was very valuable to
21 really section off and phase our improvements and
22 look at the internal workings of our school. But
23 CSD was an amazing partner in this.

24 I also look at the involvement of the PEC,
25 in that -- the authorizer of our contract. I know

1 that -- and want to make you assured that we're
2 serious about moving forward and looking at our
3 school -- probably on a more baseline, to look at it
4 moving forward -- but to look at our strengths and
5 weaknesses.

6 Mr. Gerlicz mentioned that in the
7 weaknesses as well. And I assure you that we do
8 have some, as many institutions do. But we're very
9 willing to work on these and improve the processes
10 at our school in moving forward, too. So I see it
11 as a valuable process. As Mr. Gerlicz stated,
12 lengthy; but they were there to support us
13 throughout every mission from the very beginning.
14 And I so appreciate that.

15 I also would like to say that --
16 definitely seen an improvement in the state with
17 regard to charter and the administration. I also
18 believe, as a former PED employee, that, in looking
19 at support for worthwhile educational adventures and
20 moving schools forward, I support definitely looking
21 at support for that department.

22 We had a great day at NVA in the contract
23 review. And it led us to really open conversations.
24 And I appreciate that, too, with the PEC
25 Commissioners. Commissioner Bergman and

1 Madame Chair Shearman were at our visit that day,
2 and it was an amazing visit. And when they left, I
3 surely felt that the support was there to move our
4 school forward.

5 So I so appreciate your work and all of
6 you for taking time to really serve our schools. So
7 thank you so much, each and every one of you. Thank
8 you.

9 THE CHAIR: Thank you. Appreciate your
10 observations.

11 MS. BELMORE: You're welcome.

12 THE CHAIR: I invite anyone from Horizon
13 Academy West to speak, if you would care to.

14 UNIDENTIFIED SPEAKER: Good morning.

15 THE CHAIR: Good morning.

16 MS. DURAN: I'm Amy Duran, Director of
17 Horizon Academy West.

18 MS. CARTER: I'm Cynthia Carter, the
19 principal of Horizon Academy West. And,
20 Madame Chair and Commissioners, I just really want
21 to thank you so much for the engagement that we had
22 and the opportunity that we had to sit down and
23 negotiate some of this performance contract. I --
24 it really was an eye-opener for us to look at what
25 we do and try to improve what we do.

1 But I just want you to know that, during
2 this process, we received a phone call from the
3 Public Education Department, and we were nominated
4 to be on one of the "New Mexico Best" sites for our
5 school. And so I had the opportunity to have an
6 interview with someone from PED. And because of our
7 conversations and the process that we were able to
8 go through with you, then I was able to answer
9 precisely what we do at our school, and take -- and
10 be able to reflect in a more concise way about our
11 school. So I really appreciate what you guys
12 have -- just our conversations and everything. So
13 thank you.

14 THE CHAIR: Thank you.

15 MS. DURAN: We really appreciate the
16 opportunity to work collaboratively and closely with
17 the Charter School Division and the PEC. We've been
18 chartered as a State charter for the last five
19 years, but we've been in existence for ten, and I've
20 been with the school for the last ten years. And
21 this is the most closely that I feel we've ever been
22 able to work with the Charter School Division.

23 The staff is outstanding. I really feel
24 like they want us to succeed and that they're vested
25 in what we're doing at our school and just feel

1 really supported by them, and you all as well, and
2 can't say enough good things about that and the
3 relationship that we've built together. So thank
4 you.

5 THE CHAIR: Thank you so much. We
6 appreciate your insight and your comments. I will
7 say -- and I think Commissioner Bergman will
8 agree -- those were intense sessions, very intense.
9 But they were -- they were very friendly. There --
10 laughter. And you would think when you're
11 negotiating a contract like this, it might really
12 get contentious at times. And I was very happy to
13 notice that everyone worked well together, and it
14 was -- everyone was focused on the same goal: Do
15 what's right for the kids.

16 And I think we've got a good process going
17 here. I really do. So thank you very much.

18 MS. DURAN: Thank you.

19 THE CHAIR: All right. Do we need a
20 break? Does anybody need a break? No? Okay. All
21 right. Let's move on to Item No. 8, Action on
22 Amendments for Charter Schools. Mr. Director?

23 MR. GERLICZ: Madame Chair, members of the
24 Commission, we have three amendments in front of us:
25 One from the Anthony Charter School in Anthony in

1 Las Cruces; the ACE Leadership High School; and the
2 Learning Community Charter School in Albuquerque.

3 We'll start with the Anthony Charter
4 School, and I will turn it over to General Manager
5 Callahan, who has spent time in Anthony at the
6 school to bring the Commissioners up to date on,
7 number one, what is the motion and why the motion,
8 and any other comments related to Anthony. Kelly?

9 MS. CALLAHAN: Madame Chair,
10 Commissioners, the first amendment is for Anthony
11 Charter School. And this is an unusual request,
12 because it's actually coming from the Charter
13 Schools Division. When we did our original
14 recommendation for the renewal of Anthony, we had
15 made a time line of 18 months, so a shortened
16 renewal, because there were questions about the
17 relationship that -- that Anthony had coming from
18 the school district local authorizer to the State.

19 And -- and there was -- there were some
20 gaps, and there were things that we were concerned
21 about that needed to be addressed. And so the --
22 the original recommendation was for 18 months. As
23 we began the negotiation process with Anthony and
24 working with the school to address not only coming
25 to terms of the contract, but also to address the

1 conditions that were placed by the PEC on Anthony,
2 it became very clear that the 18 months was not a
3 realistic means for the school to demonstrate
4 exactly what it is that they needed to do in order
5 to get a further renewal from the PEC.

6 And a couple of reasons: One, if there
7 was a need to close the school -- unfortunately, the
8 18-month time line put it in December, which means
9 that the school would have had to close at the
10 middle of the school year. And -- and this would
11 not be good for any -- any group. And, secondly,
12 according to the law, the renewal application has to
13 go in 270 days, six months prior to the expiration
14 of the charter. And Anthony, then, would have to
15 submit -- if the December time line was indeed
16 tolled, would have to submit their renewal
17 application on April 1st.

18 Well, if the contract doesn't go into
19 effect until July 1st, that means that the data
20 would -- there would only be about seven months'
21 worth of information and data; we'd fall outside of
22 the -- the next Standards Based Assessment; we
23 wouldn't have any of that data.

24 And, so, as the Charter School Division,
25 in working with the school, beginning the contract

1 negotiations, our recommendation to the school was
2 to ask for an amendment to go from the 18-month to
3 24 months, which puts the school on the cycle for
4 the renewal in October, and to -- if there -- the
5 review that would happen would give them two full
6 years.

7 And if, indeed, the PEC made the decision
8 to close the school, the school would then close at
9 the end of the school year, and there would be
10 proper notification of the community. And so
11 working with the school, we came up with the
12 amendment that just changed the term from 18 months
13 to 24 months, so they had the full -- full two
14 years. And the Anthony Charter School Governing
15 Board approved this amendment and signed off and did
16 a resolution that indicated that they all approved
17 at a properly noticed meeting and according to the
18 Open Meetings Act.

19 And so the Charter Schools Division
20 actually instituted this amendment in conjunction
21 with Anthony. We do recommend this because it would
22 be best practice for giving a fair evaluation of
23 time for the school, but also to allow the Charter
24 Schools Division to work with the school.

25 Mr. Gerlicz mentioned that -- I've been

1 identified as the liaison for the school. We
2 actually went down -- Julia Barnes and I went down
3 and joined the school governance board and spent a
4 day and a half working with them on the conditions
5 of their -- of their renewal and beginning the
6 contract negotiation work. And so, as has been
7 stated in the process, it really allows for a very
8 in-depth review that previously hasn't been -- there
9 hasn't been opportunity to do, not for lack of --
10 ever wanting to do that, but that this forces us to
11 really look strategically at how this school is
12 going to improve and the goals and the process
13 reflect that.

14 So they -- Anthony has been very willing,
15 and they are fully aware that they have a very short
16 amount of time that they have to demonstrate what's
17 happening in their school. And with the performance
18 contract and the performance frameworks, it really
19 is focusing their energies.

20 And I felt, as the CSD representative
21 there, that there is a very concerted effort by the
22 school to make the changes necessary to show the PEC
23 that they are a school that needs to continue forth.
24 And so we do recommend the amendment. And, at this
25 point, if you have any questions, I'd be happy to

1 answer.

2 THE CHAIR: Thank you, Ms. Callahan. Are
3 there representatives from the school here today
4 that would care to make any kind of statement? No?
5 Okay.

6 MS. CALLAHAN: Madame Chair, no, because
7 it came from the CSD, and they had to travel from
8 Las Cruces, and they're prepping for the SBA test.

9 THE CHAIR: I just wanted to give them the
10 opportunity. Any questions or comments from
11 Commissioners? Hearing none, Commissioner Gant.

12 COMMISSIONER GANT: Madame Chair and
13 members, just a couple of questions. All right. I
14 can buy the 24, I guess, at this point. I -- you
15 know, the 18 months seemed reasonable. But I
16 understand the December part, given the amount of
17 time.

18 But I also want to know, while you were
19 down there, did you get any indication that they are
20 actually going to move those portables that have
21 been sitting down there for a long time onto their
22 property?

23 MS. CALLAHAN: Members, Commissioner Gant,
24 my understanding is that they were in the process of
25 moving them this week. And so we will get an

1 update, I'm imagining, in the next couple of weeks.
2 The negotiation date -- just to kind of segue a
3 little bit. The negotiation date that we're looking
4 at for Anthony down in Las Cruces is April 1st.
5 That's the time that we're looking at. And so I
6 wanted to get confirmation, but that's the tentative
7 date. And so they're in the middle of moving their
8 portables. Their intent is to get into those
9 portables right after their spring break and the
10 SBA.

11 COMMISSIONER GANT: Thank you,
12 Madame Chair.

13 THE CHAIR: Any other questions? Hearing
14 none, the Chair will entertain a motion.
15 Commissioner Bergman.

16 COMMISSIONER BERGMAN: Madame Chair, I
17 move that the Public Education Commission approve
18 the amendment presented by Anthony Charter School.

19 COMMISSIONER PERALTA: Second.

20 THE CHAIR: Motion by Commissioner
21 Bergman, second by Commissioner Peralta, to approve
22 the amendments presented by the Anthony Charter
23 School. Any discussion? Mr. Secretary, we'll have
24 a roll-call vote.

25 COMMISSIONER BERGMAN: Commissioner

1 Peralta.

2 COMMISSIONER PERALTA: Yes.

3 COMMISSIONER BERGMAN: Commissioner Pogna.

4 COMMISSIONER POGNA: Yes.

5 COMMISSIONER BERGMAN: Commissioner

6 Toulouse.

7 COMMISSIONER TOULOUSE: Yes.

8 COMMISSIONER BERGMAN: Commissioner Carr.

9 COMMISSIONER CARR: Yes.

10 COMMISSIONER BERGMAN: Commissioner

11 Conyers.

12 COMMISSIONER CONYERS: Yes.

13 COMMISSIONER BERGMAN: Commissioner Gant.

14 COMMISSIONER GANT: Yes.

15 COMMISSIONER BERGMAN: Commissioner

16 Shearman.

17 THE CHAIR: Yes.

18 COMMISSIONER BERGMAN: Commissioner

19 Bergman votes "Yes." Again, Madame Chair, by an
20 eight-to-zero vote, the motion is approved.

21 THE CHAIR: Thank you, Mr. Secretary. It
22 is unanimous. The PEC approves the amendment
23 presented by Anthony Charter School.

24 We'll next consider the amendment
25 presented by the ACE Leadership High School.

1 MR. GERLICZ: Madame Chair, members of the
2 Commission, might I suggest -- I do not see members
3 of ACE here. I had sent them a text. I'm not sure
4 if they're in that traffic jam as well, or where
5 they are. But the members of the Learning Community
6 Charter School are here. Perhaps we can hear from
7 them -- I'm not sure of the protocol on this -- and
8 just give the ACE Leadership High School students a
9 few more minutes.

10 THE CHAIR: All right. Let's do that.
11 We'll hold ACE Leadership High School for a few
12 minutes, and we'll go right into Learning Community
13 Charter School.

14 MR. GERLICZ: Madame Chair, members of the
15 Commission, this is -- the Learning Community
16 Charter School is the third school that found
17 themselves in the similar position of the other two
18 schools that appeared in front of this Commission
19 last month, in that when they were approved by the
20 PEC, they were to come back to the PEC with a set of
21 new goals to be approved. And it was at that time
22 that the Charter School Division was undergoing a
23 great deal of transition. The director of the
24 division moved on. There was much change. And that
25 actually never happened.

1 And my thanks to Ms. Karen Ehlert, who is
2 our institutional memory in the division, who
3 brought it to my attention that these had never been
4 approved.

5 The liaison to the Learning Community
6 Charter School, Rachel Stofocik, is here, and
7 together, she and I got in touch with the school and
8 raised this question, that these goals had never
9 been approved.

10 Somewhat of a concern was that Mr. Ken
11 Lairsey, who is here this morning, is also brand
12 new. He assumed the position in October of this
13 school year, and also was unaware of the situation,
14 which is understandable. Now, Ms. Stofocik and
15 others from the division had undergone a first-year
16 site visit to the school, and there were some goals
17 stated there. And it was upon review that those
18 were the goals from the first-year site visit that
19 we thought were inadequate.

20 And we began to raise those questions with
21 Mr. Lairsey; he agreed and worked on them. And,
22 again, we engaged in a back-and-forth process with
23 him to spiff up these goals and make them much more
24 indicative of the school that he was now leading.

25 So the amendment in front of you is a

1 result of that; I think, fair to say, that we could
2 have gone a longer time back and forth with that
3 process. Mr. Lairsey is here, and these are the
4 amended goals that they are presenting to the
5 Commission.

6 And it's our recommendation -- and there
7 still remains a number of questions as to how --
8 does the entire community, the board -- who has
9 signed off on the amendment? The teachers? The
10 parents? The students? -- under those goals? Are
11 they well engrained in the school community? And
12 Mr. Lairsey was also warm to the idea of coming back
13 to the Commission on a regular basis, if need be,
14 to -- to report on the progress of these goals.

15 So it is our recommendation that, if these
16 things are put into place, a commitment to come back
17 to the Commission on a regular basis to be
18 determined by the Commission, and if we have
19 assurance that these goals are, in fact, completely
20 understood and agreed upon by members of the
21 community, then it would be our recommendation to
22 approve. And that's our position at this point.

23 THE CHAIR: Thank you, Mr. Director. Let
24 me be sure I understand. You have some hesitation
25 in assuring us that these goals are completely

1 integrated into the school and the community?

2 MR. GERLICZ: Madame Chair, members of the
3 Commission, yes. And fair to say that we had some
4 concerns just with Mr. Lairsey being new in October,
5 when the school year was also in place. And when
6 you are new in a school that has had some
7 difficulty, there is a period of uncovering other
8 things that you see that you perhaps were unaware of
9 that have come to light.

10 And so the school -- these goals represent
11 a fairly large distance in performance of the
12 students at The Learning Community. Again, The
13 Learning Community is a school that takes students
14 that have not been successful in traditional
15 settings. Their performance, as indicated by all
16 the formalized measures, is low. And they have a
17 good deal of distance to travel.

18 So these goals can be viewed as ambitious
19 in that sense. And it will take a total team effort
20 on the part of the school to achieve them. And we
21 certainly hope that they are achieved, and we just
22 want to be assured that the proper structure and
23 protocols are in place, the proper support is in
24 place for Mr. Lairsey and the rest of the leadership
25 team to be successful in achieving of those goals.

1 That's the hesitation that you're probably hearing
2 from the Charter School Division.

3 THE CHAIR: Okay. Could that be taken
4 care of by your annual site visits, where you look
5 at all those things, and then we're getting the
6 reports of the site visits back right after they're
7 done that would keep us apprised of their progress
8 towards these goals?

9 MR. GERLICZ: Madame Chair, members of the
10 Commission, it certainly would be one way. I
11 would -- Ms. Stofocik and I have talked at length,
12 that, in our increased contact with our schools and
13 our team process in the liaison, that an even more
14 than once-a-year site visit, to be in constant
15 communication with the school, to check in and see
16 how they're doing, would also be in order.

17 And I do think it's highly appropriate for
18 the head of the school, the leadership of the
19 school, to report back to the PEC on an annual basis
20 as well, in addition to the length of their charter.

21 THE CHAIR: Okay. Questions or discussion
22 from Commissioners? Commissioner Gant?

23 COMMISSIONER GANT: Madame Chair, members,
24 Mr. Gerlicz. Is it possible, if we approve this, if
25 the Commission approves your recommendation for

1 approval, can we put a condition that so states in
2 no uncertain terms that the school will make the
3 report every year; I mean, puts it in as a condition
4 of approval?

5 MR. GERLICZ: Madame Chair, Commissioner
6 Gant, that certainly would be appropriate and
7 amenable to us in the Charter School Division.

8 COMMISSIONER GANT: Thank you,
9 Madame Chair.

10 THE CHAIR: Yes, sir. Any other --

11 MR. GERLICZ: And, again, Madame Chair,
12 Mr. Lairsey is here, and he and I have spoken about
13 his certain willingness to take questions from the
14 Commission.

15 THE CHAIR: Doo the Commissioners have any
16 questions for Mr. Lairsey? Seeing none, are we
17 ready for a motion? Commissioner Gant?

18 COMMISSIONER GANT: I've got to find the
19 motions. I lost it on the computer here.
20 Madame Chair, members, I move to approve the goals
21 amendment presented by the Learning Community
22 Charter School with the following condition: That
23 they report to the Public Education Commission
24 annually at the direction of the CSD.

25 THE CHAIR: Do we have a second?

1 COMMISSIONER CARR: Second.

2 THE CHAIR: Commissioner Carr. Motion by
3 Commissioner Gant, second by Commissioner Carr, to
4 approve the goals amendment presented by The
5 Learning Community, with the condition that they
6 report annually to the CSD -- pardon me -- to the
7 PEC on progress towards reaching those goals.

8 COMMISSIONER GANT: At the direction of
9 the CSD.

10 THE CHAIR: At the direction of the CSD.
11 Any discussion? Roll-call vote, Mr. Bergman.

12 COMMISSIONER BERGMAN: Commissioner
13 Peralta.

14 COMMISSIONER PERALTA: Yes.

15 COMMISSIONER BERGMAN: Commissioner Pogna.

16 COMMISSIONER POGNA: Yes.

17 COMMISSIONER BERGMAN: Commissioner
18 Toulouse.

19 COMMISSIONER TOULOUSE: Yes.

20 COMMISSIONER BERGMAN: Commissioner Carr.

21 COMMISSIONER CARR: Yes.

22 COMMISSIONER BERGMAN: Commissioner

23 Conyers?

24 COMMISSIONER CONYERS: Yes.

25 COMMISSIONER BERGMAN: Commissioner Gant?

1 COMMISSIONER GANT: Yes.

2 COMMISSIONER BERGMAN: Commissioner
3 Shearman?

4 THE CHAIR: Yes.

5 COMMISSIONER BERGMAN: Commissioner
6 Bergman votes "Yes." Again, Madame Chair, by an
7 eight-to-zero vote, the motion is approved.

8 THE CHAIR: Thank you, Mr. Secretary. By
9 a unanimous vote, the goals amendment presented by
10 The Learning Community, with the condition that they
11 report annually to the PEC with cooperation of the
12 CSD, has passed.

13 We now need to move to ACE Leadership High
14 School.

15 COMMISSIONER CARR: Madame Chair?

16 THE CHAIR: Yes.

17 COMMISSIONER CARR: Just a -- a point. My
18 wife is stopped in traffic between here and
19 Albuquerque. So I guess the traffic -- I guess
20 nothing is moving again.

21 THE CHAIR: So --

22 COMMISSIONER CARR: And so I don't know
23 if -- you know, in fairness -- do you know if
24 they're on their way? If they're not on their way,
25 then we can just move on. But I -- out of fairness,

1 I'm just -- maybe we could -- we could wait -- or
2 move it later on in the agenda.

3 THE CHAIR: Have you heard from them,
4 Director?

5 MR. GERLICZ: Madame Chair, Commissioner
6 Carr, I have not heard. I have sent a text, and it
7 has not responded. If it is the disposition of the
8 Commission to move it back, I would warmly endorse
9 that, particularly since students are coming. I
10 really want to give them an opportunity.

11 THE CHAIR: Commissioners' attorney?

12 MR. REYNOLDS: Yes, you can move this
13 later on in the agenda, if you so desire.

14 THE CHAIR: Does it require a motion and a
15 vote?

16 MR. REYNOLDS: No, it does not.

17 THE CHAIR: All right. Then let's decide
18 to hold action on the ACE Leadership High School
19 till later in the agenda, hoping that the
20 representatives will get here in time.

21 MR. REYNOLDS: Madame Chair, I just -- it
22 might be wise to -- the purpose of the Open Meetings
23 Act is that everybody who wants to listen -- to
24 attend and listen to an item is able to do so. This
25 is a little bit unusual. But it might be wise to

1 ask if there's anybody in the crowd who's here to
2 hear that item that will not be able to stick around
3 to hear it later. So --

4 THE CHAIR: Thank you, Mr. Reynolds. A
5 good idea. Let me ask the audience. Is anyone here
6 expressly to hear the presentation by ACE Leadership
7 High School? I see no one. So we will move on in
8 the agenda. Thank you.

9 Item No. 9 is Village Academy Closure
10 Update. Ms. Callahan?

11 MS. CALLAHAN: Madame Chair,
12 Commissioners, as you recall, the -- at the last
13 meeting, there was a memorandum of understanding
14 that asked the Charter School Division to put
15 together a closure plan for Village Academy. There
16 were some delays because of questions about timing
17 for an appeal.

18 The -- the school board president did
19 submit a letter to the Secretary. However, it
20 occurred after the statutory time limit and did not
21 contain any of the items that were required for --
22 by regulation to submit an appeal. And so the
23 General Counsel for the Public Ed Department sent a
24 letter stating that they could not pursue an appeal.
25 And so, as of -- as of that decision, we've -- began

1 moving forward in developing this plan.

2 And so I have been working on this fairly
3 diligently. And you can see, it is a very, very
4 comprehensive document. I apologize that it didn't
5 get to you earlier. I just finished the draft with
6 Director Gerlicz on Wednesday. And so what you have
7 in front of you is the draft of the plan that we
8 have been asked to put together.

9 This plan is a compilation of the National
10 Association of Charter School Authorizers'
11 recommendations. Albuquerque Public Schools --
12 Mr. Tolley is here. He shared, as they had
13 experience with a closure process that they had to
14 do last year. And the existing Charter School
15 Division closure process, which was part of the
16 previous contracts that were submitted with the
17 school applications. And so this is a compilation
18 with some additional language to that process,
19 putting in a time line, putting in the steps that
20 need to be taken for this school to close on or
21 after a -- a few days after June 30.

22 And so the -- the plan itself is in two
23 parts. There is the general student school
24 operational plan, and then there's actually a
25 separate document that works with the financial

1 aspect of it. I -- having not done this process
2 before, I had no idea how comprehensive. This is
3 going to be very complex. And the things that we do
4 have going for us, however, is that Village Academy
5 is a very small school. And so, hopefully, we'll be
6 able to work with the staff and the community to
7 insure the least disruptive process and to make the
8 school closing as orderly as possible. And there
9 are a lot of things that have to -- have to be
10 considered.

11 And so, Madame Chair, just to give you an
12 update, we have been in contact with the head
13 administrator and the governing body president and
14 the business manager to set up these first meetings
15 that are in No. 1 through 6 are actually going to
16 take place at that meeting. And they are going to
17 be March -- either March 25 or 27, depending on the
18 availability of the charter -- the Village Charter's
19 governing council president.

20 So we have began the process, because it
21 is -- there is date sensitivity to certain staffing
22 issues that have to happen, but before mid-April.
23 And -- and you'll see that those are outlined in
24 that -- that plan. And so at this point, we have
25 started the process of meeting with the

1 stakeholders. We will be working with the Public Ed
2 Department, because many of the divisions that
3 operate -- help operate schools are going to be
4 impacted by this budget, the STARS, assessment and
5 accountability, bilingual, Title I, special ed; all
6 of those groups are going to be impacted and need to
7 be -- we need to work at that side of the -- of the
8 process as well.

9 And so what you have is the draft that we
10 will present to the governing board president and
11 the head administrator to begin the process. Again,
12 this is all from NACSA, the existing CSD process and
13 the APS's process that they've already gone through
14 and have proven that they have dotted their I's and
15 crossed their T's to insure that everything is
16 properly administered.

17 And so I guess at this point, we will
18 entertain questions. It is a new process for all of
19 us. And -- and so we are going to use -- do our
20 best to make sure that all of the elements are
21 implemented correctly and with fidelity.

22 THE CHAIR: Well, I say, Ms. Callahan,
23 certainly looks comprehensive to me. If you have
24 missed anything, I can't imagine what it is. I'm
25 serious. This is very, very well done. I am very

1 impressed.

2 Are there comments or questions?

3 Commissioner Bergman?

4 COMMISSIONER BERGMAN: I would call
5 everyone's attention to the bottom of Page 19, under
6 Section 36, "Disposition of Records." The staff has
7 noted -- highlighted in yellow at the very bottom on
8 the left -- that the "Authorizer," which is the PEC,
9 "should consult legal counsel about liabilities when
10 they take possession of personnel, non-student and
11 non-personnel records." And it also indicates there
12 in the second column that we may be taking
13 possession of the financial records, or they may go
14 to the school budget analyst.

15 It may be premature for me to ask about
16 this. But who actually is going to take possession
17 of those records? Is Ms. Friedman, as a Custodian
18 of Records -- does she get them? Or who gets all
19 these records and where are they going to go and
20 when?

21 MS. CALLAHAN: Madame Chair,
22 Commissioner Bergman, that is to be determined. I
23 would put them in my office, but there is going to
24 be about ten years' worth of information. And so
25 there's two pockets of -- of data that we're going

1 to have to look at. There's the student files,
2 which is their cumulative files and their -- and
3 their testing records, discipline records,
4 attendance records, all of those things are going to
5 have to be stored according to the -- the time line.

6 For instance, cumulative files have to be held
7 for 90 years. And so the school is going to be
8 open -- this is the ninth year. And so we're going
9 to have to determine where best to securely place
10 those records. And so we will be working with the
11 Public Education Department Charter Schools
12 Division, Attorney Abby -- she doesn't know this
13 yet, but she's going to be working with me on this.

14 And the other pocket of information that
15 we have to look at is personnel files, financial
16 records, all of those things that -- so that's a
17 separate pocket that has separate requirements of
18 storage.

19 In addition to that, we have special ed
20 records; we have -- there's a lot of information
21 that's going to have to be determined, one, where
22 physically to put them; and two, how to secure and
23 maintain the information. Personally -- this is my
24 preference -- is that we somehow get them
25 electronically documented so that we can store them

1 securely. That, to me, is probably the best way to
2 do it.

3 But all schools are responsible for
4 hard-copy storage of their -- of their records. And
5 since the school is going to be closed, we're going
6 to have to figure that out. So that's part of this
7 process.

8 COMMISSIONER BERGMAN: Thank you, Director
9 Callahan. We may need some legal guidance from our
10 counselors in this area at some point in the future.
11 So we have something to think about. Thank you.
12 Thank you, Madame Chair.

13 COMMISSIONER TOULOUSE: Madame Chair?

14 THE CHAIR: I believe Commissioner Pogna
15 was ahead of you.

16 COMMISSIONER POGNA: Madame Chair, Kelly,
17 you mentioned that it was a small school. I've
18 looked in here. I don't see a number of students.
19 Can you tell us how many students are involved?

20 MS. CALLAHAN: Madame Chair,
21 Commissioner Pogna, there are less than 40 students
22 at this time.

23 COMMISSIONER POGNA: Thank you.

24 THE CHAIR: Commissioner Toulouse?

25 COMMISSIONER TOULOUSE: Madame Chair, I

1 would think the State Archives, who do keep secure
2 files, would be a resource. And they are, by law,
3 responsible for all State documents anyway. And
4 I -- they do have secure files. So they will
5 probably dig in their heels and say, "We don't have
6 room," but it is their legal responsibility to at
7 least assist and work with us. So I would think
8 they would be at least a resource.

9 THE CHAIR: Thank you. Director Gerlicz?

10 MR. GERLICZ: Madame Chair, members of the
11 Commission, what is interesting to me, again, in
12 researching this nationally -- and what Kelly has
13 done is extraordinarily great work, as always -- and
14 it indicates what happens nationally. There's a
15 fear of closing schools for this reason, because of
16 how difficult it all is, in addition to the
17 emotional charge and all of that.

18 And it was interesting to me, when I went
19 on nationally to research this, is this was given as
20 one main reason why -- why schools are not closed.

21 So it's important for us to do this well,
22 learn as much as we can from it and not to let it
23 deter us from making the proper decisions. But I
24 thought that was interesting on a national scale.

25 THE CHAIR: Kelly?

1 MS. CALLAHAN: Madame Chair,
2 Commissioners, just a couple of points that have
3 come to surface, one being these legal questions
4 that we're going to need to address. And the second
5 is, as Tony was talking about, the national movement
6 right now -- and, Commissioner Shearman, you may
7 remember this from [inaudible], is that schools
8 actually put money aside in an escrow account to --
9 in the chance that they would have to close at some
10 point, because there are going to be some costs that
11 are going to be associated with -- with this, you
12 know, starting with personnel that -- that this is
13 going to require a great deal of my time to monitor
14 this. We're going to have to tap our attorney.

15 We are looking at hiring a consultant
16 business manager to assist with overseeing the
17 business and financial transition that needs to
18 happen. And so you're talking a lot of different
19 costs. But, you know, storage, you know, having
20 to -- having to make the records into digital
21 documents, all of that comes with associated costs,
22 whether it be personnel or actual paper or pencil
23 copying costs, et cetera.

24 And, so, right now, what's going to have
25 to happen is the PED is going to have to absorb

1 this, because the school has -- didn't have a
2 provision for that. It may be something that we
3 want to look into as -- and, again, those are
4 different states. We'd have to look at the legality
5 of being able to set aside funding in the, you know,
6 off chance that there has to be either a revocation,
7 a non-renewal, or something to that effect that
8 would impact a school closing.

9 And so that's going to be one of the
10 things that we just sort of uncovered. And to
11 Commissioner Gant's statement about the staffing, it
12 is going to -- you know, you're talking that the CSD
13 is responsible for 56 State-chartered schools. But
14 we also oversee the districts -- the others. And we
15 are just one school short of 100 schools. And so
16 this is -- this is a very complex and comprehensive
17 plan that is going to require a great deal of
18 manpower and time as a resource. And, again, what
19 that means is something else is going to be set
20 aside.

21 So we're -- we're dealing with that, Tony
22 and I, working on how to best use our resources and
23 the staffing that goes along with that. But this
24 is -- this is going to be, you know, a very
25 difficult -- you know, anytime you have to close or

1 fire or -- or remove something that has been in
2 place for a long time, there's history; there's
3 buy-in. And that's going to be extremely difficult.

4 And so the costs on many levels are going
5 to be high. But I think that the process that we've
6 talked about in re- -- in putting the application
7 together was very comprehensive and looked very
8 carefully at the work that the school was doing.

9 And I -- you know, and the PEC followed the
10 recommendation. So I think we've definitely given
11 our -- done due diligence, and will continue to do
12 so, in this process.

13 And, again, my apologies for not getting
14 this sooner. We were literally doing this and
15 making this go as we're coming forward.

16 So I'm thankful that we have Abby on our
17 staff that will be getting together Tony and I. And
18 hopefully, Abby will be able to go down to meet with
19 the school personnel to discuss this and then begin
20 those difficult meetings with the parents, students,
21 and staff.

22 COMMISSIONER CARR: Madame Chair?

23 THE CHAIR: We certainly appreciate your
24 efforts. It sounds like a big job, and we
25 appreciate how well you do it. Commissioner Carr.

1 COMMISSIONER CARR: I have a few comments.
2 One, it would be important for every one of those
3 students to be given a copy of their transcript as
4 they depart, because that would be one of the -- if
5 you're talking about records, that's what schools
6 get hit up for the most.

7 The -- Taos went through closing a school
8 a few years back. It involved mass protest and
9 picketing, and it was a school that had been around
10 for 100 years, you know.

11 It's a -- it's a -- it's an awful process.

12 I -- and two more things. One is, you
13 know, I -- I think I had mentioned this before --
14 that maybe it would be important that they have a --
15 you know, a reserve set up to help pay for a
16 closing. I don't know how we could do that. That
17 would be something, you know, to look into.

18 And, most importantly, I think it
19 emphasizes how important our job is in that we --
20 that we look over new applications and -- with a
21 fine-tooth comb, that we pay very careful attention
22 to what we're doing so that we only invite schools
23 that are -- to join the other charter schools if
24 they have a really good chance of success.

25 So it emphasizes how important our job is

1 in looking over these applications in the future.

2 THE CHAIR: Thank you, Commissioner Carr.
3 Commissioner Gant.

4 COMMISSIONER GANT: Madame Chair, members,
5 in your executive summary for Item 9, the paragraph
6 about two-thirds of the way down, you talk about the
7 closure is by the 30th of June. But there's certain
8 things that might cycle past that closing date. Can
9 you speak to those, what might go past the 30th of
10 June, please?

11 MS. CALLAHAN: Madame Chair, Commissioner
12 Gant, the items specifically that will go past
13 the -- the 30 days are mostly the financial things,
14 that they're allowing to let PO's to be paid, make
15 sure that payroll has gone through, the records
16 that -- the financial -- in terms of creditors, the
17 facility, all of those things are going to be
18 probably cycled past -- they have a 30-day limit
19 past the end of the closing date that they'll have
20 to do it.

21 There is a time line in here. It's not
22 indefinite. So roughly, it will be July 31st when
23 everything cycles through and out and is finished.
24 And it's primarily the financial records. There's
25 one -- I believe the testing material things that

1 they need to get. There's -- to make sure it gets
2 through the end of school, that everything is
3 properly and securely boxed up and labeled, they
4 have a little time after that June 30th date. But
5 there were -- most of them are the financial. And
6 they are all outlined on here.

7 COMMISSIONER GANT: And, Madame Chair, I
8 do appreciate this document. What it reminds me of
9 is, being a retired military officer, it reminds me
10 of an off plan for a mission that someone is going
11 to -- we would have used to take a hill or -- a
12 strategic target. And I'm serious. We would
13 outline something like this; many pages more, but --
14 but I do appreciate this, because other than Mr. Law
15 [verbatim] back there for APS, whoever else
16 districts have a charter school that may or may
17 not -- may close, they probably haven't got a clue.

18 This is our clue. And I think every
19 district ought to be handed one of these and say,
20 "Put this on the shelf and be ready to use it."
21 Because it would probably be updated every year
22 because we learn something. But it's something we
23 can put on the Web site, readily available for the
24 schools, plus the districts.

25 And I think you've done a very good job.

1 I -- I know exactly what you're going to do now --
2 well, I think I know exactly what you're going to
3 do.

4 MS. CALLAHAN: Madame Chair?

5 THE CHAIR: Yes.

6 MS. CALLAHAN: Madame Chair,
7 Commissioners -- and I just want to thank Mr. Tolley
8 from APS. The formatting and everything, they had
9 to go through a trial by fire, essentially, with the
10 school that they closed last year. And the process
11 of -- of what they learned and the things that
12 happened -- what I did is I synthesized what the
13 State was required to do. There's a few different
14 elements that ran in there; but the actual document
15 itself, the action plan -- so, but Mr. Tolley and I
16 frequently steal things from each other.

17 So, you know, I really -- but I do
18 appreciate, Mark, that that -- that you were willing
19 to share that with us and I was able to expand on
20 it. And I -- he doesn't know this yet, but I'm
21 probably going to be calling him a lot to get some
22 advice. But that -- you know, in essence,
23 Commissioner Gant, is it's an action plan. Both
24 Mr. Tolley and I have worked as school
25 administrators and charter school leaders. And this

1 is how -- this is how I operate; this is how he
2 operates. And it makes most sense to me.

3 So, again, it's a collaboration. It will
4 continue to be a collaboration as we look to guide
5 other districts that may have to go through this --
6 you're absolutely right -- to have some sort of
7 guidepost that you can use to put your plan together
8 so it is immensely less difficult than what we had
9 to go through. But it was still a very lengthy
10 process to make sure that all LEA requirements had
11 to be also put in place.

12 So, you know, this is a -- this is a great
13 collaboration. I think there's a lot of work that
14 has to be done. It's going to be difficult. But I
15 think, by having something very straightforward that
16 we can share with the school, they know exactly
17 what's coming, when it's due, when it's coming. I
18 think there will not be any surprises and will --
19 will lead to the -- you can't get away from
20 disruption. But, hopefully, it will lessen the
21 disruption for the community. Thank you.

22 THE CHAIR: Thank you very much. We
23 appreciate that update. Any other questions?
24 Commissioner Bergman.

25 COMMISSIONER BERGMAN: Not a question, a

1 comment, because I share Director Gerlicz's thoughts
2 on just how heart-wrenching a decision to close a
3 school is. It's heart-wrenching for the staff who
4 are having to leave the employment that they have
5 and find new employment. It's heart-wrenching for
6 the parents who love the school, as we've seen when
7 they sit in the audience. And it's probably most
8 heart-wrenching for the kids who are having to leave
9 the school they know and go to a new school.

10 I always know -- remember how difficult it
11 was for me. My father was in the Air Force, and I
12 was moving all the time and going to a new school.
13 So I have a very great appreciation of how tough it
14 is on kids to move into a new school. And yet on
15 the other hand, if a school is not performing, it's
16 probably necessary to sometimes pull the plug. And
17 that's what makes the heart-wrenching part of it.

18 That's, for me -- at least personally,
19 that's the most difficult vote I have to make is
20 whether to close a school. And I share Director
21 Gerlicz's comments that, here again, we always have
22 to remember, it's the kids we're talking about.

23 THE CHAIR: Thank you,
24 Commissioner Bergman. Other comments? All right.
25 Again, thank you for that update. Let's --

1 COMMISSIONER GANT: Can we take a break?

2 THE CHAIR: Let's do one more. Item
3 No. 9, Memorandum of Understanding. Ms. Wear, I
4 understand you want to table that?

5 MS. WEAR: Yes, Chairman Shearman, members
6 of the Commission, there is still some language --
7 the draft you have in your book, it has already been
8 updated by Mr. Reynolds, Mr. Williams, and myself.
9 So we'd like to pull that and put it back on the
10 agenda at the next regularly scheduled meeting.

11 THE CHAIR: So we need to table it; right?

12 MR. REYNOLDS: Madame Chair, we're in
13 complete agreement with that. And the need to
14 postpone that is by no means Abby's fault. Your
15 counsel has been very busy with other things, and we
16 just got back to her on it yesterday. So we have
17 some language to work out. It would be more
18 appropriate to handle it at the next meeting.

19 THE CHAIR: The Chair would entertain a
20 motion to table this item until the next meeting.

21 COMMISSIONER GANT: So move.

22 COMMISSIONER PERALTA: Second.

23 THE CHAIR: Moved by Commissioner Gant
24 seconded by Commissioner Peralta, to table the
25 Memorandum of Understanding. Any discussion? All

1 those in favor, please say "Aye"?

2 (Commissioners so indicate.)

3 THE CHAIR: Any opposed? Motion carries.
4 That item is tabled.

5 Let's take about a ten-minute break, and
6 we'll get right back to you.

7 (Recess taken, 11:00 a.m. to 11:15 a.m.)

8 THE CHAIR: Let us come back into session.
9 Point of information. Director, are we going to
10 sign those contracts today, or are we going to put
11 that off?

12 MR. GERLICZ: Madame Chair, members of the
13 Commission, you are going to sign those contracts
14 today. And I am deferring to our attorney, Abby, to
15 make sure that we're doing it correctly.

16 THE CHAIR: Then why -- I suggest we move
17 on with the agenda, and when those are ready to be
18 signed, please let us know. Okay?

19 All right. The next item on the agenda is
20 the PEC Legislative Update. I only have a couple of
21 things to bring.

22 House Bill 392 has now cleared the House
23 Education Committee. And it is in House -- I never
24 can think of the name of that.

25 COMMISSIONER GANT: House Appropriation

1 and Finance.

2 THE CHAIR: Appropriation and Finance.

3 And that's the "PEC Independence" bill. The mirror
4 bill of that in the Senate is still waiting to be
5 heard in Senate Education.

6 COMMISSIONER TOULOUSE: No, it cleared.

7 THE CHAIR: Oh. It did clear?

8 COMMISSIONER TOULOUSE: And was referred
9 on to -- excuse me, Madame Chair. I was told that,
10 on Wednesday morning, it passed out of Education and
11 was referred to Senate Finance.

12 THE CHAIR: Thank you very much for that
13 information.

14 And then the other bill of some interest
15 to this group is Senate Bill 338, the Virtual
16 Charter School Moratorium bill. And it was to be
17 heard this morning in House Education. And I have
18 not heard the results of that. Does anyone else
19 have anything to add?

20 COMMISSIONER CARR: By anybody?

21 THE CHAIR: Mr. Carr.

22 COMMISSIONER CARR: There was -- no, you
23 answered my question. I'm sorry. Go ahead.

24 THE CHAIR: Okay. All right. With that
25 update out of the way, let's go to PEC Comments,

1 item No. 12.

2 Commissioners? Anyone have something to
3 bring to us? Commissioner Gant.

4 COMMISSIONER GANT: Madame Chair, members,
5 attendees, the other day there was a news item that
6 came out about the absentee of teachers, New Mexico
7 being number one in the United States for a number
8 of absentees teachers are taking. I'm not sure
9 whether it's teachers and/or administrators.

10 And I took -- and it really upset me. Not
11 that we have absenteeism. We should not have
12 absenteeism, unless they have very good reasons.
13 But the way the article came out and the response --
14 and I'm going to say this -- the response by the PED
15 was a blanket statement saying that -- that was
16 damning all teachers.

17 And that's not the case. Yes, we may have
18 school districts that are having problems with
19 absentee teachers. But I bet you can go out there
20 and look at the other 89 -- all the 89 school
21 districts, and you're going to see the preponderance
22 of the teachers are in the classroom where they're
23 supposed to be, day after day, coming in early day
24 after day, leaving late, regardless of what the
25 union contract is.

1 So I took a real personal dislike for that
2 article and how the PED responded and how they want
3 to fine the teachers or fine the people who are
4 absentee. Well, I don't know if they can do that
5 legally. It's not their place to be fining teachers
6 anything.

7 But I think we ought to look at why, if
8 there is a large absentee in the State of New
9 Mexico, why. You know, are we looking at one year
10 like this, or are we looking at many years like
11 this? I don't know.

12 But I've got a feeling that if you look
13 about how the absentee has gone up over the last
14 couple of years, you'll get an understanding that
15 many teachers are not appreciated, starting at the
16 top on the fourth floor of the Roundhouse, all the
17 way down. And I'll say it. They've been belittled;
18 they've been threatened; they've been told they're
19 not professional, that they're not taking care of
20 kids. They're not teaching kids; they don't know
21 how to teach kids.

22 Well, I got news for you. The most
23 professional people we've got, the ones that are
24 taking care of the kids are the ones in the
25 classrooms doing their best. And I took it very,

1 very personal that we would get that type of message
2 from the PEC -- or PED, and how they -- they think
3 they want to handle it. Doing that will do nothing
4 more but to discourage our teachers to do the best
5 they can.

6 They need to be encouraged. Over the
7 years, past years, as I've sat at this table, and as
8 I've sat as a Board member, we used to get positive
9 messages from the PED, or the past State Department
10 of Education, about how well some schools were
11 doing. We would also get the other side of the
12 house, how schools weren't doing.

13 But right now, we don't get that balance.
14 All we hear now is the negative. I guess negative
15 sells papers. Positive doesn't. And as one
16 Commissioner here, I'm getting a little tired of the
17 fact that our school districts, our teachers, our
18 administrators, our charter schools included, are
19 getting berated and belittled instead of encouraged
20 to do a better job, to do what they know how to do
21 better than some people that sit up here in
22 Santa Fe. Thank you, Madame Chair.

23 THE CHAIR: Commissioner Carr?

24 COMMISSIONER CARR: I -- this is a topic
25 that's come up from time to time. And I'm referring

1 to the absenteeism of teachers. About seven or
2 eight years ago, there was a school board member in
3 Taos who brought it up. It was costing us a lot of
4 money. You know, I -- it's -- I get tired of
5 getting -- I've got thick skin, but I get tired of
6 being bombarded continuously with how horrible
7 teachers are, how they're not doing their job.

8 We know that the vast majority of them do.
9 I see it every day. My wife teaches second grade.
10 She's taken one sick day in six years. I -- you
11 know, I -- I look at, individually, now, there are
12 always the people who maybe tend to abuse things.
13 But, you know, we have single parents who have kids.
14 Kids get sick.

15 The teacher next door to me, the only time
16 he ever has to miss is when one of his kids get
17 sick. And him and his wife are both teachers, and
18 they take turns taking care of their sick kids. And
19 they miss.

20 We're bombarded by more germs than you get
21 in a hospital every day. I teach 156 students a
22 day. And, you know, I get sneezed on and coughed
23 on, you know, kids wanting to drink out of my water
24 bottle. No, I don't want anybody -- you know, I --
25 it's -- you know. And I keep the Germ-X on the --

1 you know, it's -- you know, are you kidding me? You
2 know, we get ten days -- ten sick days per year.

3 And so a teacher says, "Well, I don't
4 know. I can't afford that \$50, so I'm going to come
5 in, and I'm going to get my 150 kids sick because I
6 can't afford not to come in, and I don't want to get
7 yelled at for not being here."

8 And it's -- you know, one more thing, you
9 know. It's one of the most stressful jobs. If you
10 look at any study, you get hit with more questions,
11 bombarded, not just with germs, but constant,
12 constant questioning and dealing with -- with
13 students every second of the day.

14 It's very stressful. And, of course,
15 stress leads to a diminished capacity for your body
16 to -- to -- to fight off germs and bacteria and
17 viruses.

18 And one more thing. Morale is down. And
19 when morale is down, you're also subject to illness.
20 Are you subject to, "You know what? Like, I just
21 need a day off, because I -- I can't -- I can't deal
22 with this. I can't -- I can't -- I just need a day
23 off, because I can't deal with it anymore right now.
24 Just give me some time." You know?

25 The only way teachers get through a year

1 is if -- with some time off. The only -- it's not
2 time to -- it's not a time to go off -- necessarily
3 go off on vacation. A lot of teachers work. They
4 do things -- but, you know, you can only deal with
5 156 kids a day for so long until you need a break,
6 you know?

7 And it comes from people who -- quite
8 often, who haven't walked a mile in a teacher's
9 shoes. I love hearing from people who haven't got a
10 clue to what it's like to be in a classroom day in
11 and day out, year after year after year, and to be
12 diminished. It makes me angry. I feel bullied.
13 And I -- and I feel for my other fellow teachers who
14 feel bullied.

15 I don't tolerate bullying. I don't
16 tolerate it with my students; I don't tolerate it
17 with me; and, if I ever see it, I get involved. I
18 always get involved. From the time I was in
19 elementary school, I was the anti-bully. I stood up
20 for little kids who were bullied.

21 I don't know where that came from. But
22 that's always been a big deal to me. Bullying is
23 big in the news. It's a big part of our policy.
24 And, I'm sorry, it's an emotional issue for me. But
25 I guess I shouldn't apologize. Because it is a very

1 emotional issue. And we should not tolerate any
2 type of abuse, verbal or otherwise, in our society
3 or in our schools or in our families. And we should
4 always stand up for those who maybe don't have the
5 strength to stand up for themselves.

6 THE CHAIR: Thank you, Commissioner Carr.
7 Any other? Commissioner Peralta?

8 COMMISSIONER PERALTA: Madame Chair, I'd
9 like to concur with the message that Commissioner --
10 both Commissioners, Gant and Commissioner Carr,
11 just -- just spoke about in regards to the
12 absenteeism of faculty or whatever. And I see that
13 when teachers are out of the classroom, kids -- kids
14 lose out on quality instruction, quality education.
15 And I see that's the pitch that the PED is making,
16 that when teachers are out, students lose out.

17 But, again, you know, staff, being an
18 administrator at a middle school, there are
19 important reasons why teachers have to be out.

20 As I said, I'm an administrator from a
21 middle school that's been a School Improvement
22 school, under the grant of the State, for the last
23 three years. And I've seen where SIG has driven
24 teachers out for at least two to three days a week,
25 because of professional development.

1 And, again, kids will lose out. Yes,
2 teachers are getting, you know, proper training and
3 getting more educated and up-to-date on strategies
4 and implementation of curriculum and what have you.
5 But the bottom line is the students are still losing
6 out when teachers are not in the classroom.

7 But if -- you know, if teachers are on
8 professional development and out two or three days a
9 week getting that training, that's okay. But, on
10 the other hand, if they're not, and teachers are
11 home because their kids are sick or whatever, we get
12 criticized. And so, you know, I just want to make
13 that note, that a lot of times things that are
14 driven by PED, it's okay; but if it's not driven by
15 PED, then it's not okay. Thank you.

16 THE CHAIR: Thank you, Commissioner.
17 Anyone else? Commissioner Toulouse?

18 COMMISSIONER TOULOUSE: Madame Chair, not
19 coming out of the education field, per se, but
20 having been a State employee for 30 years, I think
21 there is an overall thing that people do to anyone
22 who is drawing a check that they see is coming out
23 of public money, and belittling them. They think
24 that everybody who gets a check from a public entity
25 clearly isn't paying taxes or something. You know,

1 you're on the -- or you don't do your job.

2 And let me tell you -- excuse me, my
3 allergies are here. Thirty years in the Human
4 Services Department got me, in the last 29 years, to
5 never tell anybody the agency I worked in, because I
6 was doing welfare programs. And you never met one
7 single person who thought you should even have that
8 job.

9 They either were bums who should go to
10 work, or you weren't doing nearly enough, depending
11 on which side of the issue they were on. And I
12 think teachers get the exact same thing. You're
13 damned if you do, and you're damned if you don't.
14 And nobody understands the difficulty of it.

15 I mean, I had employees coming in sick to
16 certify people for food stamps or whatever, because
17 those people had to do it; they had to -- and an
18 office with hundreds of people coming through a day,
19 bringing all their germs, bringing their kids who
20 should have been in school, but they brought them in
21 often, to literally interrupt interviews, so that
22 you'd forget to ask questions. And I've seen all
23 that. So I know. And I just -- I feel every time I
24 see those.

25 I had wonderful teachers. I still

1 remember many of them. I have friends who taught,
2 most of whom are retired now. Several of them left
3 before they wanted to because they thought, "This
4 isn't worth it." I don't see nearly as many of the
5 young people who are my children's friends wanting
6 to be teachers because they see this. And this
7 state has a problem with that kind of thing.

8 We need to find a way to encourage our
9 bright young students to be teachers and then stay
10 in New Mexico and teach, not go to Colorado, not go
11 to Texas, you know, but to stay here and teach. So
12 I think this is part of a much bigger problem about
13 appreciating the people who give you the day-to-day
14 things that you need.

15 There's not a one of us who would be
16 sitting here if we hadn't had good teachers, you
17 know. And that's what we need to do. So I really
18 want to agree with what all of you say, from an
19 outside perspective, you know, rather than as an
20 educator myself, other than having been involved
21 with higher ed.

22 And so I want to thank everybody who does
23 it, and I want to thank everybody here who's done it
24 all these years. So I just -- but I really do think
25 this is an issue we need to find a way, as a

1 Commission, to carry forward. Thank you.

2 THE CHAIR: Thank you, Commissioner. Any
3 other comments? Seeing none, we'll move forward to
4 the Open Forum. Let me just read this so we'll all
5 know where we are.

6 Public comments and observations are
7 limited -- thank you -- to education policy and
8 governance issues, as well as the Strategic Plan for
9 Education. As the Chair of the Public Education
10 Commission, I am setting a four-minute time limit
11 per presenter. Persons from the same group and
12 having similar viewpoints are asked to select a
13 spokesperson to speak on their behalf. Multiple and
14 repetitious presentations of the same view will be
15 discouraged and may be ruled out of order.

16 And I have one name on the list, a "Nadine
17 Vigil." If you would come forward, please. Good
18 morning. It's still morning. Please be sure you
19 use the mic so we can hear you. And spell your
20 name, please, for the reporter.

21 MS. VIGIL: Okay. Can you hear me now? I
22 don't know if it's on.

23 MS. FRIEDMAN: You have to push the
24 button.

25 MS. VIGIL: Okay. Now you can hear me.

1 And I have a pretty loud voice.

2 Members of the Commission, good morning.
3 My name is Nadine Vigil. I am representing Taos
4 International School. My name is spelled
5 N-A-D-I-N-E, V-I-G-I-L.

6 First of all, I just want to say that Taos
7 International School will add a great value to the
8 multicultural community of Taos. It will allow the
9 students of Taos to participate in a very unique
10 program that we are going to be offering. Let's,
11 together, make this about school choice and what's
12 right for our kids. Thank you.

13 THE CHAIR: Thank you very much.

14 By the way, Mrs. Friedman asked me to
15 announce that anyone who might have picked up an
16 agenda when the meeting first began, those are
17 incorrect. The corrected versions are out there
18 now, if you would care to pick up the updated -- the
19 correct version.

20 Next item on the agenda is 14, Review of
21 the PEC Process and Procedures. And I understand
22 that has been requested to be tabled until the next
23 meeting; is that correct? All parties involved?

24 MS. WEAR: I think it needs to happen now,
25 but I'm not your attorney. So --

1 MR. REYNOLDS: Madame Chair, I think
2 there's a lot of things that we could discuss in
3 this agenda item. There are many things that -- we
4 could go over this whole book; we could talk about a
5 lot of things. I'm prepared to give sort of a
6 down-and-dirty Open Meetings Act 15-minute
7 presentation training, and also have a little bit of
8 discussion on the Inspection of Public Records Act,
9 which I think may be -- that probably should happen
10 for this meeting.

11 With regards to your rules and procedures,
12 I was just looking through this this week, and I
13 think it would be wise to have this as its own
14 agenda item at some later time, because I think we
15 would -- as your counsel, we will have suggestions
16 for changes to this. And I think the best way for
17 that to happen is after all the Commission members
18 have had an opportunity to look at this closely
19 before that meeting.

20 But I do think it's important to at least
21 point out for the new members -- you've probably
22 already looked through it -- that you do have this
23 book called the "Public Education Commission Rules
24 of Procedure" that it would be wise for you to go
25 through, if you haven't already, to do that.

1 So I will leave it to your discretion. We
2 can table this whole thing for a next meeting. I
3 can give my quick IMA and IPRA presentation, if you
4 would like. And I'm -- this is something that
5 normally takes 45 minutes, but I could probably do a
6 good 15-minute one for you all.

7 THE CHAIR: Commissioners? What's your
8 choice? Commissioner Gant?

9 COMMISSIONER GANT: Madame Chair, members,
10 I think we need to do the Open Meetings Act portion
11 and go ahead with that, because that's the one that,
12 if we stumble on that puppy, we're in trouble. So
13 he -- and I've been down the road in another school
14 board, where the members did not follow the Open
15 Meetings Act to the letter and it really cost them.
16 So we don't need to fall onto that trail. I would
17 prefer we go ahead with that portion.

18 THE CHAIR: Any other observations or
19 comments?

20 COMMISSIONER BERGMAN: I agree.

21 COMMISSIONER POGNA: I agree.

22 THE CHAIR: Do we need that in the form of
23 a motion?

24 MR. REYNOLDS: I don't think so. It's on
25 the agenda, so we can go ahead and go forward.

1 THE CHAIR: Let's go ahead with the Open
2 Meetings, the two things you were going to talk
3 about, and the rest of it, we'll put off till the
4 next meeting.

5 MR. REYNOLDS: Madame Chair, members of
6 the Commission, I travel around the state and do an
7 Open Meetings Act presentation. And what he's
8 passing out is two things. One is what's normally a
9 PowerPoint presentation that we give in our
10 division, in the Attorney General's Office. And the
11 second thing is our compliance guide to the Open
12 Meetings Act. So everybody will have a copy of
13 this.

14 Like I said, this presentation, this
15 PowerPoint presentation that everybody has is
16 normally a -- you know, 45 to an hour-long
17 discussion. But what I think I can do is distill it
18 down to those points that are most important for --
19 for this Commission. There will be lots of things
20 that we can skip over, because you won't be dealing
21 with it in this Commission.

22 So with that said -- well, one other
23 preliminary thing is, in our guide, the first pages
24 of our guide, starting on Page 2, is the language of
25 the Open Meetings Act itself. And the PowerPoint

1 presentation generally follows the Open Meetings
2 Act, in order, in order of the sections. And so you
3 can follow along with the actual Act, me, as I go
4 through the PowerPoint presentation.

5 So if everybody has it, the Legislature
6 has told us that the public has a right to open
7 meetings; no meetings, no decisions in secret. And
8 that -- this is an act -- this is a rule that
9 applies to all policy-making bodies. There are some
10 interesting questions posed lately, whether or not
11 this is actually a policy-making body. But the
12 Attorney General's Office believes that it is, and,
13 therefore, the Open Meetings Act applies.

14 So the first important thing that I think
15 it's important for you to know is that it applies to
16 meetings of a quorum of your body. And a quorum is
17 half plus one. And the important thing to remember
18 is that is the number of members that you have, not
19 necessarily the members you're supposed to have.

20 THE CHAIR: Oh.

21 MR. REYNOLDS: So a quorum of this body is
22 now -- you have eight, I believe, sitting members.
23 When you have five members getting together, you
24 have a quorum. If you're fully appointed, and you
25 have your full ten, then your quorum will be six.

1 So anytime a quorum of you all talk about anything,
2 it needs to be -- the Open Meetings Act needs to be
3 followed.

4 And I do use "talk about anything"
5 literally, because it only applies when you're
6 discussing public policy or the authority of this
7 body or anything that, you know, has been delegated
8 to you to do. I advise for a quorum of you not to
9 talk about anything, and that, if five of you are
10 together, you better not be talking about -- don't
11 talk about anything. Just don't do it. And I'll
12 talk about the exceptions to that. But that's the
13 wiser course of action.

14 So I'm sorry that the PowerPoint is not
15 numbered, because I usually have it up on a screen.
16 But I've talked about the quorum. It applies to a
17 policy-making body.

18 Now, the most important thing, probably,
19 for you all to remember with regard to the quorum is
20 that you can unintentionally violate this by having
21 what we call a "rolling quorum." And that is where
22 not all of you -- or five of you, or if you're fully
23 staffed, six of you -- are together in a room
24 talking. But this is where -- forgive me for using
25 names -- Commissioner Gant calls up Chairman

1 Shearman and says, "Hey, what about this?"

2 Chairman Shearman sees Commissioner Carr
3 on the street and says, "Hey, what about this?"

4 And that continues until a quorum of you
5 have discussed that. Technically, you have violated
6 the Open Meetings Act. Not technically. You have.
7 You have violated the Open Meetings Act because a
8 rolling quorum of you has discussed a matter of this
9 body. It's important to avoid that situation.

10 The other way that this occurs a lot
11 unintentionally is through e-mail and the dreaded
12 "Reply All." So it's perfectly fine for your
13 administrator, for your attorney, or for others to
14 send you -- to send everybody an e-mail for
15 information purposes: "This is going to be on the
16 agenda for the next meeting. We should take this
17 up. Here's an item for your information that you
18 might want to discuss."

19 But at the point where, you know,
20 Commissioner Bergman says -- hits "Reply All" to
21 everybody, "Here's what I think about this issue,"
22 guess what? You have effectively had a quorum of
23 people discussing this item outside of the context
24 of the Open Meetings Act. Be careful with your
25 e-mail communications.

1 I think your administrator and myself will
2 send to the Commissioner -- send to the whole
3 Commission e-mails, information on things. I always
4 try to put in mine, "Don't 'Reply All,' because we
5 don't want to violate the Open Meetings Act." But
6 keep in mind that that's always going to be an issue
7 with e-mails. We see it all the time where it's
8 unintentionally violated in that way.

9 So that's the rolling quorum issue which
10 is probably the biggest thing for me to tell you in
11 this whole -- in the whole presentation is to avoid
12 those situations.

13 Now, you'll see in my -- in the PowerPoint
14 a slide that's -- you know, "Meetings not covered by
15 the OMA." This does not mean you can't all get
16 together at a party, or, you know, have trust --
17 have, you know, chance meetings and that sort of
18 stuff. But don't talk about public business. And
19 better yet, as I said before, don't a quorum of you
20 all get together at a meeting and talk about
21 anything, because it may give the appearance that
22 you've been talking about public business.

23 My office handles complaints quite
24 frequently from people who have been at a restaurant
25 or something and have seen a group of city council

1 members or, you know, board members or commission
2 members, sitting down at breakfast before the
3 meeting, and filing a complaint that they were
4 talking about public business outside the context of
5 an open meeting and, therefore, in violation of OMA.
6 We handle those sorts of complaints all the time.

7 My advice is to avoid situations or even
8 give the appearance that you would be doing that so
9 that people don't think you are talking -- you're
10 violating OMA, even if you're not talking about
11 public business.

12 By the way, stop me and ask me questions
13 at any time.

14 COMMISSIONER GANT: You raised a couple of
15 questions. Madame Chair. First of all, we have
16 been known to walk across the street on a long day
17 and have lunch. No? Don't do it?

18 MR. REYNOLDS: I would avoid it.

19 COMMISSIONER GANT: Okay.

20 MR. REYNOLDS: I would avoid -- I really
21 would. You know, somebody who's also at your
22 meeting -- just because -- and it may be an
23 overabundance of caution. But I do handle
24 complaints like this all the time. You know,
25 we're -- that very thing. Someone at your meeting

1 also goes to that same restaurant. "Hey, they're
2 all there. They can only talk about stuff in the
3 open meeting. What are they talking about in secret
4 right now?"

5 You know, a couple of you, a few of you,
6 break into groups, much smaller groups; but don't
7 get together as a group. It is not a violation of
8 the Open Meetings Act for you all to get together as
9 a group and not talk about anything before this
10 body. But it gives the appearance that you may be.
11 And so my advice is to avoid that situation
12 entirely. Yes.

13 COMMISSIONER POGNA: I'm confused about
14 the quorum.

15 MR. REYNOLDS: Uh-huh.

16 COMMISSIONER POGNA: Did I get this right,
17 that it's a membership -- half of the membership
18 plus one?

19 MR. REYNOLDS: Correct.

20 COMMISSIONER POGNA: So that we could have
21 four -- required to have five.

22 MR. REYNOLDS: That's correct.

23 COMMISSIONER POGNA: When we met back on
24 the 26th, we were told -- required a quorum of six.
25 There were six of us here for that meeting.

1 MR. REYNOLDS: Right.

2 COMMISSIONER POGNA: So we really only
3 needed five. We were going to have one person who
4 would not be able to make it.

5 MR. REYNOLDS: This body, the Constitution
6 says you have ten members. You have eight who are
7 appointed. I'm sorry, elected. A couple are
8 appointed. I'm sorry. So you have eight members
9 who are serving.

10 This gets a bit complicated, and it could
11 be a big long discussion. But -- and this is going
12 to sound like I am talking out of both sides of my
13 mouth.

14 But it is certainly wise, for purposes of
15 you making a decision by this body, for you to have
16 a quorum of the ten, in case anybody wants to
17 challenge that the decision wasn't made by a quorum.
18 A very strong argument could be made that a quorum
19 of five could make that decision. But if you can
20 avoid that situation, avoid that situation. So we
21 had six. It's a quorum of ten. So we have it
22 anyways.

23 For purpose of the Open Meetings Act, I
24 would caution on the other side, okay? So, say, you
25 have a quorum -- you have eight members, and five of

1 you are meeting. I could see somebody complaining
2 the other way. Well, you have a quorum of your
3 eight. Therefore, you have -- and you guys met and
4 violated the Open Meetings Act because you had five
5 of eight.

6 So you see how it can come at you from
7 both ways. And so I certainly advise, for purposes
8 of making a decision, you're always better off
9 having the six. But for purposes of making sure
10 you're in compliance with the Open Meetings Act,
11 don't -- if you have only eight members, don't more
12 than four of you meet. Does that make sense? I
13 know it's -- it's a little tough. But that's --
14 it's a very good question and a very good
15 observation.

16 So a couple of more points on -- on the
17 quorum. And I haven't seen this yet, but I don't
18 know. Do you all occasionally appoint subcommittees
19 or anything like that? I mean, do you have your
20 legislative subcommittees and that sort of stuff?
21 And the rules on subcommittees are, they are not
22 subject -- if your subcommittee meets, you are not
23 subject to the Open Meetings Act if it's not a
24 quorum of the body.

25 So you can have a subcommittee of three.

1 They can meet and have their discussion and report
2 back to the full body, because it's not a quorum of
3 your members meeting. It's important for those
4 three subcommittee members to not get into a rolling
5 quorum by talking about it with two other members or
6 that sort of thing. But that can happen.

7 The exception to that is if you delegate
8 decision-making authority to that subcommittee
9 that's not subject to approval by the full
10 Commission. Then that subcommittee, regardless of
11 how many members it has, it would be -- their
12 meetings would be subject to the Open Meetings Act
13 because you've given them the authority to make a
14 decision on behalf of the Commission. So if you
15 have two or more members meeting, and they have the
16 authority to make a decision that is not subject to
17 approval by the full Commission, we need to talk,
18 because they'll have to be subject to the Open
19 Meetings Act, if that subcommittee gets together.

20 Make sense? Any questions on that? It
21 can be kind of complicated.

22 So I'm going through really fast. There's
23 a lot of other things that I normally talk about.
24 Telephone conferences. That's actually part of your
25 rules and procedures. And it is allowable, but, you

1 know, it needs to be -- the language in the Open
2 Meetings Act is if it's difficult or impossible for
3 the member to attend. And if you meet that
4 standard, then you can attend by telephone, under
5 the Open Meetings Act.

6 The Open Meetings Act has lots of
7 provisions on how to provide notice of your
8 meetings. Beverly handles this quite well. I don't
9 know if it's something that I need to reiterate with
10 all of you. But the one thing to keep in mind is
11 that each year -- and this is something that we need
12 to see if we're in compliance on this right now --
13 each year, this body is supposed to pass an Open
14 Meetings Act resolution. And within that
15 resolution, you say what you believe -- what are
16 reasonable notice of your meetings. It may be about
17 time to pass that again this year.

18 MS. FRIEDMAN: It's done in March.

19 MR. REYNOLDS: So we'll probably put it on
20 the agenda for the next meeting for your Open
21 Meetings Act resolution to be redone. And Beverly
22 is pretty good at handling -- the notice for the
23 regular meeting gets out ten days beforehand. The
24 special meeting has to be out, under the Open
25 Meetings Act, generally three days beforehand. But

1 you have some rules that like it to be further out,
2 if it could be. And that's all part of what -- a
3 later discussion perhaps on your rules and
4 procedures. So there's notice requirements.

5 There's a process for recessing and
6 reconvening. This is different than taking a break,
7 going for lunch. This is if you recess the whole
8 meeting and come back on another day. There's a
9 process for that to happen. It would take me too
10 long to go through that whole process. Also, me or
11 Mike are going to be with you at those meetings from
12 now on, and we'll walk you through that process if
13 that's going to occur.

14 There is an agenda requirement. You can
15 only take action on items that are on your agenda.
16 I think all of you have heard me talk about that
17 before.

18 And the agenda has to be available
19 24 hours beforehand. I think there's a couple of
20 bills in the legislature right now to expand that
21 out to five days. I'm not sure where they are. But
22 I know --

23 MS. FRIEDMAN: Seventy-two hours.

24 MR. REYNOLDS: Seventy-two hours. I'm
25 sorry. Seventy-two hours. But I'm not sure where

1 that is or the chances of it being passed. But
2 there is a bill out there right now on that.

3 You know, I think that's all -- I would
4 say in the -- as far as the agenda requirements,
5 just keep in mind you can't take action on an item
6 unless it's listed with reasonable specificity on
7 your agenda that is available 24 hours beforehand.

8 Minutes, you have no problem with that,
9 because you have a court reporter that takes all the
10 minutes of the -- I may have said this before. But
11 the Open Meetings Act expressly disallows, you know,
12 no secret ballots, you know. A decision that
13 everybody makes needs to be on the -- needs to be on
14 the record.

15 It doesn't -- the Open Meetings Act
16 doesn't specifically require roll-call votes versus
17 voice votes. It just requires that those who are in
18 attendance or reading your minutes can discern how
19 each member voted. That's the requirement. A voice
20 vote is fine under the Open Meetings Act. It's just
21 that, you know, "All in favor, everybody says
22 'Aye,'" the Chair should say, "It's unanimous, all
23 members voting in the affirmative," that sort of
24 thing, so it's clear that everybody voted in the
25 affirmative or abstained and made a "no" vote. So

1 that's the rule on voice votes.

2 Skipping through, there are a lot -- now,
3 there are -- a lot of my presentation normally is on
4 the exceptions. I just gave you the basic rules.
5 And then there's a whole host of exceptions, many of
6 which I don't think will ever pertain to this body.
7 There's, you know, the renewal of -- or renewal or
8 revocations of licenses. I don't see that coming up
9 right now.

10 Personnel matters. Administrative
11 adjudicatory proceedings. I don't think it applies.

12 Possibly Exception 4, although it would be
13 in a very, very rare circumstance, where the
14 discussion of personally identifiable information
15 about an individual student could be an exception.
16 I haven't seen it yet, where you could go into
17 executive session to discuss that.

18 Collective bargaining as an exception
19 doesn't apply to you. There are some "sole source
20 purchases" exceptions.

21 Now, the one that certainly does -- and we
22 have exercised this, and I think it's on the agenda
23 to exercise it today -- is meeting subject to
24 attorney-client privilege to discuss pending or
25 threatened litigation. The Legislature has found

1 that this body has just as much right as any other
2 entity to have privileged communications with its
3 attorney and, therefore, allows for you to go into
4 executive session to do just that, to discuss
5 pending or threatened litigation. So that will
6 certainly be an exception that we use.

7 There's more exceptions regarding the
8 purchase of property and water, hospital board
9 stuff, gaming board stuff.

10 There's a whole procedure for closure. I
11 have -- you know, I've -- the last time we did it at
12 the last meeting, I kind of walked you through that.
13 But the important thing to know is that in your --
14 if Mike and I happen to not be here at a meeting and
15 you need to go into executive session, your motion
16 to go into executive session needs to state with
17 reasonable specificity what you're going to discuss
18 in executive session and the authority for going
19 into executive session.

20 So if it's attorney-client privilege, it's
21 to -- under this section of the act, to have an
22 attorney-client privileged -- if we're here we'll
23 walk you through that. But, in other circumstances,
24 always remember what the authority is for it under
25 the Act, and with reasonable specificity as to what

1 you're going to discuss in executive session. There
2 has to be a roll-call vote to go into executive
3 session. And it's a majority vote.

4 There are procedures for having a closed
5 meeting outside of an open meeting. That would take
6 me a while to walk through. And it's certainly
7 something that Mike and I can guide you through if
8 the situation arises where we need to do that.

9 Now, who you -- I think the Chair is very
10 aware of this already. But when you come out of the
11 executive session, it's important to state that --
12 let the minutes reflect that only those items that
13 were identified in the motion to go into executive
14 session were actually discussed in the executive
15 session. And the reason for that -- it may seem
16 silly. But the reason for that is the public
17 doesn't know what you discussed in the executive
18 session.

19 And so what the Legislature has done is
20 basically have you make two promises. You make a
21 promise going into the meeting, and then you make a
22 promise after the meeting. And recognizing that you
23 need to go into executive session for certain
24 things, the public doesn't know what you discussed
25 at executive session. So you're making a promise

1 before and after you come out that these are the
2 only things you discussed about. So I think it's a
3 good provision, even though it may seem a little bit
4 silly to have to state that on the record when you
5 come out.

6 That's it. You don't need to hear about
7 legislative committee meetings. Consequences of
8 violating the act. We actually have been down this
9 road already a little bit. There is a presumption
10 that everything that this body does is in accordance
11 with the Act. However, if we do take -- if we take
12 an action that is out of compliance with the Open
13 Meetings Act, the rule is that that Act has no legal
14 effect. It's null and void, until you do the cure,
15 which we have already done, at a subsequent meeting,
16 at which point, then, you -- the cure is that you
17 take the action again. And, therefore, you have now
18 taken the action in compliance with the Open
19 Meetings Act.

20 Interest -- my office is generally
21 responsible for most of the enforcement of the Open
22 Meetings Act. District attorneys and private
23 individuals can file their own lawsuit. If an
24 individual has a complaint against us for violating
25 the Open Meetings Act, they've got to tell us what

1 they think we did, and we have 15 days to act upon
2 that notice if we want to avoid a lawsuit.

3 So that's something to keep in mind. The
4 position of the Attorney General's Office, although
5 there are certainly different points of
6 contention -- and, frankly, I think the Foundation
7 for Open Government may tell you a different story
8 here. But the position of my office is that the
9 public body needs to only set its meeting, inform,
10 "We're going to address this violation of the Open
11 Meetings Act at the next meeting" -- the Foundation
12 For Open Government would tell you that you actually
13 have to have that meeting within 15 days.

14 So it hasn't been decided by the courts,
15 so I'm just giving you the position of the Attorney
16 General's Office and the opposing positions on that
17 issue.

18 And I think -- I know I went through it
19 really fast. Like I said, it's normally an hour
20 thing. Any other questions? There's a lot of
21 information. Any other questions on the Open
22 Meetings Act?

23 COMMISSIONER GANT: Madame Chair, members,
24 just a -- the thing that happened, that I happened
25 to be on a school board my first term. And two of

1 the people on the board were found to be in
2 violation of the Open Meetings Act, plus the three
3 members that were not on the board who had since
4 departed the board were on that five-member board,
5 who they -- when the two were named as in violation,
6 all five of them were taken to court, all five of
7 them found guilty. All five of them paid the \$500
8 fee, plus all the court costs, legal fees,
9 et cetera, et cetera.

10 So \$500, yeah, it's a lot of money. I
11 wouldn't want to spend it. But they had -- they had
12 to pay for their attorneys. They had to pay for the
13 court costs, the whole nine yards. So be very
14 careful. You may get off this Commission -- or
15 another board -- and think you did right, but then
16 you find you didn't. They could take you back to
17 court over something that happened years earlier.
18 So --

19 MR. REYNOLDS: That's why if there's --
20 I'm sorry to interrupt.

21 COMMISSIONER GANT: That's fine.

22 MR. REYNOLDS: If there's any question in
23 our minds, as it was last time, as to whether or not
24 we had to, you're always wise to just fix it. Do
25 the cure as quick as you can and just fix it, and

1 that can hopefully head off a lot of that liability.

2 COMMISSIONER GANT: Madame Chair, these
3 could not be fixed. These were actions by board
4 members that were not fixable. And they -- they
5 didn't intend -- well, the law doesn't talk about
6 intention. The law is very specific. You know,
7 intention means nothing in law.

8 THE CHAIR: Okay. Thank you very much for
9 that. Really, that was very informative. You learn
10 something new every time you hear that presentation.
11 And I guess --

12 COMMISSIONER CONYERS: Madame Chairman?
13 Madame Chairman?

14 THE CHAIR: Mr. Conyers.

15 COMMISSIONER CONYERS: Yes. A question,
16 just clarification, to see if I'm understanding
17 correctly. It's listed that we have an "Open
18 Forum," which means that people can talk about any
19 topic; it's not restricted to agenda items. Is
20 that -- am I understanding that correctly?

21 MR. REYNOLDS: The Open Meetings Act
22 doesn't speak to that at all. As a matter of --
23 the Open Meetings Act, in fact, doesn't require
24 public comment at all.

25 COMMISSIONER CONYERS: Right.

1 MR. REYNOLDS: It's perfectly within the
2 rights of this Commission and any other public body
3 not to allow public comment at its meetings. So the
4 agenda item of "Open Forum" and what can be
5 discussed in Open Forum and that sort of stuff is
6 completely at the discretion of the Commission to
7 decide. Okay. That's a little different than
8 information I've gotten from other trainings I've
9 been in.

10 MR. REYNOLDS: I give this training all
11 across the state to a lot of entities. This is part
12 of our road show. You may have heard us go around
13 and give this. That is most definitely the rule.
14 The Open Meetings Act doesn't require any type of
15 public comment. I always think it's wise for public
16 bodies to allow for it, but it's not required by the
17 Open Meetings Act.

18 THE CHAIR: Any other questions or
19 comments? Thank you, Mr. Reynolds.

20 Commissioners, I believe ACE Leadership
21 High School is here. If it's okay with you, we'll
22 go back and cover that item.

23 COMMISSIONER GANT: Please.

24 THE CHAIR: All right? Okay. We're
25 ready. Mr. Gerlicz?

1 MR. GERLICZ: Madame Chair, members of the
2 Commission, as the students are coming up to take
3 their place -- just grab a chair and sit around that
4 table. Thank you for waiting until those students
5 arrive to make their presentation.

6 This matter came to my attention some time
7 ago when ACE Leadership High School Principal Tony
8 Monfiletto let it be known that they had an issue
9 because they are moving buildings from their current
10 place to a new place and that, therefore, needed to
11 investigate transportation, which they previously
12 have not asked for and currently do not have. And
13 in order to request for transportation funds, they
14 need to file an amendment.

15 And that's what the purpose of this
16 amendment is. What I was impressed by is that all
17 of that work came to me via the students. They made
18 an appointment. Ms. Sabrina Mora took the lead and
19 made all the communication with me and made an
20 appointment. We held a meeting in my office. They
21 came with charts and surveys, statement of purpose.

22 I called Mr. Antonio Ortiz, the head of
23 Capital Outlay, to join us. He had some questions.
24 The students answered them. And, to me, it was just
25 wonderful to see students actually taking charge of

1 an issue that has immediate impact on their school.

2 And so the students are here ready to
3 be -- make a presentation about the amendment that's
4 in front of us. And that amendment is to request
5 transportation be provided. And if that amendment
6 is approved, then that will set in motion the formal
7 mechanisms necessary for the school to apply to the
8 Capital Outlay Office for those transportation
9 funds.

10 So it is the Charter Schools Division's
11 recommendation that the motion be approved, and it
12 is a request that the students be allowed to make a
13 presentation and that the Commissioners ask whatever
14 pertinent questions that they have so that the
15 students can answer them. Thank you, Madame Chair.

16 THE CHAIR: Thank you. Thank you,
17 Mr. Director. Before you begin your presentation,
18 would each of you please introduce yourselves and --
19 I know you all are students, and you're not a
20 student -- if you would tell us your association
21 with the school, spell your name, if it's unique,
22 please, and then we'll begin the presentation.

23 MS. GAVIÑO GRAY: Okay. I'm Christina --

24 THE CHAIR: Use the microphone, please, so
25 we can all hear.

1 MS. GAVIÑO GRAY: I'm Christina Gaviño --
2 with an ñ -- Gray, no hyphen, Director of Community
3 Engagement, the ACE Leadership High School.

4 MR. VIGIL: My name is David Vigil, and
5 I'm the Finance Director for ACE Leadership High
6 School.

7 MR. GONZALES: My name is Angel Gonzales,
8 and I'm a student at ACE Leadership High School.

9 MS. MORA: My name is Sabrina Mora, and
10 I'm a student at ACE Leadership High School.

11 MR. CALDERON: My name is Nathaniel
12 Calderon, C-A-L-D-E-R-O-N. I'm a student at ACE
13 Leadership High School.

14 MR. PALACIOS: My name is Alexis Palacios,
15 and I am a student at ACE Leadership High School.

16 THE CHAIR: Please begin whenever you're
17 ready.

18 MR. CALDERON: First, I'd like to thank
19 all of you for taking time out of your busy days to
20 come and have this meeting with us. And I'd like to
21 hand out a couple of packets that we have prepared
22 for you with information that they have on them.
23 And I'd like to also ask that could we please --
24 could you please not ask any questions before the
25 end of our presentation, just to make it short?

1 And we're here to get an amendment for our
2 charter to provide transportation to and from
3 school.

4 And on Page 1 of the packet that was
5 handed out to you is a matrix showing different
6 types of buildings that we've looked at, the cost on
7 how much those buildings would be to purchase them,
8 if they were zoned for a school, the distance
9 between the school -- the new school and our current
10 location, the time that it would take for us to move
11 in, and if it was still an option or not.

12 And Page 2 and 3 of our packet is a list
13 of the schools that we looked at, the buildings that
14 we looked at. The first list -- the first building
15 is the current building we're in now on 20th Street.
16 It's our building now, but it's too small for us.
17 We -- we want to grow in our school. And
18 unfortunately, our building is too small. We can't
19 grow in it.

20 And then -- and so we decided to look at
21 different buildings to purchase. One we looked at
22 was buildings -- it's 1820 Bellamah. It's -- we
23 looked at it. And, unfortunately, we weren't able
24 to buy that one. It was already bought from
25 somebody else -- somebody else already purchased

1 that.

2 The next one is the -- the 18th Street on
3 Lead -- or 18th Street. My bad. And it's -- we
4 really liked that one, too, but that one had already
5 gotten boughten [verbatim] by somebody else.

6 And then the next one that we looked at
7 was on Lead Avenue. It was -- unfortunately, there
8 were some problems with that building. It wasn't
9 zoned properly for a school. We needed to get a
10 zoning change for that school, and that would have
11 taken too much time. There was some problems with
12 the paint. It was an older building, so they had
13 used lead paint, and the ceiling part had asbestos
14 and stuff in it. So it would have taken a long time
15 to remove that.

16 And the final building is the building
17 we're looking at now to purchase. It's
18 1730 Montañó. We're looking at that building now to
19 purchase. That's our goal to purchase now, because
20 it's easiest for us to move into, and it's our --
21 practically our only option now. It's kind of far
22 away, which is why we need to get more -- we need to
23 get a bus or transportation for our school so we can
24 bring some of those kids that aren't able to come so
25 far away and come to our school.

1 And he has a survey.

2 MR. PALACIOS: We made a survey asking the
3 students, "If we had a bus pick you up and take you
4 home, would you ride it?" And we surveyed
5 193 students. And 64 percent of those students said
6 yes, they would ride the bus. And 28 percent said
7 no, they would not ride the bus.

8 We also asked them how do the students get
9 to school. And 84 students get dropped off by their
10 parents; 33 drive themselves; 23 get a ride with
11 another student; 23 walk to school; 22 take the bus;
12 and 8 ride their bike or skateboard.

13 Another question was where do they live.
14 And most of our students live in the South Valley,
15 North Valley, and Southwest Mesa. And we are
16 planning to provide a bus stop in the South Valley
17 and Southwest Mesa. Students in the North Valley
18 would not need it, because the building we're trying
19 to get is located in the North Valley.

20 And we -- we're -- we need a -- one bus.
21 And we think 74 students will ride that bus. The
22 cost to operate this bus per year would be \$80,000
23 round-trip. And we got this budget from Antonio
24 Ortiz, Director of Transportation of the PED. And
25 that's what I have to say. Thank you.

1 MS. MORA: We came up with an equation to
2 figure out how much money we would be losing if we
3 didn't have a bus. Right now, we have 185 total
4 number of students in the school -- the day
5 school -- sorry. For our 5 percent -- we lose
6 5 percent of students for every mile that we move.
7 The distance from ACE Leadership to the new building
8 on Montaña is 5.2 miles.

9 The school gets \$7,000 for -- I'm sorry --
10 the school is given \$7,000 to operate the school for
11 each student. And all we did was multiply all of
12 this, and it came out to \$336,700 that we would be
13 losing without a bus.

14 MR. GONZALES: So as far as the Public
15 School Facilities Authority goes, we walked the
16 building with Richard Romero. He said it was a good
17 fit for us. There's a 90-day period for inspections
18 and surveys and budgeting to go through. At the end
19 of that 90-day period, then the PSFA will inform us
20 whether they're approving or denying our moving to
21 the new school.

22 Antonio Ortiz, the Transportation Director
23 for the Public Education Department, said to go
24 ahead and present it as soon as we can so that we
25 make the budget and we have more of a chance of

1 getting a bus. So that's the end of our
2 presentation. If you guys have any questions, we'd
3 be glad to take them.

4 THE CHAIR: Thank for you that
5 presentation. Commissioners, do you have questions?
6 Commissioner Gant?

7 COMMISSIONER GANT: Madame Chair. Thank
8 you for your presentation, students. I -- just a
9 second. I do have several questions. And you might
10 think I'm digging in the weeds. I don't know what
11 your discussion is -- were with the transportation
12 people. But the cost of the bus. Are you buying
13 this bus, or buses? Is that what you're doing?

14 MR. GONZALES: No. We're requesting to be
15 lent the money to get the buses in the first place.
16 And the cost that it would take to run the bus is
17 \$80,000, which is salary and gas for the 30-mile
18 round trip that it would be to get students to and
19 from school.

20 COMMISSIONER GANT: Wait a minute. Excuse
21 me. You're getting money to purchase the bus?
22 Lease the bus? How are you handling the bus?

23 MR. GONZALES: A contract.

24 COMMISSIONER GANT: A contract. Do you
25 know with who?

1 MR. GONZALES: We're not sure yet, no.

2 COMMISSIONER GANT: So in this contract,
3 you don't know with who, is the contract going to
4 cover all the maintenance agreement, the bus driver,
5 the insurance for the bus, all the overhead that
6 goes with the school bus?

7 MR. GONZALES: That is the estimated cost,
8 yes.

9 COMMISSIONER GANT: Of what?

10 MR. GONZALES: Of everything.

11 COMMISSIONER GANT: How much?

12 MR. GONZALES: \$80,000.

13 COMMISSIONER GANT: \$80,000.

14 MR. GONZALES: Yes, per year.

15 COMMISSIONER GANT: Per year. And the
16 transportation folks feel they can give you that
17 \$80,000.

18 MR. GONZALES: From the information that
19 we received, that's what we're asking for, yes.

20 COMMISSIONER GANT: All right. This bus
21 that you're going to lease through a contract, is it
22 going to be a special needs -- be able to handle
23 special needs students, or are you going to have to
24 have a separate bus for special needs students?

25 MR. GONZALES: Currently, we don't have

1 any special needs students at our school; so it
2 would just be a regular school bus.

3 COMMISSIONER GANT: Excuse me, sir. But
4 by law, if a special needs student was to come to
5 ACE, you have to be prepared to take that student.
6 What are you going to do in that regard?

7 MR. GONZALES: Then we will come back and
8 request for a separate bus.

9 COMMISSIONER GANT: Separate bus? Who are
10 you going to request it from?

11 MR. GONZALES: The Public Education
12 Department.

13 COMMISSIONER GANT: Okay. Thank you.

14 THE CHAIR: Commissioners?
15 Commissioner Bergman.

16 COMMISSIONER BERGMAN: Actually, I don't
17 want to be the Grinch here. But I'm going to ask
18 the question of Director Gerlicz and Director
19 Callahan. This has come up before. I do not
20 believe, under State statutes, that schools can own
21 and operate buses. Am I wrong about that? I
22 thought they had to go through bus leasing companies
23 or some such.

24 MR. GERLICZ: Madame Chair,
25 Commissioner Bergman, when Mr. Ortiz came up and

1 explained the mechanisms and the protocols to the
2 students, he did mention that the school had the
3 option to a lease to purchase a bus, or they could
4 rent and contract with a bus company, or they could
5 figure out how to purchase vehicles on their own and
6 then provide the needed maintenance and do
7 everything themselves, that those were options for
8 schools to investigate.

9 COMMISSIONER BERGMAN: Okay. That's
10 actually different than we've been told in the past.
11 But everything does change. So thank you for that
12 clarification.

13 THE CHAIR: Commissioners?

14 COMMISSIONER CARR: Madame Chair?

15 THE CHAIR: Commissioner Carr?

16 COMMISSIONER CARR: First of all, thanks
17 for coming. If I was grading your presentation, I
18 think I'd give you at least a 95 percent. But I
19 don't have my rubric in front of me.

20 So an excellent job. And it's tough to
21 get up in front of a bunch of adults in a meeting
22 like this, and you guys did a really good job. You
23 don't even look nervous. That's really good.

24 I had a question about -- so the
25 building -- who -- who -- are you going to buy the

1 building? Are you going to lease the building?

2 And, if so, who owns the building now?

3 MR. CALDERON: The building is owned by a
4 man who owns Rio Grande Tech facilities. He is
5 letting -- he will let us buy the building from him.
6 He wants to sell it to us. He thinks it'll be a
7 really good partnership, his company, with our
8 school. So he has offered to let us buy his
9 building and use it as our new school facility.

10 COMMISSIONER CARR: And who is the owner
11 of that building?

12 MR. CALDERON: I've met him a couple of
13 times. But I can't really remember his name right
14 now. Dang it.

15 COMMISSIONER CARR: Well, more pertinent
16 to the question, you don't know who he is. Do the
17 adults know?

18 MR. VIGIL: Madame Chair,
19 Commissioner Carr, his name is "Robert." He owns
20 Rio Grande Properties. And he's a commercial real
21 estate developer. And he currently owns the -- the
22 facility. It's called the Rio Grande Tech Center.
23 And so he's agreed to let us buy the building
24 outright. And so we would become the sole owners.

25 COMMISSIONER CARR: Is he, in any way,

1 connected to your board?

2 MS. VIGIL: Madame Chair,
3 Commissioner Carr, no he is not. He is not
4 affiliated with our school at all.

5 COMMISSIONER CARR: Okay. Thank you.

6 THE CHAIR: Let me just ask a couple of
7 questions, if I may. And then -- who would be
8 buying the building?

9 MR. CALDERON: ACE Leadership High School
10 would be buying the building.

11 MS. VIGIL: Foundation.

12 MR. CALDERON: Foundation. We would be
13 buying the building. Our -- the Chair that own --
14 we have a community that owns -- that helps us
15 operate our school, donates money, and helps
16 organize events. They're called the AGC, Associated
17 General Contractors Association. And they would be
18 helping us buy the building. We would be buying the
19 building through them.

20 THE CHAIR: Please, go ahead.

21 MS. VIGIL: Madame Chair, the school has a
22 nonprofit foundation in existence. And the
23 foundation would be purchasing the building and then
24 doing a lease-to-purchase agreement with the -- with
25 the school itself, the school board of directors.

1 And so the -- the nonprofit foundation would hold
2 the property.

3 THE CHAIR: My next question is how much
4 remodeling would this building require to be used as
5 a school?

6 MR. GONZALES: It would require very
7 little remodeling. It's already zoned as a school,
8 so there's no problems there. The only thing we
9 would really have to do would be knocking out some
10 walls to make it a little more suitable for the way
11 we have our school.

12 THE CHAIR: Okay. PSFA agrees with that?

13 MR. GONZALES: Yes. We're waiting -- at
14 the end of that 90-day period, they will have
15 received the drawings of the school and they will
16 either approve or deny it, whether they think that's
17 a good idea. But from what we've heard so far from
18 them, they're in compliance with this.

19 THE CHAIR: \$80,000 to buy the bus. Where
20 would that come from? Or the \$80,000 a year, I
21 guess I should say. Where is it coming from?

22 MR. PALACIOS: The budget we got for the
23 bus, we got it from Antonio Ortiz, the Director of
24 Transportation, and we provided him with the number
25 of students and how long the bus route is. And he

1 did the -- he used the transportation formula to
2 find out how much money that would cost, and that's
3 where we're getting our budget from.

4 THE CHAIR: So you're saying it -- the
5 Transportation Department -- Division -- would be
6 supplying your school with \$80,000 a year for this
7 bus; is that correct?

8 MR. PALACIOS: Yes.

9 THE CHAIR: Okay. Probably a question
10 that you all can't answer, but certainly comes to my
11 mind. Has this move been approved? It's a material
12 change to their charter, I would think. Have we --
13 I don't recall hearing about it before this.

14 MR. GERLICZ: Madame Chair, an amendment
15 has not been filed to request a change of
16 facilities. I think the reason that you're hearing
17 ambiguity in my voice is whether we have done that
18 through other schools, and have we gone through an
19 amendment process for other schools when they have
20 changed buildings.

21 THE CHAIR: I certainly think so.

22 MS. WEAR: I think the point was made a
23 couple of meetings ago, that charter schools often
24 look for other buildings, and until they find
25 something they really like, they don't tend to put

1 it in front of you. This sounds like something that
2 should come before you. But while they were still
3 looking, I imagine, before they had actually settled
4 on something, it would be kind of a waste of time to
5 tell you every -- "Oh, we looked at this one. Yeah,
6 they said they looked at the other, and it fell
7 through."

8 But at this point, it sounds like it
9 should be an amendment to their charter, yes.

10 MS. VIGIL: Madame Chair?

11 THE CHAIR: Yes, please.

12 MS. VIGIL: Madame Chair, the original
13 charter did not have a specific location that the
14 school was supposed to be in. So the original
15 charter didn't -- doesn't require -- or there
16 doesn't seem to be a need for an amendment, because
17 the -- the school is serving the students in the --
18 in the three areas that were -- that were originally
19 stated here earlier. And they still plan on doing
20 that, and the school will be located in one of those
21 three areas. So --

22 THE CHAIR: Okay. You know, I -- I
23 remember clearly when this school came to us for its
24 original charter, and they were going to build in
25 the Sawmill area? And they were going to build the

1 building? We looked at floor plans for all of that.
2 That's not where they are now?

3 MS. VIGIL: Madame Chair, the school
4 currently is in the Sawmill district right now, yes.

5 THE CHAIR: Is it at a building that was
6 built for this school or remodeled?

7 MS. VIGIL: Madame Chair, the building
8 is -- was remodeled for the school, but is only a
9 lease with a private land donor. And it is
10 currently not big enough to support the number of
11 students that was approved in the charter.

12 THE CHAIR: Well -- and that brings me to
13 my next question. In your review, you say they have
14 an enrollment cap of 425 and a current enrollment of
15 285. And the information we've been presented here
16 is that they have a student population of 185.

17 MR. PALACIOS: Madame Chair, we have
18 285 students overall in our school. One hundred
19 eighty-five go to the day program, and the rest go
20 to the night program. We're allowed to have
21 430 students, but we can't, because our building
22 isn't big enough to fit 430 students.

23 THE CHAIR: Thank for you that.
24 Commissioner Toulouse?

25 COMMISSIONER TOULOUSE: Madame Chair, from

1 the looks of this, is this the building where -- or
2 one of the ones where Cottonwood Classical is now?
3 Because access to that school off and on Montañño is
4 a very difficult access. And I wonder about that.

5 And I know the building is already being
6 used as a school, so I know it wouldn't need a lot
7 of other stuff. But trying to get off and on to get
8 students in and out, whether they're taking
9 themselves there or whether there would be a bus
10 trying to do -- going on to Montañño is a question.
11 Plus, you are way out of the area where you are now.

12 And I know that's why you wanted the bus.
13 But I wonder how many students would continue to
14 enroll there after -- you know, when you usually get
15 brothers or sisters or cousins or friends who want
16 to come, how many would when you've moved so far
17 away? So it's more just like comments rather than
18 questions. But I don't know if you're going to try
19 to get a lot more students into that area. It's not
20 an easy area to do. Thank you.

21 THE CHAIR: Commissioner Gant?

22 COMMISSIONER GANT: First of all, do you
23 have -- does your foundation -- whatever it's called
24 have the money in hand now to purchase the property?
25 Do any of you know?

1 MR. PALACIOS: Yes. We do have the money
2 to purchase the property. But we haven't purchased
3 the property yet, because we wanted to try and get
4 our amendment changed so we could get a bus before
5 we go ahead and buy the property.

6 MR. GONZALES: And, again, we are waiting
7 for that 90-day period for things to go through
8 before we can purchase the building officially.

9 COMMISSIONER GANT: Madame Chair, that
10 goes back to the earlier comment from the
11 Commissioner about the turn-offs and the turning in
12 and all that, which would be different for a school
13 bus than -- and I think this is an issue that PSFA
14 needs to address, Mr. Gerlicz.

15 We need to know, because PSFA probably
16 didn't even look at -- because the laws -- the
17 statutes have changed since the other school went
18 in -- Cottonwood -- went into the facility. So PSFA
19 may never have looked at that plan to approve it.
20 So PSFA better be looking at their turnouts and all
21 that other, because I don't want some child or
22 student to get hurt out there just because we
23 haven't done our due diligence on turnouts. We
24 can't allow that to happen, okay? And -- I had
25 another question. I'll get back to it.

1 THE CHAIR: Commissioner Carr?

2 COMMISSIONER CARR: Madame Chair, as far
3 as asking to be -- to move, I -- it's an important
4 part of our process that, even though -- because we
5 quite often accept schools and they haven't quite
6 found they had the places where they had in mind,
7 just like you did originally. But once you've found
8 a place, I'm sure you told PED that this is your
9 address now, this is where you are. That becomes
10 part of your contract. Because once you find a
11 place, you notify us, you notify the PED where you
12 are.

13 When you -- and when you move to a
14 different location, it's important -- you know, it's
15 important that you come to us. Because in the
16 original application, we look at, you know, does --
17 you know, what is the community there close to your
18 school? What do they think? You need to give
19 people an opportunity, you know, to come in and
20 speak, and say, "Oh, yeah, we love it," or, "There's
21 some reasons maybe why it's not a good idea." You
22 know, we need to get community input.

23 And you are moving a good distance away.
24 And I'm not saying that that's not a good choice or
25 anything. I'm just saying that it is something that

1 we need to go -- where we need to go through all the
2 proper procedures and make sure everything is done
3 properly before we do that. I think before we do
4 this, we need to go through the process of approving
5 the move in the first place and making sure that
6 there aren't any problems with the building where
7 you're moving -- where you plan to move to.

8 And we certainly don't want to be faced
9 with any kind of situation where you can't move in
10 there, and you've already made all the plans and
11 paid for the building or something. We need --
12 anyway, it needs to be looked at. And I would be
13 for tabling this until we can -- until we can have
14 that request, and that we have a look, you know,
15 into it. And I'm -- of course, that's no -- not
16 trying to say anything bad about your school or
17 something. We just need to go through the proper
18 procedures.

19 THE CHAIR: Thank you. Mr. Gant.

20 COMMISSIONER GANT: Madame Chair, members,
21 picking up on what Commissioner Carr said, House
22 Bill 283 requires for new schools, or schools
23 moving, to have approval by the PSFA. You're
24 working towards that. But until they do their
25 diligence, PSFA, we can't make a decision; is that

1 correct?

2 MR. GERLICZ: Madame Chair, Commissioner
3 Gant, that is correct.

4 COMMISSIONER GANT: All right. A couple
5 more questions. That means if you're waiting for
6 the 90 days, you're talking down into -- end of May?

7 MR. GONZALES: Yes.

8 COMMISSIONER GANT: And your school is out
9 in June?

10 MR. GONZALES: Yes, sir.

11 COMMISSIONER GANT: So -- and you're going
12 to move over the summer?

13 MR. GONZALES: Yes.

14 COMMISSIONER GANT: And be ready for
15 August?

16 MR. GONZALES: Yes.

17 COMMISSIONER GANT: Interesting. All
18 right. A couple more questions. And you all -- the
19 students may not know the answers. Is this going to
20 be a fixed cost contract with the bus company?

21 MS. VIGIL: Madame Chair, Commissioner
22 Gant, we have not started negotiating that contract.
23 But we feel like the transportation distribution
24 is -- is an appropriate amount that will cover those
25 costs. And that's something that we can definitely

1 look into to make sure that that happens.

2 COMMISSIONER GANT: Madame Chair and the
3 Commission, the reason I bring this up is, again,
4 being on a school board, we had to deal with a
5 hundred and -- 200 buses. If the fuel costs go up,
6 you're stuck with that difference. There are
7 sometimes emergency appropriations through the --
8 through the Legislature, through the transportation
9 Division for the additional cost.

10 But the company will be looking for the
11 school -- could be, if it's not a fixed cost where
12 they absorb it -- they may not be willing to do
13 that. You will be stuck with the additional cost
14 for the fuel and all -- everything else that goes
15 with it. I'm just being cautious.

16 All right. My last question,
17 Madame Chair. When you move to this proposed
18 school, will you be losing students who do not want
19 to move to that new school?

20 MR. PALACIOS: When we move to our new
21 school, we don't think that it's because they don't
22 want to move to the new school. We think it's
23 because they can't. It's too far away. Gas -- like
24 they said, 84 of our students during the day get a
25 ride from their parents. And I know if I was a

1 parent and I had to drive from the West Side,
2 Ventana Ranch, all the way to Montaña in the
3 North Valley, it would be kind of costly on gas, and
4 I'd probably look into another school for that --
5 for that -- for the kid.

6 But we want to keep our kids. We want to
7 grow, but we want to keep our kids that we have now
8 and continue getting additional students. We don't
9 want to lose students and then gain -- lose half of
10 our student body and then gain 20 more students.
11 That would just defeat the purpose of moving into a
12 new school. We want to keep our students and get
13 more students.

14 COMMISSIONER GANT: Madame Chair, has
15 anybody discussed at length the impact of the
16 students who cannot move? You know, you're putting
17 a burden on those students who have settled into the
18 school and gotten used to the school, like the
19 school or they wouldn't be there, are being
20 successful or they wouldn't be there; and then all
21 of a sudden, you're moving on them. What is the
22 impact? Has it been thought out what the impact on
23 those students who cannot, for whatever reason, or
24 won't, for whatever reason, move?

25 MR. PALACIOS: That -- that's part of the

1 reason why we didn't want to move so far away. We
2 looked at buildings that were closer to us. One was
3 right next door, and one was a couple of blocks
4 away. But those didn't work out. They had already
5 gotten boughten [verbatim]. And we -- I've -- since
6 I'm in the class that's helping get the new school,
7 I've talked to other students. They've asked me how
8 is the new school building, where is it. And I've
9 told them. And they've said, "Oh, that's kind of
10 far; I don't know if I can come."

11 And I said, "We're working on trying to
12 get a bus."

13 They said, "If you guys can get a bus, I'd
14 keep coming to the school."

15 We don't want to lose those students
16 because those students are the reason why ACE
17 started up was to help students, was to help
18 students that dropped out, help students that were
19 falling behind and left school, to help them come
20 and get their education, get their credits, pass
21 high school, be able to go on to college and get a
22 good paying job.

23 So we don't want to lose those students.
24 We want to keep them, and we want to help students
25 that need the help.

1 And, yes, I've run it by -- by students,
2 asking them, "How do you feel about moving this far
3 away? If we had a bus, would you still come?" And
4 they said, "Yeah."

5 I asked a friend yesterday, "How far is
6 it?" And he lives in the North Valley, and he said
7 he'd come just because it's closer.

8 And I've asked a friend that lives on the
9 West Side. He said, "It's kind of far. If I got my
10 own car, I probably wouldn't come because it costs
11 too much on gas."

12 And I asked him -- I told him, "We might
13 be getting a bus." And he said, "If you guys got a
14 bus, I'd still come to school. I'd get on the bus,
15 and I'd come to school."

16 He loves ACE. Why would you want to leave
17 a place where you're doing good, where you're
18 getting your credits, where you possibly have a
19 future on going to college, and then, all the
20 sudden, like, because you -- it's too far away, it
21 moved a couple of miles, you say, "Oh, it's kind of
22 far; it's a lot of gas; I can't -- I can't go there
23 anymore"?

24 So we try to get this bus. We try to help
25 the kids. And if we get the bus, then all our kids

1 can come. All -- we can keep our students we have
2 now. We can get new students. Our school will get
3 bigger. Everybody will be happy. Students will
4 start graduating. We -- we -- I'm sorry.

5 COMMISSIONER GANT: Madame Chair, this is
6 the last question. Not a question, Madame Chair. I
7 would like, before they come back for a decision on
8 the move, Madame Chair, and members, that the
9 faculty -- the staff and faculty and administration
10 do a thorough check of how many students will come
11 with the move, will not come without the move, why
12 they cannot move, et cetera. This needs to come
13 from the administration. This needs to be a
14 survey -- sound survey of all students who will
15 move, not move, and why they will not move, and what
16 the impacts of those -- on those students; and, if
17 the ones that aren't going to move, where would they
18 go if they don't move. Is that good? Madame Chair,
19 do you agree? Members, do you agree?

20 THE CHAIR: Definitely.

21 COMMISSIONER GANT: All right.

22 COMMISSIONER POGNA: Madame Chair?

23 THE CHAIR: Commissioner Pogna.

24 COMMISSIONER POGNA: This is not a
25 question. I wanted to thank the students for their

1 presentation. We really appreciate it. You were
2 very knowledgeable and you gave excellent responses,
3 and I wanted to thank you. And you're all very
4 neatly dressed, and you look very good. I wanted
5 you to know that.

6 MR. GONZALES: Thank you.

7 THE CHAIR: She sounds like your
8 grandmother, doesn't she? That's exactly what I was
9 going to say. I sound like your grandmother, too.

10 So, Commissioners, I think what I'm
11 hearing is that we would like to table this request
12 for today and ask that the school administration, so
13 forth, conduct the survey that Commissioner Gant has
14 requested. And then when this school comes back
15 before us, we're going to need to see the amendment
16 to the charter on the move to a new location, as
17 well as the information on transportation.

18 COMMISSIONER GANT: And the PSFA.

19 THE CHAIR: Yes. And the information from
20 PSFA. Have I pretty well got what we've been
21 talking about? Okay. Then I will leave it to
22 someone to make that motion.

23 COMMISSIONER CARR: So moved.

24 THE CHAIR: I like that.

25 COMMISSIONER GANT: Second.

1 THE CHAIR: Motion by Commissioner Carr,
2 second by Commissioner Gant, to table the item on
3 request for ACE Leadership High School, request for
4 transportation, and to request that they come back
5 to us with the amendment to their charter for the
6 new location, with the information from PSFA, with
7 the information from the survey on all students, and
8 the information on their transportation requests.
9 Any discussion? All those in favor, please say
10 "Aye."

11 (Commissioners so indicate.)

12 THE CHAIR: Any opposed?

13 COMMISSIONER BERGMAN: Do we have to do a
14 roll-call vote?

15 MR. REYNOLDS: No, you're okay. She asked
16 if there were any opposed.

17 THE CHAIR: Motion passes unanimously.
18 Again, thank you very much for your presentation.
19 We look forward to seeing you again.

20 MS. MORA: Thank you.

21 THE CHAIR: Commissioners, it's 20 minutes
22 till 1:00. We're down to Item 15. What is your
23 pleasure? Shall we go ahead, or do you need a lunch
24 break?

25 COMMISSIONER POGNA: Go ahead.

1 THE CHAIR: Go ahead? Director Gerlicz?

2 MR. GERLICZ: Madame Chair, members of the
3 Commission, I had invited my staff out to lunch at
4 the Indian Palace, which we do once a month. And we
5 had a 12:00 reservation. And that's been postponed
6 till 1:00. If our presence is necessary, please let
7 me know, and I will stay. If not, I would request
8 that we be excused. Thank you.

9 THE CHAIR: We're going into executive
10 session, and when we come out, we may or may not
11 vote. So I don't necessarily think your presence is
12 required. So have a nice lunch.

13 MS. WEAR: I'll be here, so --

14 THE CHAIR: Okay. That's fine.
15 Commissioners, we're to Item 15. Would someone care
16 to make a motion?

17 MR. REYNOLDS: Madame Chair, if I may, to
18 make sure it's made right, articulate the motion for
19 a Commission member to adopt if they so choose.

20 THE CHAIR: Thank you very much.

21 MR. REYNOLDS: The motion I would propose
22 is that the Public Education Commission go into
23 Executive Session, pursuant to Section
24 150-15-1(H)(7) NMSA 1978, to discuss the following
25 pending litigation:

1 1. The appeal of the New Mexico
2 Connections Charter Academy.

3 2. The appeal of Taos International
4 School.

5 And, 3., New Mexico Public Education
6 Department v. Shearman, et al. which is Case No.
7 2013-00655.

8 THE CHAIR: Two motions?

9 MR. REYNOLDS: One motion.

10 THE CHAIR: There's more to it? No?

11 MR. REYNOLDS: That covers us.

12 THE CHAIR: All right. Do I hear a
13 motion?

14 COMMISSIONER BERGMAN: So moved.

15 COMMISSIONER GANT: Second.

16 THE CHAIR: Motion from
17 Commissioner Bergman, second by Commissioner Gant
18 that we go into Executive Session, as has been
19 enumerated by our counsel. We will need a roll-call
20 vote, Commissioner Bergman.

21 COMMISSIONER BERGMAN: Commissioner
22 Peralta.

23 COMMISSIONER PERALTA: Yes.

24 COMMISSIONER BERGMAN: Commissioner Pogna.

25 COMMISSIONER POGNA: Yes.

1 COMMISSIONER BERGMAN: Commissioner
2 Toulouse.

3 COMMISSIONER TOULOUSE: Yes.

4 COMMISSIONER BERGMAN: Commissioner Carr.

5 COMMISSIONER CARR: Yes.

6 COMMISSIONER BERGMAN: Commissioner
7 Conyers.

8 COMMISSIONER CONYERS: Yes.

9 COMMISSIONER BERGMAN: Commissioner Gant.

10 COMMISSIONER GANT: Yes.

11 COMMISSIONER BERGMAN: Commissioner
12 Shearman.

13 THE CHAIR: Yes.

14 COMMISSIONER BERGMAN: Commissioner
15 Bergman votes "Yes." Again, Madame Chair, by an
16 eight-to-zero vote, the motion has been approved.

17 THE CHAIR: The vote is unanimous to go
18 into Executive Session. We will give those in the
19 audience a few minutes to step out, and then we will
20 meet in closed session with our attorneys.

21 (Executive Session, 12:40 p.m.
22 to 1:40 p.m.)

23 THE CHAIR: Carmie, would you make the
24 motion, please?

25 COMMISSIONER TOULOUSE: Madame Chair, I

1 move that we come back into general session and go
2 back on the record.

3 MR. CARR: Second.

4 THE CHAIR: Motion and second that we go
5 back into open session. All those in favor, please
6 say "Aye."

7 (Commissioners so indicate.)

8 THE CHAIR: Any opposed? Motion carries
9 unanimously.

10 For the record, only those items listed in
11 the motion were discussed. No action was taken in
12 the executive session.

13 We are to Item No. 16, Possible Action on
14 PED Peremptory Writ. Do I hear a motion?

15 COMMISSIONER CARR: Madame Chair?

16 THE CHAIR: Commissioner Carr.

17 COMMISSIONER CARR: I move that the Public
18 Education Commission continue with the appeal of the
19 peremptory writ.

20 COMMISSIONER BERGMAN: Second.

21 THE CHAIR: Motion by Commissioner Carr,
22 second by Commissioner Bergman, to continue the
23 appeal of the peremptory writ. Is there any
24 discussion? Hearing none, we will have a roll-call
25 vote.

1 COMMISSIONER BERGMAN: Commissioner
2 Peralta.
3 COMMISSIONER PERALTA: Yes.
4 COMMISSIONER BERGMAN: Commissioner Pogna.
5 COMMISSIONER POGNA: Yes.
6 COMMISSIONER BERGMAN: Commissioner
7 Toulouse.
8 COMMISSIONER TOULOUSE: Yes.
9 COMMISSIONER BERGMAN: Commissioner Carr.
10 COMMISSIONER CARR: Yes.
11 COMMISSIONER BERGMAN: Commissioner
12 Conyers.
13 COMMISSIONER CONYERS: Yes.
14 COMMISSIONER BERGMAN: Commissioner Gant.
15 COMMISSIONER GANT: Yes.
16 COMMISSIONER BERGMAN: Commissioner
17 Shearman.
18 THE CHAIR: Yes.
19 COMMISSIONER BERGMAN: Commissioner
20 Bergman votes "Yes." Madame Chair, again by an
21 eight-to-zero vote, that motion is approved.
22 THE CHAIR: By a unanimous vote, the
23 Commission votes to continue with the appeal. Do I
24 hear a second motion?
25 COMMISSIONER CARR: Madame Chair?

1 THE CHAIR: Commissioner Carr.

2 COMMISSIONER CARR: I move that, in the
3 event a court of competent jurisdiction finally
4 decides that the peremptory writ is enforceable, the
5 PEC authorizes the Chair to issue an order
6 implementing the Secretary-Designate's decisions.

7 COMMISSIONER GANT: Second.

8 THE CHAIR: I have a motion and second on
9 the floor. Do I hear any discussion? Hearing none,
10 we will have a roll-call vote.

11 COMMISSIONER BERGMAN: Commissioner
12 Peralta.

13 COMMISSIONER PERALTA: Yes.

14 COMMISSIONER BERGMAN: Commissioner Pogna.

15 COMMISSIONER POGNA: Yes.

16 COMMISSIONER BERGMAN: Commissioner
17 Toulouse.

18 COMMISSIONER TOULOUSE: Yes.

19 COMMISSIONER BERGMAN: Commissioner Carr.

20 COMMISSIONER CARR: Yes.

21 COMMISSIONER BERGMAN: Commissioner
22 Conyers.

23 COMMISSIONER CONYERS: Yes.

24 COMMISSIONER BERGMAN: Commissioner Gant.

25 COMMISSIONER GANT: Yes.

1 COMMISSIONER BERGMAN: Commissioner
2 Shearman.

3 THE CHAIR: Yes.

4 COMMISSIONER BERGMAN: Commissioner
5 Bergman votes "Yes." Again, Madame Chair, by an
6 eight-to-zero vote, that motion is approved.

7 THE CHAIR: By a unanimous vote, the PEC
8 approves the motion. Anything else to come before
9 the Commission on this item?

10 We are down to Agenda Item 17. May I hear
11 a motion?

12 COMMISSIONER GANT: So moved.

13 COMMISSIONER CARR: Second.

14 THE CHAIR: We are adjourned.

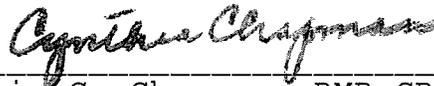
15 (Proceedings adjourned at 1:45 p.m.)
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1 BEFORE THE PUBLIC EDUCATION COMMISSION
2 STATE OF NEW MEXICO

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6
7 REPORTER'S CERTIFICATE

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

15 In testimony whereof, I have hereunto set my
16 hand on March 12, 2013.

17
18
19 

20 Cynthia C. Chapman, RMR-CRR, NM CCR #219
21 BEAN & ASSOCIATES, INC.
22 201 Third Street, NW, Suite 1630
23 Albuquerque, New Mexico 87102
24

25 Job No. : 6805K

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

BEAN & ASSOCIATES, Inc.
PROFESSIONAL COURT
REPORTING SERVICE

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