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BEFORE THE PUBLIC EDUCATION COMMISSION
STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS
PUBLIC INPUT MEETING
NEW MEXICO CONNECTIONS ACADEMY
August 20, 2012
2:00 p.m.
300 Don Gaspar, Mabry Hall
Santa Fe, New Mexico

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

COMMISSIONERS:

- MR. M. ANDREW GARRISON, Chair
- MS. CAROLYN SHEARMAN, Vice Chair
- MR. EUGENE GANT, Secretary
- MS. CARLA LOPEZ
- MR. VINCE BERGMAN
- MR. MICHAEL CANFIELD
- MS. MILLIE POGNA

STAFF:

- MS. KELLY CALLAHAN, Director, Charter School Division
- MS. BEVERLY FRIEDMAN, PED Liaison to PEC
- MS. CORDELIA CHAVEZ
- MR. BRAD RICHARDSON
- MS. KAREN EHLERT
- MS. CHELLEY CHERRIN

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1 THE CHAIR: The meeting of the Public
2 Education Commission August 20th through 24th, 2012,
3 is back in session. This meeting is being conducted
4 pursuant to New Mexico Statutes Annotated, Title 22,
5 Section 8B-6J, 2009.

6 The purpose of these community input
7 hearings that will be held from August 20 through
8 August 24, 2012, is to obtain information from the
9 applicant and to receive community input to assist
10 the Public Education Commission in its decision
11 whether to grant the proposed charter applications.
12 According to this section of the law, the Commission
13 may appoint a subcommittee of no fewer than three
14 members to hold a public hearing. According to the
15 law, these hearings are being transcribed by a
16 professional court reporter.

17 The total time allocated to each applicant
18 is 90 minutes, which will be timed to insure an
19 equitable opportunity to present applications.
20 During the hearing, the Commission will allow for
21 community input about the charter application. The
22 time for public comments will be limited to
23 20 minutes. If you wish to speak on behalf of the
24 applicant, please sign in up front and before the
25 applicant's presentation.

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1 So the clock is ticking right now on
2 New Mexico Connections. So if you have your folks
3 here that want to speak -- well, I already have it.
4 Good. We're cooking.

5 Please be sure that you indicate on the
6 sign-up sheet whether you are here in opposition or
7 support of the charter school. The Commission
8 Chair, based on the number of requests to comment,
9 will allocate time to those wishing to speak. If
10 there are a large number of supporters or opponents
11 they are asked to select a speaker to represent
12 common opinions. We will try to allocate an
13 equitable amount of time to represent the community
14 accurately.

15 THE CHAIR: The Commission will follow
16 this process for community input hearing. The
17 Commission will ask each applicant or group to
18 present at the table in front. They will be given
19 20 minutes to present their application in the
20 manner they deem appropriate.

21 The Commission will not accept any written
22 documentation from the applicant, but the applicant
23 may use exhibits to describe their school if
24 necessary. However, the setup time for exhibits
25 will be included in the 20 minutes.

1 Following the applicant's presentation,
2 the local school district representatives, if
3 present, will be given five minutes to comment.
4 Subsequently, the Commission will allow 20 minutes
5 for public comment as described above. Finally, the
6 Commission will be given 45 minutes to ask questions
7 of the applicant.

8 A couple of asides: Commissioners, I know
9 not all of us are traveling the full week. So when
10 you're done traveling, Ms. Beverly Friedman has
11 given us our mileage sheets and the reimbursement
12 sheets. If you would turn those in on your last day
13 before -- before you -- before you exit, it would be
14 appreciated.

15 Thank you. Secretary Gant has reminded
16 us, and probably reminded me, to turn off all your
17 cell phones so we can minimize interruption.
18 Commissioners, are you ready to proceed?

19 COMMISSIONER GANT: Yes.

20 COMMISSIONER POGNA: Yes.

21 THE CHAIR: We're going to review
22 New Mexico Connections Virtual School. So you've
23 already come forward. I don't need to ask that.
24 But for the record, please state your names,
25 firstly, and then the name of your school and the

1 names of the founders of the school.

2 MR. BOITANO: Mr. Chair, good afternoon.
3 My name is Mark Boitano. I am the chair of the
4 founding board.

5 MR. LOPEZ: My name is Patrick Lopez. I'm
6 also a part of the founding board.

7 MR. LUCERO: Carlo Lucero, founding board
8 member.

9 THE CHAIR: Do you have any other board
10 members present? Please introduce yourselves.

11 MS. DUHIGG: Yvonne Duhigg. I'm a member
12 of the founding board.

13 MR. GESSING: Paul Gessing, member of the
14 founding board.

15 MR. CHAVEZ: Patrick Chavez, member of the
16 founding board.

17 MS. ROBINSON: And Jeanine Robinson. I've
18 been on the board for over a month now.

19 (A discussion was held off the record.)

20 THE CHAIR: And any person who is here
21 today on behalf of your school that you would like
22 to introduce.

23 MR. BOITANO: We have some supporters,
24 Mr. Chair, but they come later; right?

25 THE CHAIR: Yes, sir.

1 MR. BOITANO: Okay.

2 THE CHAIR: You will have 20 minutes to
3 present the information about your application, and
4 you may proceed, gentlemen.

5 MR. LOPEZ: Okay. Again, my name is
6 Patrick Lopez. I'm the Executive Director of
7 Explora. I've been in education for close to
8 30 years. I've been a math-science teacher, school
9 administrator, middle-school/high-school principal,
10 and assistant superintendent. I also have a
11 master's and doctorate from Harvard Graduate School
12 of Education. I'd like to just sort of describe the
13 school of New Mexico Connections Academy.

14 And the purpose of our school is to
15 provide students an alternative, those students
16 being from traditional or home-schooled, private or
17 others. It's cutting-edge virtual education for
18 K-12 students. It's uniquely individualized and
19 personalized for student success. And we will also
20 have a STEM component. And we're working closely
21 with students, family, and teachers.

22 The role of the teachers: Each student
23 has a more than -- one or more certified New Mexico
24 teachers, specially trained with Connections with
25 electronic and physical educational components.

1 Teachers are proactive participants who really know
2 their student. They also will be -- develop -- the
3 teachers are the central team member of developing
4 and working with students, and teachers with parents
5 to do the academic and non-academic goals to help
6 the student be successful.

7 They perform live lessons with small
8 groups to help explain difficult concepts. Teachers
9 provide timely and personalized feedback. The
10 administrators also work closely with teachers.
11 They provide support, professional development, and
12 evaluate the teacher based on good teaching
13 standards.

14 The principal also holds face-to-face
15 staff meetings and continues to work in every
16 direction with the teachers for student success.

17 Quality courses and sound pedagogy that
18 we'll be providing is that the curriculum is
19 relevant and integrated and age-appropriate.
20 Curriculum will be aligned to the State and Common
21 Core academic standards. The instructional approach
22 will be individualized, high-quality and
23 high-parent-involvement. Students will have
24 opportunities to have face-to-face and virtual
25 community activities.

1 The curriculum is supported by quality
2 reputable and reasonably published textbooks. So
3 there will be opportunities for them not to do
4 electronic learning, and there will also be some
5 physical textbooks that will be involved, along with
6 the teachers, who will be -- okay.

7 And so I'll move on to why is it
8 important. It's flexible, individualized, and
9 personalized. And teachers will be in close contact
10 with their students.

11 Socialization: They have opportunities to
12 go on field trips. They have opportunities to --
13 we've been talking to Explora to do -- who goes out
14 to do science hands-on projects. We -- since we
15 will be STEM-focused, we will be working with STEM
16 organizations.

17 The academic integrity is that teachers
18 can verify lessons that are going on. Parents also
19 verify students' lessons.

20 I'll sum it up with I was originally
21 skeptical about online learning, wondering about the
22 socialization and how that all happens. Through my
23 research and talking to various people in -- with
24 Connections, that it is a good option for New Mexico
25 students. Also Harvard and MIT are doing more

1 course -- courses and instruction that I feel that
2 that will also be good. If it's good for them, it's
3 also good for New Mexico students to be successful
4 learners. Thank you.

5 MR. LUCERO: Good afternoon. My name is
6 Carlo Lucero. I am a native of New Mexico. I am a
7 small business owner. I employ a little under
8 400 people in New Mexico, Texas, and Colorado. I am
9 a grandfather to two young men, ages 10 and 12. And
10 I am a long-term -- have long-term involvement on
11 the board of directors of both the Albuquerque
12 Hispano Chamber of Commerce and the Greater
13 Albuquerque Chamber of Commerce, which, over the
14 last 16 years, has given me the wonderful
15 opportunity to learn a lot about different
16 educational options, and also the different
17 education challenges facing New Mexico.

18 I'm going to talk briefly about the role
19 of our board, a little brief overview on finance and
20 operations.

21 The -- our board of directors, many of
22 which you'll meet here shortly, is a very diverse
23 group of folks. I'm very honored to be able to
24 serve on this board with them and to be a part of
25 what -- of such an exciting opportunity with

1 New Mexico Connections Academy. Our board is made
2 up of educators, former educators, former government
3 officials, community leaders, and folks from the
4 private sector.

5 We all are very much behind this
6 initiative. And we all have -- have a shared
7 passion to see this happen and to benefit the -- the
8 young people of New Mexico.

9 We understand the challenges facing
10 New Mexico's education environment. We believe in
11 this model, and we're dedicated to making this
12 successful. We also recognize our responsibility to
13 insure compliance with State regulations, to make
14 this model work, as it will be sort of a pilot
15 opportunity, since it's so new.

16 In the -- in the first -- in the planning
17 year, we -- we will have more -- a higher level of
18 involvement on the operations and the -- and the
19 management. And then our plan in April is to hire a
20 principal, at which point we'll begin transition --
21 transitioning more of the day-to-day planning and
22 operations to that individual. And then our role
23 will transition to more of an oversight and
24 governance, with consistent reporting and
25 communication expectations for our principal leader.

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1 We have a solid financial plan based on
2 quality, yet realistic, assumptions. We have put
3 together what we feel is a very conservative
4 financial plan. And I think that's important in
5 today's challenging financial environment.

6 Real briefly, our -- we intend to partner
7 with Connections Academy. This is an entity who
8 currently is involved in 22 virtual school --
9 virtual schools in 21 states. This is important,
10 because our board -- as local folks, it's very
11 important that we're -- that we understand who
12 Connections are. We've done extensive due
13 diligence, as Dr. Lopez alluded to. However, as
14 part of this process, we have the opportunity to
15 visit other campuses.

16 And I'm here to tell you what an
17 eye-opening experience. We visited with children,
18 parents, teachers, and staff, and also the
19 leadership from their partnering districts. And it
20 very much reinforced the reasons why we're here.
21 Thank you.

22 MR. BOITANO: Mr. Chair, members of the
23 Commission, my name is Mark Boitano. I am the
24 father of four children. My oldest just graduated
25 from UNM, so we now have three school-age children.

1 I own Boitano & Associates, a real estate property
2 and investment company. And for the past 16 years,
3 I've served in the New Mexico State Senate. I
4 helped write and was the primary sponsor of the
5 Charter School Act. Additionally, I sponsored
6 important changes to the Act, including adding a
7 second chartering authority at the State level,
8 making the schools a Board of Finance and requiring
9 training for the governing boards.

10 My three top concerns with charters are
11 innovation, strong leadership and management, and
12 quality education. A recent LFC audit said there
13 are too many mediocre charters. I wholeheartedly
14 agree, and my guess is you wholeheartedly agree with
15 that as well. Because of that, I applaud the
16 scrutiny you use when considering all new charter
17 applications.

18 A friend asked me to look into Connections
19 Academy. Initially, I was very skeptical. I was
20 especially concerned about the accountability of a
21 virtual school and how a teacher engaged students in
22 a virtual setting. The more I learned, the more I
23 realized that virtual schools are highly accountable
24 and are innovating at a new level. Like innovators,
25 such as Amazon and the Health Innovations Center,

1 they are revolutionizing the delivery of a
2 traditional service, education.

3 Because of this, they are filling in the
4 gaps for struggling students, allowing teachers more
5 time to educate because they spend less time
6 managing a traditional classroom and creating a path
7 for accelerated students to learn at a faster pace.
8 I'm convinced that virtual schools must occupy a
9 seat at the table of choice for parents and
10 students.

11 I want to talk briefly about -- I want to
12 just give a summary of some of the merits of virtual
13 schools that we've heard on the LESC. And I want to
14 talk about some of the challenges and some of the
15 legal questions.

16 First of all, I've heard testimony that
17 perhaps you have heard that the legislature
18 continues to oppose virtual schools. And I wouldn't
19 say that's true. We've discussed virtual schools --
20 there may be one or two members of the LESC that
21 seem to be opposed to the concept of virtual
22 schools. But among the 16-plus members of the LESC,
23 my guess is they see that as a next step in terms of
24 choice for parents.

25 They do have some questions, and we're

1 going to address some of those in a moment. A
2 recent LESC report said virtual schools are clearly
3 a growing feature of the charter school movement
4 nationwide.

5 One point of agreement among all the
6 parties is that virtual schools are not for every
7 student. So what population will they serve?
8 Students who move either very slowly or very quickly
9 in a traditional setting. Students who are highly
10 mobile, including those in military families.
11 Students in rural and frontier areas. Students who
12 are bullied or face social pressures, making it
13 difficult for them to learn. Students who help
14 their families by working. Students who spend an
15 unusual amount of time in sports or other
16 extracurricular activities in acting or in pursuing
17 a vocation. Students who would otherwise benefit
18 from a non-traditional classroom.

19 Like traditional schools, virtual schools
20 have principals, administrators, teachers,
21 professional development, curriculum support
22 services, attendance, grades, report cards, parent
23 conferences, special ed services, state testing, et
24 cetera. Interestingly, the LESC reported the U.S.
25 Department of Education looked at 51 online learning

1 communities, a broad sample. And they found that,
2 generally, online learning conditions result in
3 better performance than those receiving face-to-face
4 learning. Of particular interest, good virtual
5 schools offer exceptional special education
6 services.

7 So I want to talk a little bit about the
8 practical issues and some of the legal issues that
9 have come up. One point in the LESC report is that
10 the aggravation that school boards and
11 superintendents report over the interdistrict
12 competition provided by virtual schools. And,
13 Mr. Chair and members of the Commission, I'm sure
14 you're aware, this is happening already. And that's
15 one of the reasons why we opened the door of choice.

16 In the district I represent, more than
17 10 percent of the students at APS -- there's 90,000
18 kids at APS. Over 10 percent of the children are in
19 a charter school. And charter schools are their own
20 LEA. So we have interdistrict competition occurring
21 in a place like APS big-time. And what it's
22 supposed to do is raise the question to
23 superintendents and school boards, What can we do to
24 be more competitive in that -- this environment,
25 when it comes to maintain- -- keeping students and

1 making sure they don't move into a different option?

2 Rio Rancho Schools used to be a part of
3 APS. Now they have a good track record, and a lot
4 of families are moving to Rio Rancho. Housing is
5 new; it's cheap -- good, thank you. And so we
6 already have this kind of competition.

7 The founders of the school are aware of
8 the question of whether virtual charter schools are
9 permissible under current state law. Three virtual
10 charter applications were rejected by the PEC in
11 2009 on the grounds of having inadequate charters.

12 And after the Secretary upheld the denial,
13 two appealed to the district. One court upheld the
14 ability of the PEC and the Secretary to deny the
15 charters. The other case is still pending. But
16 nowhere did the court address the legality of
17 charter schools in New Mexico law.

18 A part of the process just mentioned was a
19 2009 legal opinion from the Assistant Secretary of
20 Education that says the PEC does not have the
21 authority to approve virtual schools. Well, there's
22 an old saying that if you ask three attorneys for
23 their opinion, you get ten opinions.

24 The legislature passed the medical
25 marijuana law. And it's interesting, because the

1 feds -- well, you know, marijuana is a controlled
2 substance, illegal under federal law. State
3 lawmakers passed this bill that created ground rules
4 for the use of medical marijuana. We have an
5 Attorney General opinion that upheld federal law
6 saying it's illegal, and our Act in New Mexico is
7 illegal. But still, in New Mexico, medical
8 marijuana continues to be the law of the land,
9 because despite a varie- -- it doesn't make any
10 difference how many legal opinions we have. Until a
11 court rules otherwise, that law rules the land.

12 So let's take a look at the legal opinion
13 from the Assistant Secretary of Ed. It was based
14 primarily on three areas: The definition of a
15 public school; number two, the language regarding
16 enrollment, attendance areas, and walk zones in
17 school, which, interestingly, does not apply to
18 charter schools. Yet that was one of the three legs
19 the legal opinion stood on.

20 And number three, speculation that the
21 legislature could have permitted virtual schools in
22 an act creating ground rules for distance learning.

23 And you probably know, a virtual school is
24 a whole school environment. Virtual learning is a
25 different animal. So speculating about what may

1 have happened is pure speculation.

2 So let's go back to the definition of
3 "public school." "Public school" means that part of
4 a school district that is a single attendance center
5 in which instruction is offered by one or more
6 teachers and is discernible as a building or group
7 of buildings.

8 Single attendance center. I -- you know,
9 I am -- I was asked about a month ago to give a talk
10 at a conference in New Jersey. Couldn't go. They
11 said, "Can you make your presentation via Skype?"

12 So on Saturday, I gave a 15-minute Skype
13 presentation to 100 people in New Jersey. My name
14 was in the program, but wasn't I -- was I in
15 attendance? My bio was in the program, and I was
16 told that -- I was told that my picture was in the
17 program. But was I in attendance at that conference
18 in New Jersey?

19 Well, I think the people that were there
20 would have said, "Senator Boitano was in
21 attendance."

22 How does this relate to virtual schools?
23 Well, Patrick talked about we have new language in
24 the virtual school world, "synchronous."
25 "Synchronous" is where a student is engaged with a

1 teacher. And on a particular day, there may be 25,
2 26 students online. They show up on a computer, and
3 they -- their attendance is registered by that
4 teacher.

5 So, you know, is that student in
6 attendance at the school? Well, I think most of us
7 would say the answer to that is yes.

8 Instruction is offered by one or more
9 teachers. Virtual schools will have licensed --
10 licensed certified New Mexico teachers. And we --
11 you know, we'll have a learning center, a building
12 or group of buildings.

13 So, you know, I think -- even though I
14 think the discussion on the LESC has been the
15 language is somewhat ambiguous, nowhere is there a
16 prohibition to authorizing a virtual school. And
17 our facility plan has received a preliminary
18 approval from the Public School Facilities
19 Association -- Authority. The founding board
20 understands that a charter school is a public school
21 that may contract with a school district for
22 provision of financial management, food services,
23 transportation, et cetera. But we cannot contract
24 with a for-profit entity for the management of the
25 school.

1 I think you can see that we have strong
2 management. The governing body is the
3 decision-making authority in the State of New
4 Mexico. The founding board also understands charter
5 schools shall be nonsectarian, nonreligious, and a
6 non-home-based public school. According to
7 New Mexico law, a home school is the operation by
8 the parent of the school-aged person.

9 MS. CHAVEZ: Time's up. Sorry.

10 MR. BOITANO: And so forth. So thank you
11 very much.

12 THE CHAIR: Thank you, gentlemen, for your
13 presentation.

14 Letter D is local school districts. Is
15 there anyone representing the Santa Fe School
16 District who wanted to address the Santa Fe Public
17 Education Commission?

18 Seeing none, we will move forward with
19 public comment from the Santa Fe community. And we
20 have 13 folks signed up to speak. And I see that
21 some are on the board. And I want to eliminate the
22 board members from speaking on behalf of the
23 community. And so I believe it's Yvonne Duhigg?

24 MS. DUHIGG: Yes.

25 THE CHAIR: So I'm going to remove you.

1 Anyone else here that is signed in to speak that's
2 on the board?

3 MS. ROBINSON: Jeanine Robinson.

4 THE CHAIR: Oh, there you are. Sorry,
5 Jeanine.

6 MS. CHAVEZ: And a member of the board
7 also, Patrick Chavez.

8 MR. GESSING: And Paul Gessing.

9 THE CHAIR: Thank you, Paul. So if I
10 could get the presenters to -- oh, you know what?
11 We have the podium. So for the community input,
12 let's use the podium. So you all can hang tight or
13 you can sit somewhere else, if you like, but I'm
14 fine with where you are.

15 Greg -- is it Bemis? Is that the correct
16 last name?

17 MR. BEMIS: That's correct. Yes, sir.

18 THE CHAIR: Come on up, sir. It's just
19 like the "Price Is Right," except for gifts. I'm
20 going to give each presenter two minutes to speak.

21 MR. BEMIS: I'll be briefer.

22 THE CHAIR: Yes, sir.

23 MR. BEMIS: I want to make three
24 contiguous points. I think, first of all, we all
25 are aware of the New Mexican status in education.

1 We have a very low rating, have had for as long as
2 I've been here, 30 years.

3 The second point is that there's virtually
4 no subject that comes up in discourse here or
5 elsewhere where, at some point, the strength or
6 weakness of education isn't referenced, whether it's
7 economics, political, business -- it doesn't matter
8 what it is. We always come back to the importance
9 of education.

10 And then, thirdly, I don't think there is
11 anyplace in America where education hasn't been
12 enhanced by choice, by having multiple opportunities
13 for students and parents to find the best method for
14 their kids to advance in their education.

15 So you put those three together, and I
16 think there's no question but what this particular
17 proposal has a huge amount of merit. It will be the
18 first, as I understand it, here in New Mexico. And
19 I think we should endorse it and move on with it.
20 Thank you very much.

21 THE CHAIR: Thank you, sir. Garrett
22 Robinson.

23 MR. ROBINSON: Thank you, Mr. Chairman,
24 Commissioners. I come from a little different take
25 on things. I'm a product of the Santa Fe Public

1 Schools. And -- and there's three or four
2 generations of us with a whole bunch of kids who
3 have come through the Santa Fe school system. And I
4 think 70 or 80 percent of them have done exceedingly
5 well, the last of which is my nephew, who is now
6 a -- in medical school now in Illinois. So there's
7 been some tremendous successes that have come out of
8 the Santa Fe Public Schools.

9 Up until I went to graduate school, I was
10 not one of them. And the -- the biggest problem I
11 had was I just -- public school just wasn't for me.
12 And I was exceedingly frustrated the entire time I
13 was -- entered kindergarten until the time I was
14 able to get into graduate school, of course, which
15 we all know is -- allows you to study whatever you
16 feel you're particularly keen on.

17 And I remember sitting around, as many
18 kids do throughout the school years here in Santa Fe
19 over in Rose Park. And there was about six or seven
20 of us. And three or four of them were exceptionally
21 smart kids that were thriving in the school system,
22 and there were three of us who were just completely
23 lost. And I remember saying that, you know, "This
24 just isn't for me, and we're just barely hanging
25 on."

1 And we did. We just barely hung on and
2 finally were able to get out. But we were afforded
3 the opportunity, of course, many years later to live
4 in the Caribbean, and my boys were schooled by my
5 wife on the -- on the farm. And we came back, and
6 my boys were all diagnosed as having a marginal
7 level of dyslexia. And my oldest son is -- has been
8 struggling the entire time we've been back here.
9 And he now -- because he did so poorly in the four
10 schools that he went to, he now is finishing school
11 online.

12 And -- and in going through this process
13 with him, I realized that if I had had this kind of
14 opportunity, I would have done very well in school
15 from a very early age. I have had an extremely
16 successful life and done a lot of things. But
17 school-wise, it didn't take off until I was in my
18 20s.

19 But what strikes me after looking through
20 the various applications with --

21 MS. CHAVEZ: Okay. Time's up.

22 MR. ROBINSON: -- schools is the
23 background --

24 THE CHAIR: Thank you, sir. Thank you for
25 your comments.

1 Rebecca Lovesee and then Riley Lovesee.

2 Good afternoon. Good afternoon.

3 REBECCA LOVESEE: Good afternoon. Thank
4 you for this opportunity to address you. I'm from
5 Albuquerque, a graduate of UNM. And I have eight
6 children that, over the course of over 20 years,
7 have been involved in a variety of learning
8 alternatives, everything from APS public schools,
9 through charter schools, and home-schooling. And I
10 would like to address you all to tell you that I'm
11 in favor of this application.

12 And the reason why is that my experience,
13 not only with my own children, but with literally
14 probably several hundred families that I have worked
15 with and encountered over the years, there are so
16 many children out there that fall through the cracks
17 of what you might call traditional classroom
18 settings, for a variety of reasons. Some of them
19 are gifted; some of them have physical disabilities;
20 some learning disabilities. Sometimes it's a social
21 awkwardness. But for whatever the reason, they
22 don't fit into a traditional classroom setting.

23 And I've known many people over the years
24 that would have liked to have had an alternative,
25 but because of their circumstances, either they did

1 not feel qualified themselves to perhaps teach their
2 children at home, or a lot of times it was single,
3 working mothers who felt literally desperate for an
4 alternative, what to do with their child or children
5 because things were not working for them.

6 And this particular circumstance would
7 offer such a wonderful opportunity for families such
8 as this, families from all walks of life, all
9 socioeconomical levels. Because this is a program
10 where these children can learn and excel in a
11 situation where they can work, you know, with their
12 parents' supervision, but with certified teachers,
13 so that they're getting proper education and meeting
14 all of the guidelines that the State expects.
15 And -- but it'll be free to the parents.

16 We're all taxpayers. We should all have
17 equal opportunity. But unfortunately, sometimes the
18 options that are offered to us as parents are not
19 the right options for our children. And this will
20 give so many people an opportunity to help their
21 children. Thank you.

22 MS. CHAVEZ: Time's up.

23 THE CHAIR: Thank you so much. Riley
24 Lovesee. Then Jerry -- it looks like S-C-H-A-L-O-W.
25 Snow.

1 MR. SCHALOW: Schalow.

2 THE CHAIR: Hello.

3 RILEY LOVESEE: Hello. I'm Riley Lovesee.
4 I'm currently a student at Brigham Young University
5 in Utah, but I'm from Albuquerque. I support this,
6 because I was, like my mother commented, one of the
7 students that didn't take the traditional route.
8 And it worked best for me, because throughout high
9 school -- I attended public high school. And I
10 would run into problems that weren't huge, but it --
11 I felt like I didn't quite fit into the typical
12 classroom with typical things.

13 I still did fine in high school. I did
14 great and moved on. But I found out later at
15 college that I actually had learning disabilities,
16 and, while I was in high school, actually, I took
17 some online courses through CNM through the
18 dual-enrollment program. And those actually worked
19 very well for me, because it put me in my own
20 learning environment that I was comfortable in, and
21 I really excelled at those. So I agree with this
22 and I support this. Thank you.

23 THE CHAIR: Thank you, Riley. Jerry
24 Schalow.

25 MR. SCHALOW: Chairman and members, I

1 appreciate the opportunity to speak to you and show
2 my support today. I am president of First Santa Fe
3 Insurance Services and a volunteer for Junior
4 Achievement. So -- as well as having three kids,
5 all in middle school and elementary. So I've
6 definitely seen the schools and the opportunities.

7 What I wanted to bring to the attention is
8 what I've seen. I have two girls, one boy. And my
9 two girls do exceptionally well in school. My son
10 does well also. What I have noticed is their
11 different learning habits.

12 As we've seen nationwide and in
13 New Mexico, there's been a lot of talk recently
14 about boys learning differently than girls, and
15 girls are actually moving ahead of boys in the
16 classroom.

17 With my son, I have noticed that it --
18 when it comes to education, he learns and retains a
19 lot more information, whether it be on the -- off of
20 a computer or a video, or learning in that way,
21 rather than in the classroom, where he tends to
22 daydream and not catch on very quickly, which
23 affords us the opportunity to look on the computer
24 for additional options.

25 I feel this option is a great opportunity

1 for children such as my son. In addition to that is
2 it really creates a 21st-century alternative to
3 education. Education is changing. Whether it be
4 from the universities, University of Phoenix, all of
5 those universities for continuing education; they're
6 more and more involved in video and alternatives as
7 well -- as well as online teaching.

8 And this one also creates that opportunity
9 at a younger age, and especially as these students
10 continue. Thank you.

11 THE CHAIR: Thank you, sir. Charlotte
12 Rode and Lindsey Kerwin. Charlotte Rode.

13 MS. RODE: Lindsey and Bree are both just
14 on their way in.

15 THE CHAIR: Thank you.

16 MS. RODE: Mr. Chairman, Commissioners,
17 members of the Commission. I am a parent of seven.
18 And I have two granddaughters. And education is
19 huge in my life. It's very important. And
20 unfortunately, four of the seven children were not
21 served well by the public school system. Three of
22 them did fantastic. And school options, to me, has
23 been a path in which our family has taken to meet
24 the needs of my children, one of which is special
25 needs, another that's still in high school that

1 is -- has done very well and has excelled.

2 So from each end of the spectrum, those
3 school options have given us the ability to provide
4 for our children and their very different learning
5 styles.

6 Last meeting that I was here, there was an
7 op ed read in regards to holding parents accountable
8 for their children's education. And I just want to
9 say that this school-choice option, whether it be
10 virtual education or any other charter school, is
11 the ultimate in a parent taking charge of their
12 children's education. And it's the ultimate in them
13 being involved in their parents' educa- -- in their
14 children's education. And I think that as much as
15 you want parents involved, to embrace that school
16 choice is very important.

17 To give you an example of just two of my
18 boys, one of which was extremely intelligent, did
19 very well in all of his standardized testing, but
20 only skated the line in order to stay on the
21 football team. And, you know, at the end of the
22 year, whatever he got passed by, he got passed by.
23 He did what he did to stay in sports, and that was
24 it.

25 My younger son, who is taking online

1 courses, he can't move on until he learns the
2 material. So if it takes him three times as long to
3 get the work done, then he does it. He spent the
4 entire summer finishing an Algebra 2 class because
5 he didn't finish in his regular school year. So he
6 has to go back and finish that. But he doesn't get
7 punished -- say, somebody has a divorce in their
8 family or something goes on in their life that
9 really puts a stumbling block in the middle of the
10 year; they fail a few tests, and they end up
11 flunking the whole school year. So that child,
12 their whole year is just thrown in the trash can.

13 They have to start all the way over again
14 from the beginning instead of just saying, "Okay.
15 Hey, wait a minute. Where did we miss you? What
16 happened? Let's go back. Let's start where you
17 left off, where you finished, and let's move on."
18 That's something that virtual education is just --
19 there's nothing else like it. And it really can
20 meet the needs of children at the core of who they
21 are as an individual.

22 Don't look at education as a statistic.
23 We don't want to go from graduating 48 percent of
24 the kids to graduating 52 percent of the kids. All
25 those kids that don't graduate are people. They're

1 individuals. Those kids that graduate and then
2 can't go on to college and they have to face
3 remediation in college, those are people. And their
4 lives are forever changed by not being educated in
5 high school.

6 MS. CHAVEZ: Time's up.

7 MS. RODE: Thank you.

8 THE CHAIR: Thank you. Lindsey Kerwin.
9 Bree Rode.

10 MS. RODE: Can Dr. Jung go? They told me
11 they were in the parking lot, so --

12 THE CHAIR: And next on the list is Rex
13 Jung.

14 DR. JUNG: Thank you, Mr. Chairman,
15 Dr. Jung. I'm chairman of neurosurgery at the
16 University of New Mexico. Let me make clear I'm not
17 speaking on their behalf. I'm here as an
18 individual. I want to take a slightly different
19 approach talking about this concept from the
20 perspective of the brain.

21 I study the brain. I'm a neuroscientist
22 and a neuropsychologist. So I think about the brain
23 almost continuously throughout the day. And this is
24 the first program that I've come across that appears
25 to support the way the brain learns in a reasonable

1 way. This is individualized. It's flexible. And
2 it's personalized. These are three very important
3 concepts in terms of the way that the brain works.

4 The fact of flexibility is particularly
5 important. Unlike when you and I are -- seem to be
6 about the same age -- when we were growing up, we
7 would get a job, we would work at it for 20 or 30
8 years, and we would retire.

9 These kids that are going through the
10 school system today are probably going to have half
11 a dozen jobs throughout the course of their life.
12 They're going to need to be increasingly flexible.
13 They're going to need to go back to work and
14 retrain.

15 How is that going to happen? Are they
16 going to go back to school? No. They're going to
17 go back to a virtual environment, where they get
18 retrained to a different type of task, a different
19 type capability that they might be able to leverage
20 their previous knowledge towards some new activity.
21 This is the way the world is changing. This is the
22 way the world is growing. This requires increased
23 flexibility of the way that we train children, the
24 way that we train our workforce, the way that we
25 train our brains.

1 I think this is incredibly important. I
2 go to talk to many educational groups about
3 neuroscience, about the way the brain works. And
4 invariably, they ask me, "Well, what should we
5 do" --

6 MS. CHAVEZ: Okay. Time's up. Chairman,
7 I don't know if he's the last one or -- we still
8 have five minutes -- six minutes.

9 DR. JUNG: Can I keep talking?

10 THE CHAIR: Mr. Jung, you may.

11 MS. CHAVEZ: Just let him go until the
12 end. Or is there others?

13 MR. LUCERO: There's two more.

14 THE CHAIR: Let's let the five minutes go
15 on.

16 DR. JUNG: So invariably, they ask me,
17 "What can we do in our classroom?"

18 And there's really no good information,
19 there's no good answer for what I can give them for
20 what they can do in their classroom. Until I come
21 across this educational component. This
22 individualized, flexible training program appears to
23 be the first thing that I've come across that allows
24 students to learn at their pace, at their level, and
25 to flexibly adapt to a changing work environment.

1 I think this is incredibly important for
2 training the next level of, particularly, STEM
3 researchers. And this is science, technology,
4 education, and math. And you probably have read in
5 the newspaper that we have a dearth of educated
6 people in the science -- STEM fields.

7 So being able to keep children interested
8 in these fields is particularly important. So I
9 think the flexibility that is entailed in this
10 educational component is also extremely important.

11 THE CHAIR: Thank you, Mr. Jung. We will
12 proceed with the Public Education Commission's
13 question period. And this will be 45 minutes.
14 Commissioners, the floor is open for questions of
15 the applicants.

16 MR. BOITANO: Mr. Chair, can I just --
17 were there any opponents? Did we have time to --

18 THE CHAIR: Time to what?

19 MR. BOITANO: Isn't there time allotted if
20 there are opponents in the audience?

21 THE CHAIR: Community input would include
22 both.

23 MR. BOITANO: I see, sir. Thank you.

24 THE CHAIR: The floor is open for
25 questions. Commissioner Canfield?

1 COMMISSIONER CANFIELD: Thank you,
2 Mr. Chair. I guess -- I'd like you to expand a
3 little bit on the Connections connection, I guess,
4 and tell us a little about that organization, if you
5 could.

6 MR. LUCERO: Sure. As I mentioned briefly
7 in my portion, we intend to contract with
8 Connections. That is a result of the due diligence
9 that I alluded to in terms of identifying what we
10 feel, as a board -- again, our board will have
11 complete control of this charter school. Make no
12 mistake of that. We have a statement of work. I
13 believe that's enclosed in the petition,
14 Mr. Commissioner.

15 And so, as a result of our due diligence,
16 we've identified Connections as the single best
17 provider of virtual education available. And
18 that's --

19 COMMISSIONER CANFIELD: Both curriculum
20 and the technology; right? Is that --

21 MR. LUCERO: There will be certain --
22 certain areas that we intend to contract with them.
23 That will be the instructional services, the
24 Connexus access software, enrollment processing,
25 professional development, and professional and

1 technical support intertwined with the educational
2 system. There are going to be other services that
3 we will have the option to contract with other
4 sources.

5 COMMISSIONER CANFIELD: Thank you. Thank
6 you.

7 THE CHAIR: Thank you, Commissioner
8 Canfield. Commissioner Gant.

9 COMMISSIONER GANT: All right. I'm going
10 to first -- the first question I'm going to ask
11 is --

12 THE CHAIR: Use your microphone, please,
13 sir.

14 COMMISSIONER GANT: First of all, you have
15 your board sitting here. And as I read your
16 application, there will be changes in the board over
17 time. At any -- and any parent may choose to want
18 to be selected to be on the governance board. Is
19 that correct? I mean, is the governance board going
20 to be open to parents? That's my question.

21 MR. BOITANO: Well, Commissioner Gant,
22 charter schools can be started by parents, teachers,
23 or business community leaders. The founding board
24 right now is made up of those categories. We will
25 transition into the governing board, should the

1 charter be approved. And then we serve for a
2 certain period of time, for a term. So the answer
3 is absolutely, yes.

4 COMMISSIONER GANT: Well, my question is,
5 according to your application, you want to go
6 statewide; is that correct? You want to be in every
7 county in the State of New Mexico. Is that correct?

8 MR. BOITANO: Commissioner Gant, virtual
9 education would be available in 33 counties, yes.

10 COMMISSIONER GANT: Okay. Now, say
11 there's a parent down in Artesia or Mora or
12 someplace like that that wants to be on the board,
13 and the board transitions to different spaces, how
14 are those folks going to serve on a board that's
15 going to be located for their meetings up here in
16 Santa Fe?

17 MS. DUHIGG: I'm a member of the founding
18 board, and I'm from Las Cruces, New Mexico. It
19 works quite well. I've traveled all the way up here
20 to be here today. But we have communicated
21 extensively through conference calls, online
22 connection. And the communication has been very
23 good. And I'm actually proud to be here to be a
24 voice from another part of the state.

25 COMMISSIONER GANT: Well, then, my

1 question also goes back to the Open Meetings Act.
2 There are certain limits to having meetings,
3 teleconference meetings. And we have to be very
4 careful. And I go back to my question.
5 Las Cruces -- I live there. I'm up here two or
6 three times a month. That's not a big deal. But
7 somebody living in Mora, Artesia, the western
8 boundaries of the state of New Mexico, they come
9 from an economically disadvantaged family. How are
10 they ever going to serve on the board?

11 MR. BOITANO: Well, Commissioner Gant, I
12 think that's a good question. And I think there are
13 several answers. Number one is you have to go in
14 with your eyes wide open. So, yes, charter schools
15 have parents, teachers, business and community
16 leaders serving on the governing boards. But you
17 need to know what you're getting into initially.
18 And a part of -- it's like running for the
19 legislature from your neck of the woods; you have
20 people who have to come up and spend 60 days in
21 Albuquerque. I live in Albuquerque, and I commuted
22 for 16 years.

23 So the legislator from Las Cruces has to
24 have their eyes wide open. The legislator -- or the
25 governing board member -- has to have their eyes

1 wide open as well. But Open Meetings is very
2 important. I know, in the Legislature, we accept
3 teleconference testimony. I don't know if the PEC
4 does that. But technology is making meetings and
5 communication different than it was in the past.
6 And I think all of that needs to be taken into
7 consideration.

8 COMMISSIONER GANT: I believe the Open
9 Meetings Act has different meanings for the
10 Legislature versus folks like ourself. I'm going to
11 move on to the budget.

12 Page 4, Function 1000, Objective Code
13 53414 and 5371. There's a lot of money in here for
14 purchase of professional and technical services, but
15 no real definition. It goes from about \$170,000 the
16 first year, and it ends up somewhere around
17 \$7.8 million in the fifth year. Can you delineate
18 what's in those professional services that are going
19 to be purchased?

20 MR. LUCERO: I believe this format -- and,
21 Mr. Commissioner, please correct me if I'm wrong --
22 is the State format that you've asked for us to put
23 this information in? Is that correct?

24 COMMISSIONER GANT: I understand that.
25 But somebody had to develop what goes in there. So

1 they had to know what services are going to be
2 purchased.

3 MR. LUCERO: Right. And let me say that
4 our internal budget that this is from has a much
5 more detailed outline of what is going to go into
6 each of these sub-segments. So we have that detail
7 certainly available.

8 COMMISSIONER GANT: Thank you. The next
9 item is on the same page.

10 MR. BOITANO: Actually, Commissioner Gant.
11 I'm sorry. I have a .pdf copy of the charter. They
12 have a hard copy. What page was that again?

13 COMMISSIONER GANT: Page 4.

14 MR. BOITANO: Page 4, okay.

15 MR. LUCERO: K-4?

16 COMMISSIONER GANT: Page 4.

17 MR. BOITANO: The Executive Summary?

18 COMMISSIONER GANT: No, it is your budget.
19 On Page 4 of your budget.

20 MR. LUCERO: Section 1000, I believe.

21 COMMISSIONER GANT: Function -- it's K-4,
22 if you will. It's Function Area 1000, Objective
23 Code 56112 through 56118. Again, these are
24 textbooks, software, and general supplies. That's a
25 large number when you get out there to -- to the

1 fifth year, \$4.0 million. My question is, is this
2 the items you're going to be pushing -- purchasing
3 from Connections?

4 MR. LUCERO: There will be a computer
5 component in that; so not 100 percent. It's going
6 to be a mix.

7 COMMISSIONER GANT: Okay. The question I
8 guess I should ask, are there items within the
9 technical purchases, professional purchases,
10 contract, whatever, that are sole source to
11 Connections -- which actually belongs to Pearson
12 now, but that's okay.

13 MR. LUCERO: The -- for example, the
14 software component, yes.

15 COMMISSIONER GANT: Okay. All the
16 computers you're going to buy for all those children
17 who are scattered across the state of New Mexico,
18 where are you buying those?

19 MR. LUCERO: That is yet to be determined.
20 We have the option to source many items
21 competitively, and we have the option to source
22 those through Connections.

23 COMMISSIONER GANT: I read somewhere in
24 the article -- going back to this -- I have a
25 problem with sole source. I used to serve on the

1 board for eight years, and I'm also retired
2 military, also worked in the contract world. So I
3 have problems with sole source. I read in a
4 paragraph that -- something to the effect -- and I
5 don't remember which appendices it was in -- about
6 being furniture, and furniture being purchased from
7 Connections. Is that correct?

8 MR. BOITANO: Commissioner Gant, I -- you
9 know, I -- I haven't read that. And, you know, I
10 think you'll find that the board shares a lot of
11 your concerns. And, you know, for instance, if we
12 look at the computer component, first year, certain
13 percentage of students will have computers. The
14 goal is, after five years, for all the students to
15 have computers.

16 Whether or not we buy those from
17 Connections or not, we don't know. We don't know.
18 We haven't really gone through the process yet. I
19 mean, if we can find a local vendor that provides
20 computers at a better price to meet the needs of
21 students, I mean, we'll -- you know, we're probably
22 going to go that route.

23 There are some things, clearly, that we're
24 going to purchase from Connections, though. The --
25 you know, the student accountability data piece is

1 revolutionary. And, you know, for those of us that
2 are concerned about accountability, they have
3 created some accountability software and some
4 accountability systems that we want to buy into.

5 And the question is whether or not there's
6 a competitive market for that out there. We've done
7 some investigation. We have a legal opinion that
8 there are certain proprietary products that
9 Connections offers that we intend to purchase, and
10 that we're not violating any State law should that
11 happen. But there are other things, like furniture
12 and computers and other products and services, that
13 we need to take a look at case by case.

14 COMMISSIONER GANT: Going to Page 5,
15 Function Code 2100, this deals with the
16 professionals, like nurses, SLPs, diagnosticians,
17 OTs, PTs, et cetera. And, apparently, the plan is
18 to contract all these? Is that true?

19 MR. LUCERO: Can you please repeat that
20 page?

21 COMMISSIONER GANT: Page 5.

22 MR. BOITANO: K-5.

23 COMMISSIONER GANT: Function area at 2100.
24 It's at the top of the page. The Objective Code,
25 51100, and the Job Class is 1 -- 1215 through 1319.

1 There is an indication that these are all going to
2 be purchased via contract. Is that correct?

3 MR. BOITANO: Commissioner Gant, I don't
4 know if we know the answer to that right now. As
5 you probably know, in a traditional school setting,
6 there are nurses that may be on contract. In the
7 districts I represent, there may be four or five
8 nurses that serve four or five schools. So you have
9 one FTE serving four or five schools.

10 And so I don't know -- I don't know that
11 we've thought that through. My -- the intention I
12 think, for the most part, is to hire employees who
13 are not contractors and who are on the payroll on an
14 annual basis, just like most traditional schools and
15 many of the charters. But there may be some -- I
16 mean, it all has to do with the money in the budget
17 and what kind of services we're providing and what
18 kind of population we're serving.

19 And right now, we're speculating, and I
20 think any new charter is speculating what their
21 population is. So we're speculating based on the
22 past. And we have to look at the present and the
23 future. And based on that, we can fine-tune our
24 budget a little bit better.

25 COMMISSIONER GANT: Well, apparently, in

1 my view, in looking at the budget on Page 5, these
2 were -- what I was talking about in that area, on --
3 was these are salaried positions, with no budget.
4 But then you drop down further on the page, and the
5 same function, under "Purchase of Professional and
6 Technical Services," you have an amount there that
7 starts at \$166,000 and ends up at \$1.1 million for
8 professional services and specialist contracts.

9 In my mind, that looks like you're going
10 to purchase those professional positions at the top
11 that you don't have salaries set aside for. This is
12 supposed to be the complete, that-we-vote-on budget.
13 So I'm trying to figure out where these important
14 people are that do the IEPs, that do all the diags,
15 that do the OTs, PTs, and all that. I'm trying to
16 find out where they're paid for.

17 MR. LUCERO: Well, Commissioner Grant, if
18 I may -- Gant, excuse me -- when I talked about
19 flex- -- responsible budget, the budget is geared
20 towards enrollment levels. And although our
21 enrollment projections are conservative, we don't
22 know what the enrollment is going to be.

23 So I think it makes good business sense to
24 be able to contract where necessary and hire where
25 necessary. Number one objective, meet the

1 objectives of the student. And that's number one.
2 And then if we -- as we build our enrollment, then,
3 obviously, the option would be to be able to hire.

4 As a governing board, regardless of how we
5 contract with Connections, many of which will be
6 provided by them, we, through our statement of work,
7 reserve the option to change any or all of that at
8 the time where we choose and we deem it in the best
9 interests of New Mexico Connections Academy.

10 And that -- I really do appreciate these
11 questions. These are very much the questions I
12 asked as part of my due diligence to be involved in
13 this or not, because just like your name with
14 approval would be part of this, so is mine. And I
15 want to have as much control as we possibly can.
16 And I've insured that that exists.

17 So for whatever it's worth, I want to
18 assure you that I'm equally concerned about making
19 sure that there's accountability for not only
20 Connections, but our -- any vendor that we would
21 have. There will be regular evaluation, regular
22 performance reviews, regular performance
23 assessments, regular measurement, established
24 metrics, to measure performance. And so I just want
25 to mention that I assure you that's part of my

1 objective and many of us, as part of this board.

2 MR. BOITANO: Commissioner Gant, I think
3 one of our other board members, Paul Gessing, wanted
4 to just answer a little bit of that.

5 MR. GESSING: Commissioner Gant, yes, some
6 of the items you're referring to would be purchased,
7 indeed, from Connections Academy. Things like
8 special education therapists, and those kinds of
9 professionals; not all of them, but certainly some
10 of them, would be purchased through Connections.

11 COMMISSIONER GANT: I see also on Page 6,
12 you're not hiring any librarians or media
13 specialists or data processing? I mean, I don't see
14 money out there for that, as a salaried position.

15 MR. BOITANO: Well -- and, Commissioner
16 Gant, that's one of the wonderful things, I think,
17 about charter schools in general: Budget
18 flexibility. And so, you know, whereas, you know,
19 Mitchell Elementary School in my district, you know,
20 they may have line items for -- for libraries, line
21 items for janitorial services and things like that,
22 in a charter school environment, where you have
23 flexibility, you look at priorities. And you make
24 budget decisions based on priorities. So in an
25 online world, we have less need for a librarian, and

1 we can move those resources somewhere else.

2 COMMISSIONER GANT: I understand. But we
3 do know that once -- if this is approved in
4 September, 19th or 20th, before this Commission can
5 give this school a Certificate of Completion, it
6 must have, at that point, locked in, a budget. In
7 other words, there's not going to be anything
8 shifting from contract to salaries, because the code
9 doesn't allow that.

10 So my -- and I'm trying to find out where
11 you all are going with this. Are you going to come
12 down -- if we do grant this, are you going to come
13 down here in June and say, "No, no. We changed our
14 mind. Now we're going all salaries," because this
15 is what we're voting on, what's in front of us.
16 Okay?

17 Let me see what -- I hope the other
18 Commissioners have got questions. I'm running out
19 of voice. I'm going to move on, I guess, to a
20 little bit -- to the application itself. If you
21 want to move on to another one, I'll come back to
22 mine.

23 THE CHAIR: While Commissioner Gant looks
24 for his other questions, let's move on.
25 Commissioner Shearman.

1 COMMISSIONER SHEARMAN: Good afternoon.
2 For me, the first consideration must be not -- no,
3 not the value of virtual education. And if -- for
4 those of you who all were here at our last meeting,
5 you heard me say I support virtual education. I
6 believe in it. I think it has its place. However,
7 in New Mexico today, we have a New Mexico Public
8 Education Department rule that does not permit
9 virtual schools.

10 I'm looking at an opinion from a PED
11 counsel that was requested by the Assistant
12 Secretary of Education. And if I may read one
13 paragraph from that opinion from counsel.

14 It says, "Based on my examination of the
15 relevant New Mexico statutes, opinions, and case law
16 authorities, it is my opinion that the Public
17 Education Commission does not have the authority to
18 approve virtual charter schools that are not
19 brick-and-mortar, discernible as buildings, designed
20 to educate students in particular places. It is my
21 opinion that the section cannot grant waivers of
22 requirements contained in the Public School Code to
23 allow for creation of virtual schools in
24 New Mexico."

25 Further, the Public Education Department

1 has a rule that says, "Distance learning courses
2 provide an opportunity for schools within the
3 state... ." Am I reading the right one? No, I am.
4 Pardon me.

5 "Distance learning courses provide an
6 opportunity for schools within the state to expand
7 their course offerings and expand access to learning
8 resources. While distance learning technologies may
9 occasionally be used as full-time educational
10 programming for students in unusual circumstances,
11 asynchronous distance learning shall not be used as
12 a substitute for all direct, face-to-face student
13 and teacher interactions, unless approved by the
14 local board of education."

15 The dilemma I face -- and really, it's not
16 much of a dilemma when I'm faced with a law, and
17 statute is law -- when I'm faced with a PED rule,
18 that, to me, says what I can do. Whatever my
19 personal opinion might be aside, the value of
20 virtual education, the supporters in this room who
21 think this application is very worthwhile, that, to
22 me, is stopped by a brick wall that says, "The
23 statute says" -- and I just read the legal opinion,
24 and I read the rule.

25 Until such time as this is either

1 clarified in the courts through the Legislature and
2 through the Public Education Department, I think the
3 choice is made for me. I have to follow the
4 statute, and I have to follow the rule. Thank you.

5 THE CHAIR: Thank you, Commissioner
6 Shearman. Other questions?

7 MR. BOITANO: Actually, Mr. Chair, can
8 I -- you didn't ask a question. So -- but I'm
9 wondering if we can -- if I can respond to that.

10 THE CHAIR: Go ahead, sir.

11 MR. BOITANO: Oh, good. Thank you. And,
12 Commissioner Shearman, I've actually -- I've spent a
13 lot of time thinking about this. I know you have,
14 too.

15 COMMISSIONER SHEARMAN: Thank you.

16 MR. BOITANO: And it's quite interesting,
17 because we do have a legal opinion -- we have a
18 legal opinion from one person who says that you
19 don't have the authority.

20 COMMISSIONER SHEARMAN: If I may interrupt
21 you? I understand -- I do not have a copy of it.
22 But I understand there is an Attorney General's
23 opinion that agrees with the legal opinion that I
24 just read.

25 MR. BOITANO: Okay. Is that -- Mr. Chair

1 and Commissioner, is that a new opinion, or is that
2 something that's --

3 THE CHAIR: 2009, I believe.

4 MR. BOITANO: An Attorney General opinion?

5 THE CHAIR: The Attorney General made that
6 opinion that coincides with the Assistant Secretary.

7 MR. BOITANO: Well -- and just to note, we
8 do have this opinion. But as I mentioned, one page
9 of what you and I are reading references attendant
10 zones and so forth as one of the legs that they base
11 this legal opinion on. And right in the statute, it
12 says charter schools are exempt.

13 So that statute doesn't relate to charter
14 schools. Yet this attorney who is giving us the
15 opinion you and I are thinking about used that as
16 one of the legal grounds to come to a conclusion
17 that virtual schools are not allowable. I just -- I
18 find that very interesting.

19 The other thing, Commissioner, you know
20 this point about asynchronous learning cannot exist
21 unless it's approved by the local districts is very
22 interesting, because one of the questions that we
23 have to ask you, as the PEC, is do you have the
24 authority to approve asynchronous learning, because
25 that's one of the topics we're talking about here.

1 Virtual school has an asynchronous and a
2 synchronous learning environment. So a local
3 district has that option. And we have a state
4 chartering authority, the Public Education
5 Commission, that I think some would say has that
6 option as well. And it's an interesting dynamic,
7 because we do have a virtual school that was
8 approved by the local district. And that PED rule,
9 you could apply that to the -- to the district and
10 say, "Well, they have that authority because that
11 school went to the local district."

12 We're coming to you as the State -- State
13 school board, and we're asking you to grant us that
14 waiver as well. So --

15 COMMISSIONER SHEARMAN: If I might just
16 respond to that -- and I don't mean to get a
17 back-and-forth going here. I understand, and
18 certainly, it's my opinion, too, that the local
19 school district did not have the authority to grant
20 that virtual charter school. That, and probably a
21 quarter, will buy you a cup of coffee. It's just my
22 personal opinion.

23 But I have heard others question that same
24 thing. This whole area needs to be clarified. And
25 I think, until we do, we're not really going to know

1 clearly what is permissible, what this group can do.
2 But I -- my reading of the law is very clear. Thank
3 you.

4 COMMISSIONER POGNA: Mr. Chairman?

5 THE CHAIR: Any questions? Commissioner
6 Pogna?

7 COMMISSIONER POGNA: Mr. Chairman, since
8 the Commission does not have the authority to
9 approve virtual schools, why do we permit the
10 applications from the groups?

11 COMMISSIONER GANT: According to --
12 Ms. Callahan, correct me if I'm wrong. Regardless
13 of what the application is, it has to go through the
14 application review and process and down to the vote.

15 THE CHAIR: I am just going to make a
16 quick comment, is that it is obvious that New Mexico
17 law is behind the curve with regard to virtual
18 education and virtual schools. The Public Education
19 Commission will be reporting out to the Legislative
20 Education Study Commission on Friday. And that may
21 seem, How can that be, because you're going to be
22 down in Alamogordo?

23 But I will be representing the Public
24 Education Commission giving that report on Friday.
25 And it will address some of the issues that all of

1 New Mexico needs to work on. But just like you
2 said, Senator Boitano, let's ask two lawyers, and we
3 have ten opinions. So that will continue. That
4 won't end.

5 But I think that -- I appreciate, for one,
6 Commissioner Shearman's stance, your ethics, your
7 values. Same thing here. And I want to move
8 forward with specific questions to the applicant,
9 because this is your time, and this is our time to
10 glean more information from this -- from this
11 application. And we'll have to deal with the -- the
12 New Mexican landscape of virtual education on
13 another day. Commissioner Gant?

14 COMMISSIONER GANT: Couple of more. And
15 it's not -- I won't go to a page or anything like
16 that in the items. But one of the problems I have,
17 as you are well aware, all of you, we are an
18 economically disadvantaged state, and a lot of them
19 live in the rural communities, live out on farms and
20 ranches, et cetera. And this is going to be a K-12.

21 My first question is on the computer
22 systems. I gave you some examples of cities or
23 communities that are far away from Santa Fe, about
24 as far as away as you can get in the State of New
25 Mexico. They may or may not have high-speed

1 Internet. And without it, I don't understand how we
2 can have a virtual school in a home that's out in
3 the middle of who knows where, the BLM forests,
4 without a high-speed Internet. So they're at a
5 disadvantage and they can't join the charter school.

6 So it's a barrier for them. Public
7 schools can't have barriers for kids that want to go
8 to school. Okay? My question is on a computer.
9 Computers will die, unless it's an Apple, like mine,
10 and it never dies.

11 But if a computer dies for a child that's
12 out in Artesia or Animas or wherever it is, how long
13 is it going to take you to replace or repair that
14 computer? How many days is that kid, or that child,
15 that student, going to miss a class? I see nothing
16 in here that talks about the plan -- it says you
17 will take care of the issue of repair or replacing a
18 computer. But how long?

19 I know that some computers have taken
20 weeks to get replaced or repaired, depending on
21 what's wrong. So what do we do with that student
22 when they have no computer to work on, and most
23 parents throw up their hands and say, "I don't know
24 what's wrong with it"? So what's the plan?

25 MR. LUCERO: I like you. These are very

1 much the same questions I've asked. And I
2 appreciate it.

3 These are real questions. First of all,
4 this option is not for everybody. It's a choice,
5 the terms of access -- and I think it's in our
6 plan -- we -- after our first year, we will pay for
7 100 percent of the computer. Replacing a computer
8 today is very quick. Very quick. So the answer to
9 one of your questions is one day, when -- how long
10 it will take to get a replacement computer. That's
11 an easy question.

12 Connectivity. That is probably the bigger
13 question, because, in rural areas, there are
14 limitations. However, we have, through part of our
15 due diligence, the very question I asked --
16 Colorado, for example. Pretty large state
17 geographically. Some definite poverty zones and
18 some definite remote areas. There have been great
19 examples of getting connectivity to far reaches of
20 the state.

21 So we're very confident, working through
22 the local providers and through our initiative and
23 efforts, working locally, we can get connectivity to
24 the rural parts.

25 MR. BOITANO: And, Commissioner Gant, that

1 is a very, very good question. You know, I'm in the
2 real estate business. A part of my job is to help
3 see options that they never knew existed. And I
4 think any professional and a lawyer or an
5 accountant, that's a part of their job.

6 Connections has been doing this for ten
7 years. And they're ahead of the wave when it comes
8 to technology and connectivity. They've been doing
9 this in states where they have rural and frontier
10 populations like we do. So I think you'll find that
11 they actually have solutions that local communities
12 may not be aware of.

13 And so I think, in terms of serving those
14 populations, they're going to be able to see things
15 that they never really knew existed in terms of
16 connectivity and software and hardware and service
17 and support.

18 COMMISSIONER GANT: My last question,
19 Mr. Chair. This is one that really bothers me.
20 It's a K-12. And in our part of the world,
21 Las Cruces, Anthony, Gadsden area -- you name it --
22 Dona Ana County, someone has touted it being the
23 fifth poorest county in the United States of
24 America. You've got other people, families that are
25 disadvantaged, that if they have two parents, both

1 of them are working. If they have one parent, that
2 parent is working, hopefully, to keep bread and
3 butter and a roof over their head. So we have to
4 have a learning coach for all the kids that are in
5 elementary and mid; less than high school, I guess,
6 but there is a requirement to have a learning coach.

7 And many of these families may not be able
8 to find someone that they trust to be with their
9 children day in and day out so they can be served by
10 this -- this -- this school, virtual school. So I
11 think this is a barrier to many kids being in it
12 because they can't find a learning coach.

13 And lastly, on the subject of elementary
14 kids, particularly K -- elementary kids, K-5, this
15 is where they're learning their social skills. I
16 know you talk about having organizations and chess
17 games and all this other good stuff in here. But if
18 they live in isolated communities, how are you going
19 to organize and bring them all together so they can
20 go on field trips and all this other stuff you talk
21 about in here so they can learn to socialize?

22 It's a proven fact, if a kid doesn't learn
23 to socialize by the time he's in third grade, that's
24 part of the dropout rate. That's where we get our
25 fights, because kids can't get along. And sitting

1 in front of a computer -- I never allowed my kid to
2 do that. And we've had computers since Apple opened
3 the door. He was never allowed a game. None of the
4 kids were allowed games.

5 I don't understand how you can socialize
6 kindergarten kids, first-graders, second-graders,
7 third-graders to learn how to deal with the people
8 they're going to have to learn how to deal with in
9 life. It's hard for me to understand how that's
10 going to happen.

11 Yes, you claim you've got these
12 organizations that will have gatherings and all
13 that. But as isolated as this state is, I don't see
14 it. Explain how it's going to happen.

15 MS. DUHIGG: May I respond?

16 COMMISSIONER GANT: Uh-huh.

17 MS. DUHIGG: A couple of things. One is
18 the provision of a learning coach. I deal with the
19 public quite a bit. I manage residential rental
20 properties. And I know these families, and I know
21 their economic situation, and I know about the two
22 families working. Many of them do have a
23 grandparent, an aunt, or some other kind of care
24 provider that is able to stay with the children, you
25 know. And there are some that don't.

1 Do we take the opportunity away from those
2 families that do have someone who could be a
3 learning coach because there are some that don't? I
4 mean, that's one big issue for me.

5 As far as the socialization, the
6 opportunities provided are, yes, they're field trips
7 and stuff, and local-oriented. We're also going to
8 have some mobile labs. That's our plan, to go into
9 communities that will serve these kids that are --
10 that can't get transportation to where some of our
11 other field trips are. So there will be an outreach
12 physically.

13 There is also a lot of online interaction
14 that's going to happen. So no matter where those
15 kids are, they will be able to interact; one being
16 live lessons. The kids will be brought together on
17 a particular topic or project. They'll be able to
18 collaborate online. So there will be opportunities
19 like that in all locations.

20 MR. BOITANO: Commissioner Gant?

21 COMMISSIONER GANT: This is really my last
22 question, because we're running out of time. Every
23 year, by statute, every school, including charter
24 schools, has to give standardized tests to every
25 child in a particular grade. Go back to my students

1 that are in isolated areas, small communities, and
2 all this, and it talks about we're going to bring
3 them into a local building. Whether it has to be
4 E-Occupancy qualified or not, I haven't got that
5 answer yet, but I will. But they're brought into a
6 local area to take these tests.

7 Now, what if the learning coach can't take
8 the child to where they're supposed to take the
9 test, or anybody else in the family can't take them
10 to the place where it's supposed to -- they're
11 signed up, they're doing well on the virtual school
12 but they still have to take those tests. How are we
13 going to guarantee all these children -- you're
14 talking about 2,000 eventually, I think -- going to
15 have the opportunity to go to the right place and
16 time to take the test?

17 And some day -- sometimes it takes more
18 than one day. There may be families taking off of
19 work that they can't afford to do. So what's the
20 plan with that?

21 MR. BOITANO: Commissioner Gant, That's a
22 good question. You know, when -- when we first
23 started to get charter schools up and running, there
24 was a lot of concern that because we weren't
25 providing transportation, the kids wouldn't get to

1 school. And what we found out is that when you had
2 buy-in from the parents, and when had you a
3 supportive social environment to promote that
4 child's education things happened.

5 And so it's the same with the testing as
6 well. So students, when you opt in to a virtual
7 school, like Connections Academy, the parent or the
8 responsible instructional support person needs to
9 realize that there's state testing, and that they
10 need to figure out a way to get the child to the
11 testing center, wherever it is. It'll happen. You
12 know, it's just like -- the question you asked
13 earlier -- I don't know -- did you ever see "Akeelah
14 and the Bee"? Wonderful -- I think it was a true
15 story -- about a young minority girl who wanted to
16 do better in school.

17 And she found that her support system was
18 in place that she never imagined it was going to be.
19 She didn't have support at home, but she found that
20 her nieces and nephews and aunts and uncles and the
21 people at church and the pastor, an amazing support
22 system that came there to be with her. And it turns
23 out she won a national spelling bee. It was a
24 fabulous story.

25 But I think the lesson is that where

1 there's a will, there's a way. And, you know,
2 Commissioner Shearman talked about how parents need
3 to be involved. Well, not every parent is going to
4 be involved. But there needs to be a trinity
5 supporting students. One of the many formulas for
6 success is teacher, parent -- or support person --
7 and student compacts and involvement. And the model
8 here is just that.

9 So, you know, we -- we understand the
10 challenges. But if you set the bar, people will
11 rise up and meet that bar.

12 COMMISSIONER GANT: Thank you.

13 COMMISSIONER LOPEZ: Mr. Chair?

14 THE CHAIR: Commissioner Lopez, and then
15 Commissioner Canfield.

16 COMMISSIONER LOPEZ: Commissioner Canfield
17 was first.

18 THE CHAIR: Commissioner Canfield and
19 Commissioner Lopez.

20 COMMISSIONER CANFIELD: You're so nice. I
21 just want to make a quick comment, because I think
22 it's important for you all to know that there are
23 those of us on this Commission that are proponents
24 of what you're doing in virtual learning. I am a
25 recipient of virtual learning, and so I understand

1 its benefits. And by your plan and by your
2 presentation today, and the support that you have
3 here, you obviously have some good leadership, some
4 buy-in, and some commitment, and some passion for
5 what's happening.

6 I have to, you know, bring up that
7 elephant in the room again about this legal opinion.
8 And it frightens me that we're locked here on
9 this -- on a situation. And it's one of those
10 things -- this is the way it's always been done, so
11 we have to do it this way, and we don't want to
12 accept that.

13 So we hope that there's a way, a path
14 forward -- at least I do; I speak for myself -- a
15 path forward to get over those hurdles so that we
16 can reach those kids that you're looking to reach.
17 So I wanted to tell you personally that there are
18 those of us -- I think you have proponents on this
19 Commission that support virtual learning, and we
20 wish you the best in overcoming some of those
21 hurdles. So thank you, Mr. Chair. I appreciate the
22 time.

23 THE CHAIR: Thank you, Commissioner
24 Canfield. Commissioner Lopez.

25 COMMISSIONER LOPEZ: I want to revisit

1 connectivity again. I did a lot of work out in
2 Navajo in these areas. And the companies reassured
3 us, "Oh, yeah, no problem. We can get it to you."
4 It wasn't true.

5 And so you didn't really have any
6 specifics about -- other than Connections assures
7 you they can do it. And so I do have a concern
8 about connectivity. Just a comment.

9 MR. BOITANO: And, Mr. Chair, let me ask
10 you this: Because I'm hearing Commissioner
11 Canfield, Commissioner Shearman, and others, about
12 this -- this elephant in the room over what you're
13 authorized to do and what you're not.

14 My understanding is the LESC is going to
15 have some language that will clarify this. We
16 haven't seen it yet, but I think we will see it.
17 And maybe a part of that will be your testimony. Is
18 it possible -- I mean, if that's the stumbling block
19 for all of you, is it possible for you to approve a
20 charter contingent upon X, Y, and Z, and one of
21 those contingencies would be that the State
22 clarifies a law that some may say is ambiguous, but
23 someone like me would say is not prohibitive? Is
24 that an option?

25 THE CHAIR: The Public Education

1 Commission can approve a charter school application
2 with contingency items on there.

3 Any other questions by Commissioners?

4 We're to our closing.

5 Any member of the public, including the
6 applicants, may submit written input following this
7 hearing. Written comments can be sent to the
8 Commission via the Public Education Department main
9 Web site at ped.state.nm.us, through the following:
10 The Calendar listed on the front PED Web page,
11 through the Public Comments page on the front PED
12 Web page using the link that I stated prior, slash,
13 Comments. You will be directed to an e-mail format
14 in which to write your comments.

15 I want to thank the CSD and thank Kelly
16 Callahan for making that an option. I know snail
17 mail has the greatest intentions, and when it's
18 snail-mail time, I don't think I've ever gotten a
19 letter out. So that opportunity to give comments
20 via -- I won't say virtual -- make sure you identify
21 the school you're commenting on in the drop-down
22 menu.

23 Please note that that written input must
24 be received by no later than close of business on
25 the third business day following the hearing on the

1 application you wish to comment on, the very
2 ungraceful way of saying three days.

3 Thank you for your presentation and your
4 hard work in preparing your application. Thank you
5 very much.

6 MR. BOITANO: Thank you, too.

7 THE CHAIR: I'm going to call a
8 five-minutes recess, and if Starshine Academy would
9 like to meander to the front here and do your setup,
10 you're welcome to do so. We're in recess.

11 (Proceedings in recess at 3:30 p.m.)

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REPORTER'S CERTIFICATE

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

In testimony whereof, I have hereunto set my hand on August 28, 2012.

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