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BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

IN THE MATTER OF:

SENATOR DENNIS CHAVEZ ACADEMY

TRANSCRIPT OF PROCEEDINGS  
CHARTER SCHOOL PUBLIC INPUT HEARING  
August 24, 2009  
2:47 p.m.  
New Mexico State University, Milton Hall  
Las Cruces, New Mexico

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

COMMISSIONERS :

MS. CATHERINE SMITH, CHAIR  
MS. KATHRYN KRIVITZKY  
MS. CAROLYN SHEARMAN  
MR. VINCE BERGMAN

STAFF :

DR. DON DURAN  
MR. SAM OBENSHAIN  
MR. MICHAEL C DE BACA  
MR. RUDOLPH ARNOLD, Attorney for PED  
MS. PATRICIA BUSTAMANTE, Attorney for PEC  
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1 THE CHAIR: I'm going to call this meeting  
2 back to order of the Public Education Commission,  
3 charter school public input hearing in Las Cruces on  
4 October 24th, 2009, at this time, to hear the  
5 hearing for the Senator Dennis Chavez Charter School  
6 application. Dr. Duran and I have discussed some of  
7 these things and we believe some of them are worthy  
8 of repetition. So I'm going to repeat the statement  
9 for the hearing.

10 The purpose of this hearing is to solicit  
11 both written and oral input on the proposed charter  
12 in accordance with the Charter School Act. The  
13 Commission shall receive applications for initial  
14 chartering and renewals of charter for charter  
15 schools that want to be chartered by the State, and  
16 approve or disapprove those charter applications.  
17 22-8B-16, New Mexico Statutes Annotated 1978.

18 The Charter School Act states that the  
19 chartering authority shall hold at least one public  
20 meeting in the school district in which the charter  
21 school is proposed to be located to obtain  
22 information and community input to assist in its  
23 decision whether to grant a charter school  
24 application. Community input may include written or  
25 oral comments in favor of, or in opposition to, the

1 application from the applicant, the local community,  
2 and, for State-chartered schools, the local school  
3 board and school district in whose geographic  
4 boundaries the charter school is proposed to be  
5 located.

6 And let's see. The applicant for this  
7 time I have already announced will be the Senator  
8 Dennis Chavez -- Senator Dennis Chavez Charter  
9 School.

10 And we would like to hear from the  
11 applicant in a few minutes -- and hear from the  
12 applicant. Please state for the record the name of  
13 the school, the name or names of the founder or  
14 founders of the school, the proposed grade levels to  
15 be served, and membership projection of the school.

16 We will also request that you state for  
17 the record a brief description of the school, the  
18 reasons you believe this school will benefit the  
19 children and citizens of this community, and any  
20 other information that you would like the Commission  
21 to know about your application.

22 You have 15 minutes, so please be as  
23 precise as you can during this time. And then  
24 following this, we will ask the local school board  
25 and/or district representatives to come forward.

1 And then, following that, we'll have community  
2 input. Following that, we will have questions and  
3 comments by Public Education Commission members.  
4 And then we will -- I will read the time lines one  
5 more time.

6 So, at this time, I believe we have the  
7 Senator Dennis Chavez founders here. And if you  
8 would do for the record, stating the name of your  
9 school and your names and spelling them for our --  
10 our record-keeper, please.

11 MR. MARTINEZ: Okay. Good afternoon,  
12 ladies and gentlemen of the Commission. My name is  
13 Paul "Pablo" Martinez. I am the CEO of the  
14 Southwest Border Consortium, which is the founder of  
15 the school. Unfortunately, Doña Ana County  
16 Commissioner Oscar Vasquez Butler did have to leave.  
17 He was in the audience and had to leave. He's not  
18 going to be up here with me. But I do have member  
19 Enrique Vigil, who is also on the Border Consortium,  
20 as well as Mr. Ray Mancera, chairman of the Border  
21 Consortium.

22 We are a spin-off of the League of United  
23 Latin American Citizens, LULAC organization, the  
24 largest in the country. And, for many years, we  
25 have advocated and been a pillar in advocating for

1 education. In New Mexico, in particular, we have  
2 one of the most serious dropout rates in our  
3 community.

4 In the Hispanic community, we are the  
5 majority in the state, yet we are not receiving  
6 adequate education. And as far as we're concerned,  
7 as a community, where you have over 50-percent  
8 dropout rate in all the public schools across the  
9 State of New Mexico. So now we want to start  
10 looking outside of the box and we have decided that  
11 maybe we can become part of the solution instead of  
12 just addressing the problems that we've had for 20  
13 years.

14 So what we've done is we -- and throughout  
15 the entire Southwest, our consortium consisted of  
16 state directors from California, New Mexico,  
17 Arizona, and Texas. And looking at some of the  
18 border issues -- and we not only do border issues.  
19 We do economic development. We're pretty much the  
20 same advocacy in the power structure of the Latino  
21 community on the border and how we can improve the  
22 living conditions and quality of life for Hispanics  
23 in our state and throughout the Southwest.

24 Senator Dennis Chavez' name, we thought we  
25 couldn't honor a better New Mexican and a better

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1 American than Dennis Chavez, what he stood for.  
2 We've looked at other schools and we've visited  
3 other schools across the nation that have had,  
4 through the cyber-academies and different hybrid  
5 schools. And we've noticed that the schools in  
6 there have increased dramatically their performance.  
7 And that's what we wanted to look at as pilot  
8 something here in New Mexico that had worked, in  
9 other states, Arizona, Arkansas, and Colorado, and  
10 other states that we have these schools that we know  
11 that are affiliated with our organization.

12 Part of our concern is that we want to put  
13 together a school that is going to prepare a  
14 workforce for the 21st century education that's in  
15 the 21st century. As a former superintendent of the  
16 Jay Paul Taylor Center, the juvenile correction  
17 facility, I was the first superintendent, and the  
18 State took it over. I know the hard-core kids can  
19 be educated. They can get their diplomas, all those  
20 sources that are available for them, providing that  
21 there's care and advocacy for them. As well as a  
22 State director for New Mexico LULAC, I understand  
23 the problems in the community. Our community has  
24 some serious problems with what's going on.

25 And this is the reason why we put this

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1 school together. And part of the -- the system with  
2 this K-through-12 has an excellent curriculum. I  
3 have personally gone out and visited, like I said,  
4 these schools throughout the country, and I've seen  
5 some remarkable -- talking to the students,  
6 interviewing the students and seeing the difference,  
7 the self-esteem.

8 Our school, how it's going to be different  
9 is we're not taking, necessarily, FTEs away from the  
10 public school. We're looking at getting a lot of  
11 students that have been actually -- that are no  
12 longer able to go to those public schools. What  
13 about those students? These students need to be  
14 nurtured as well.

15 So this is the reason why we are putting  
16 together this particular program. And we've given a  
17 response to the analysis through all of you in  
18 writing as to all of the concerns and questions. I  
19 can assure you that I have helped -- we've all  
20 helped. We've put some of the best minds together  
21 in this state and around the country looking at what  
22 has worked and what has been a proven program.

23 I have looked and we have answered all of  
24 these questions. And we find some of the analysis  
25 kind of rhetorical questions, because they're inside



1 this large application. Everything is inside here.  
2 So we have read and we're cognizant of what we're  
3 talking about, what we're doing. And this is the  
4 reason why we're bringing the state-of-the-art  
5 people in this state together to try to help this  
6 school become a reality.

7 Senator Chavez deserves his legacy to be  
8 lived on. He cared about our children. And this is  
9 the reason why I want to put the school. And with  
10 that being said, I'd like to have Mr. Enrique Vigil  
11 also make some comments.

12 MR. VIGIL: About a couple of months  
13 ago -- Enrique Vigil. E-N-R-I-Q-U-E, V-I-G-I-L.  
14 About a couple of months ago, I had the opportunity  
15 to visit some hybrid charter schools,  
16 brick-and-mortar schools out in Indianapolis. And I  
17 had the opportunity to speak to students on a  
18 firsthand basis. And I asked them -- came out and  
19 asked them, "You know, why are you attending this  
20 type of school, you know?"

21 And this one student came out and said,  
22 "You know, I used to be bullied at the public school  
23 just because I dressed differently and I'm  
24 overweight, you know. And, you know, there's  
25 nothing that the schools could really do about it,

1 you know, and it's affecting my grades."

2 And I said, "How are you doing now with  
3 the grades here?"

4 H said, "No. I'm doing real good. My GPA  
5 is up high, you know." You know. And that's one  
6 case.

7 There's another case that I spoke to a  
8 female student also. And I asked her the same  
9 question, you know. "Were you a student, a former  
10 student at a public school?"

11 Said, "Yes." You know. Said, "I didn't  
12 have the -- I didn't want to show up to school  
13 because I was made fun at, you know. You know, we  
14 didn't have the resources, the money. I didn't  
15 dress as nice, fashionable, jeans, like the rest of  
16 the students, you know. And so I couldn't compete  
17 with them, you know. Here at this charter school,  
18 I'm able to, you know, be here with other students,  
19 you know. And we're not here to compete with what  
20 we're wearing, you know. And we focus on studies."

21 And same thing. Her grade point average,  
22 she told me, went up dramatically, big-time. So I'm  
23 a strong believer, you know, in a school like this.

24 MR. MARTINEZ: And Mr. Vigil is also a  
25 supervisor for the United States Marshals and also a

1 candidate -- a top candidate for the U.S. Marshal  
2 appointment if Obama appoints him for the New Mexico  
3 district.

4 I have also Mr. Lawrence Tafoya, who is  
5 also retired, the deputy division director for CYFD.  
6 I also had some other folks had to leave, some folks  
7 we had on our board who are educators, like, in  
8 special ed, another that's a university professor so  
9 that we have some good educated, well-rounded folks  
10 on the board.

11 One of the things I would like to mention  
12 is this travesty. I mentioned it to Dr. Duran, that  
13 as a former corrections administrator, what's a  
14 travesty is that do you know that we look at  
15 building prisons at the fifth-grade level, the kids  
16 that are not up to par in reading? That's how we  
17 develop a standard of how we build more prisons.

18 And seeing these problems -- this is why  
19 we're so passionate about trying to -- instead of  
20 telling the school boards and all that, "Hey, this  
21 is a problem," let's become part of the solution.  
22 And what's worked in other states, other of my  
23 counterparts have done in Arizona and other  
24 counterparts have done in Texas. And we've seen  
25 some remarkable results. And that's what we're

1 trying to do is to think outside of the box, go to  
2 the 21st century, have a partner with one of the  
3 best virtual academies in the country that has an  
4 approved curriculum all the way from special ed to  
5 advanced placement in all grades.

6 And they have a remarkable system that I,  
7 personally, have been impressed with, because I've  
8 seen the students engage. And students are very  
9 technological these days. And they are able to  
10 engage with the teacher and engage with the  
11 instruction.

12 With that being said, I would like to  
13 introduce Mr. Mancera, our chairman of our board.

14 MR. MANCERA: May I speak from here, or  
15 would you like me to come up here. What is your  
16 pleasure?

17 THE CHAIR: That would be fine.

18 MR. MANCERA: Thank you, ma'am.

19 THE CHAIR: That would be fine.

20 MR. MANCERA: Thank you. Thank you.

21 THE CHAIR: If it's more convenient, come  
22 over here and sit next to them, sir, however you  
23 want to do it so it's more convenient for you.

24 MR. MARTINEZ: And Phillip Archuleta is  
25 also on my board, also one of the founding members

1 of the consortium. Madam Chair, my name is Ray  
2 Mancera, R-A-Y, M-A-N-C-E-R-A. I am the immediate  
3 past national president -- vice president for the  
4 League of United Latin American Citizens, LULAC.  
5 And I'm here to ask your approval and consideration  
6 of our request.

7 What Pablo Martinez is sharing with you,  
8 even though a lot of the information is there for  
9 you all to -- to see and to read in black and white,  
10 all we can add verbally is that we decided to come  
11 forward, because the public school system -- even  
12 though LULAC is a very strong believer, we want to  
13 encourage the public schools -- there is a --  
14 however, for various reasons, it has not performed  
15 to standards.

16 In Las Cruces, the dropout rate has  
17 maintained itself at about 32 percent dropout in the  
18 number of students that are not graduating from  
19 ninth to twelfth grade. We're losing them. They're  
20 gone. And what we are proposing is an alternative,  
21 in that the school system -- the school district has  
22 already lost them. They're gone. We are going to  
23 attempt to get them involved and recognize that  
24 they're already working, have other jobs, other  
25 commitments. It would be very difficult to bring

1 them into a normal brick-and-mortar school. They're  
2 gone.

3 We would like to present an alternative,  
4 which is a virtual school, and allow them to work  
5 and to start doing their curriculum and graduate and  
6 start having a sense of accomplishment, and by  
7 allowing them an education that is different that,  
8 for some reason, they abandoned.

9 And I think the virtual school, by having  
10 a proven record with the entity called K-to-12, if  
11 you read to them, their success rate is  
12 extraordinary. Their growth rate is exemplary. And  
13 once you see that, New Mexico is going to benefit  
14 tremendously by having that type of curriculum  
15 presented to the children of New Mexico. And I ask  
16 you to give that type of opportunity to those  
17 children that have already -- they're gone, and  
18 start giving them a sense of accomplishment.

19 As you know, a lot of it is psychological.  
20 Once those of you who have gone on to college like I  
21 have -- I was the first one in my family. The day  
22 I -- the day I felt that I had achieved something  
23 was not the day, necessarily, that I received my  
24 diploma from the university president. It is the  
25 last day that I finished my last test. And I

1 realized that I had accomplished something.

2 And we want to give that same sentiment to  
3 those children that have -- they're gone and they  
4 walk around with -- with their head down,  
5 demoralized, when all their friends have gone on to  
6 school and they have nothing to show. And we're  
7 going to give them that opportunity. Once they have  
8 achieved something and have received a diploma,  
9 their sense of pride returns. They will start being  
10 contributing members of society, not only being much  
11 more responsible to their families, but on their  
12 path to doing something. And our hope is for them  
13 to go on to a community college or a higher  
14 university level.

15 So I'd like to ask you all's support of  
16 our request for this type of unique educational  
17 enterprise to be brought to New Mexico. Thank you.

18 THE CHAIR: Thank you.

19 MR. MARTINEZ: And just one last -- one  
20 last comment is that we've -- we are sure you have a  
21 lot of reading material, so I don't want to go on  
22 pretty much. So that's pretty much it. I don't  
23 know how much time we have left, but I would  
24 preserve that for the public comment and so forth.  
25 And we appreciate this opportunity.

1           And, again, we want to be part of the  
2 solution and not just present the problem. We have  
3 an invested interest. We have a passion for this  
4 community, for our community, for our children. And  
5 we want to see the legacy of Dennis Chavez live in a  
6 school. It's sad. I see a lot of other public  
7 officials have a school named after them, but not  
8 Dennis Chavez. Or in buildings -- the man was the  
9 best senator we ever had in the state. This is  
10 reason we chose the name, because we honored a man  
11 who really brought New Mexico to the 20th century in  
12 his era in education and all facets of the  
13 government.

14           And one of the things that we would like  
15 to do is to continue to work on that legacy and  
16 education being a priority to our children, because  
17 our children are not succeeding. And it's a  
18 troubling -- a troubling thing. And part of it, I'm  
19 on that task force that's meeting with the  
20 Secretary, also with the task force of the Hispano  
21 affairs. We just -- it's a crisis. We're in a  
22 crisis, and we need to do something about it  
23 immediately. And that's why we're so passionate to  
24 take this step.

25           And it's a very bold step, but we're



1 prepared. And we've brought some of the best  
2 financial people as advisers and the best that  
3 New Mexico has to offer, because we do understand  
4 and are cognizant of what it takes to build a  
5 school, what it takes to govern a school, and what  
6 it takes -- and we have met all standards. And we  
7 have alluded to making sure that we have met all  
8 State statutes and standards with respect to  
9 starting a charter school. Thank you.

10 THE CHAIR: Thank you. Thank you very  
11 much. At this time, we would like to hear from the  
12 local school board or representatives. We would  
13 request that you state your name and title for the  
14 record and your reason or reasons this charter  
15 school application should be approved by the  
16 Commission, and/or reasons why this charter school  
17 application should be denied.

18 You have ten minutes, so please be as  
19 precise as you can during your time. You may begin  
20 now. Thank you.

21 MR. ROUNDS: Thank you, Madam Chair,  
22 members of the Commission. Again, Stan Rounds,  
23 R-O-U-N-D-S, Las Cruces Public Schools  
24 Superintendent. I apologize for leaving after my  
25 statement. I've skipped two appointments to be sure

1 I stayed for this very important matter.

2 First of all, we want to congratulate  
3 LULAC in their efforts in bringing forward an  
4 outstandingly written document here. It's  
5 well-done. Unfortunately, we are in a position to  
6 oppose this. Let me describe why.

7 We believe this does not meet the  
8 statutory standards of the Charter School Act. This  
9 is a virtual school. It is a statewide school. We  
10 believe that it would be necessary for you, as a  
11 Commission, to conduct 89 hearings in 89 districts  
12 because that, indeed, is the public body that they  
13 will serve.

14 Two years ago, the Raton Public Schools  
15 brought forward a plan almost identical to this.  
16 The Public Education Department and the statutes,  
17 through the legislature of New Mexico, clarified  
18 what could and could not be done as far as  
19 engagement of this kind. If we read this  
20 application carefully -- and Dr. Sanchez will talk  
21 about certain parts of that -- we believe it  
22 precludes this effort.

23 While this is done in other states white  
24 simply, our State statutes do not, and will not,  
25 support this application. I think for that matter

1 only, you must deny this.

2           Secondarily, we do look forward to working  
3 with LULAC and others in trying to meet the needs of  
4 these students. That's not the question here.

5 Unfortunately -- and, Madam Chairman, you know, as I  
6 served you many years ago, sometimes we run into  
7 statutory snags. We believe this is clearly on  
8 point that issue. And so without further notes, I  
9 would like to leave this to Dr. Sanchez.

10 Unfortunately, the District is in a position where  
11 we cannot support this application. Thank you.

12           THE CHAIR: Thank you.

13           MR. SANCHEZ: Madam Chair, members of the  
14 Commission, my name is Stephen Sanchez, Associate  
15 Superintendent for the Las Cruces Public Schools. I  
16 would like to draw my -- again, I would like to echo  
17 Mr. Rounds and the authors of the charter. My  
18 grandfather's first cousin was Governor Dennis  
19 Chavez. So we're quite honored that you would speak  
20 so eloquently of him.

21           Why we're opposing this is on Page 122 in  
22 numerous references in the documents, "The public  
23 charter school proposes to provide an  
24 individualized, standards-based education for  
25 students throughout the State of New Mexico." And

1 on that, we base our comments. And on that is where  
2 I did the research this last week.

3 In my review of the charter application, I  
4 note the following concerns. The proposed charter  
5 school will function as a statewide charter school  
6 since it will draw membership from all public school  
7 districts. A similar proposal by the New Mexico  
8 School for the Arts was required to seek legislative  
9 sanction before its charter. And that is 22-15F.2  
10 NMSA 1978.

11 The second point is Public School Code  
12 6.80.4.12-F specifies, "A charter school shall be a  
13 nonsectarian, nonreligious and nonhome-based public  
14 school that operates within the geographic  
15 boundaries of a public school district." This  
16 regulation precludes the academy from opening  
17 outside of the Las Cruces Public Schools.

18 6.80.4.12-V.6 -- and I do have these  
19 comments written out for you -- leaves this reviewer  
20 to further question whether the charter application  
21 is valid, since language specifies the application  
22 is otherwise contrary -- contrary to the best  
23 interests of the charter schools' projected  
24 students, the local community, or the school  
25 district in whose geographic boundaries the

1 applicant seeks to operate.

2 In this case, should public comment come  
3 from all 89 public school districts since the  
4 charter proposes to operate statewide?

5 6.30.8.9-A NMAC requires, in order to  
6 participate in distance learning courses, a public  
7 school student must be enrolled in a public school  
8 district, charter school, state institution, or  
9 educational program conducted in a state institution  
10 and must have the written permission of the  
11 students' enrolling district. Charter school, state  
12 institution or educational program conducted in a  
13 state institution.

14 Further clarity may be required if the  
15 charter, if approved by the Public Education  
16 Commission, to show how the Academy will comply with  
17 6.30.8.9-B NMAC, which stipulates, "School districts  
18 and charter schools providing distance learning  
19 courses to students statewide shall enter into  
20 written agreements with students' enrolling  
21 district," which is a little contrary to what a  
22 charter school is. So they would have to seek  
23 permission from the enrolling district.

24 This agreement further specifies that the  
25 courses -- the agreement must identify the courses

1 to be provided, the delivery period, the financial  
2 arrangements between the school and the home  
3 district, and support mechanisms needed in behalf of  
4 students, identification of the responsible entity  
5 and time lines for granting grades and credits and a  
6 statement of assurance that all distance courses  
7 meet or exceed state standards.

8 Since elementary students are required to  
9 attend the facility one day per week, and high  
10 school students two days per week, it is unclear  
11 whether the requirement falls within the attendance  
12 requirement for funding.

13 The application is not clear as to where  
14 students not physically located in Las Cruces will  
15 attend the minimum of on-site requirements as noted.

16 22-8B-4.L, 2008 NMSA 1978, states, "With  
17 the approval of the chartering authority, a single  
18 charter school may maintain separate facilities at  
19 two or more locations within the same district. But  
20 for the purpose of calculation of program units  
21 pursuant to the Public School Finance Act, the  
22 separate facilities shall be treated together as one  
23 school."

24 New Mexico statutes do not specify  
25 multiple locations outside the district boundaries

1 in which the charter school intends to operate.

2 Distance learning students, as specified  
3 in 6.30.8.9-C, NMAC, notes, "If a student  
4 participates in a distance learning center offered  
5 by a district or charter school other than a  
6 student's enrolling district, the student shall be  
7 counted only once as a qualified student for State  
8 Equalization Guarantee funding."

9 It is not clear whether these students  
10 would count if they come from outside the Las Cruces  
11 Public Schools, if this charter were approved, how  
12 they could count them as their FTE equivalent.

13 Parents or other caring adult selected by  
14 the parent -- as noted on Page 26 -- in the home  
15 setting are a key component for success of this  
16 online learning initiative. Yet the application  
17 does not detail how the needs of parents to assist  
18 their children in the learning process will be  
19 addressed.

20 And, finally, the Academy application  
21 provides for disadvantaged families that cannot  
22 afford Internet access through a scholarship  
23 program. That's noted on Page 26. Yet the details  
24 on where this funding source is coming from, except  
25 to say that the Academy will solicit grants for this

1 purpose, is unclear. With that, Madam Chair, that  
2 concludes my comments.

3 THE CHAIR: Thank you, Dr. Sanchez.  
4 Appreciate your statement.

5 Okay. We're up to the place, Item 5 in my  
6 agenda, that says, community input, public comments,  
7 and observations regarding the application be heard  
8 at this time. There will be a four-minute time  
9 limit per presenter. Persons from the same group  
10 and having similar viewpoints are asked to select a  
11 spokesperson to speak on their behalf. Multiple and  
12 repetitious presentations of the same view will be  
13 discouraged.

14 So I think some of you probably were here  
15 earlier, and Dr. Duran asked you to come right  
16 where -- the part where the flags are. If you would  
17 be in that area right there, it would be  
18 appreciated. Yes, sir.

19 MR. MANCERA: Madam Chair, I would like to  
20 introduce Dr. Alcides Espinal. He's a member of  
21 LULAC, and he's going to precisely talk about the  
22 comments being made by the public school.

23 THE CHAIR: And, again, please spell your  
24 name for our recorder.

25 MR. ESPINAL: A-L-C-I-D-E-S,



1 E-S-P-I-N-A-L. Very briefly, ma'am. Mr. Sanchez  
2 has misread or misunderstood both the cyber academy  
3 law and apparently also the charter school law.  
4 Charter schools are open enrollment. So if a  
5 student outside of the district of Las Cruces wishes  
6 to attend, as it says, if they want to drive  
7 50 miles, then they can drive 50 miles and attend.  
8 And there is a physical site.

9 The other reason he's also misunderstood  
10 or misread this particular statute is because in the  
11 Cyber Academy Act, a specific designate or charter  
12 school as an LEA, basically, a student enrolls in  
13 that school. The memorandums of understanding or  
14 agreements that have to go between certain schools  
15 if a student in one district is taking a course in a  
16 different district are only if that student is  
17 enrolled in that school and then decides to take a  
18 distance learning course from a different school in  
19 a different district.

20 In this case, the students would be  
21 enrolling in Dennis Chavez Academy. So his reading  
22 of it, as I say, the statute -- if the terms are  
23 defined in the statute, those are the terms. That's  
24 a definition for that, for the school. So he's  
25 misread, misinterpreted the statute. Students from

1 outside of the district can attend. And it doesn't  
2 necessarily have to be -- you have to get input from  
3 all the districts in the state. The statute is  
4 specific.

5 Where is this school going to be located?  
6 That's where you get the input from the district --  
7 the school district. Excuse me. The charter school  
8 is going to be in the Las Cruces area. So, thus,  
9 you get input from that particular school district.  
10 That's it. I think -- I think there's a  
11 misunderstanding, Mr. Sanchez. Thank you.

12 THE CHAIR: Thank you.

13 MR. ARCHULETA: Phillip Archuleta. I have  
14 two issues. One is --

15 THE CHAIR: Did you give your name,  
16 please, sir?

17 MR. ARCHULETA: Phillip Archuleta.  
18 P-H-I-L-L-I-P, A-R-C-H-U-L-E-T-A. One of the  
19 concerns I have is my job consists of helping  
20 employees that go out to work and don't get their  
21 wages paid. I'm a labor law administrator. And I  
22 get to deal with different kind of individuals,  
23 young ladies and young men that didn't graduate from  
24 high school that are also trying to do a living.

25 And I ask them, "How come you didn't get

1 your education? When did you get your diploma and  
2 go on to a community college or college?" For some  
3 reason or another, they complain about, "Now I need  
4 to go back to school," because they're already too  
5 old for the school that they wanted to go to or they  
6 have problems during the school time. But now that  
7 they've grown up a little more, they want to make a  
8 life and they want to go back to college. Dennis  
9 Chavez Academy would help them out.

10 I have a nephew in my own personal life,  
11 my nephew in Taos who was hesitating to go back to  
12 school which started last Monday. He didn't want to  
13 go back to the junior high in Taos. We enrolled him  
14 in the Taos Academy school. It's only been a week.  
15 I called him to see how school is going. He's  
16 happy. He's excited about going back to the academy  
17 school.

18 These are the kind of kids that we need to  
19 help. Because I deal with them every day in  
20 different ways, I know that the Dennis Chavez  
21 Academy school would help them a lot.

22 MR. SANSORES: Good evening,  
23 Commissioners. My name is Esteban Sansores,  
24 E-S-T-E-B-A-N, S-A-N-S-O-R-E-S. And I'm here --

25 THE CHAIR: Yes, sir.

1 MR. SANORES: -- to support this charter  
2 school. I don't know why. Blindness. Like the  
3 superintendent just told us, "No. Do not approve."  
4 I don't know -- I'm a LULACer. And as a LULACer, I  
5 don't like to be thrown out just like that. And as  
6 a parent and a grandparent and a concerned citizen,  
7 I refuse those statements from the superintendent.  
8 As the Doctor says --

9 THE CHAIR: Please, let's don't be  
10 confrontational, sir.

11 MR. SANORES: Okay. I don't like the way  
12 they are treated. So we need to support this. And  
13 if they are not approved, you hear from us again.  
14 Thank you.

15 MS. JOHNSON: Hi. I'm Sandra Johnson.  
16 S-A-N-D-R-A, J-O-H-N-S-O-N. I'm here as a -- work  
17 for New Mexico State in the distance learning  
18 department. And I'm also -- been involved with  
19 IDEAL-New Mexico for -- actually, since I got  
20 started. My concern is is that in this day and age  
21 of losing tax money and tax dollars and decreases in  
22 funding, that we are looking at opening a charter  
23 school that directly oppose -- is going against or  
24 taking funds away from programs that have already  
25 been instituted in our state.

1           The first one I want to mention is IDEAL.  
2 We do provide online education for students in rural  
3 areas that follow all of the -- I don't know where  
4 he went right there -- that follow all of the  
5 statutes that you all mentioned. Also, Governor  
6 Richardson just approved a program called Graduate  
7 that he has commissioned IDEAL-New Mexico to find  
8 10,000 students and get them graduated from  
9 New Mexico high schools.

10           So my concern is, really, the tax dollars  
11 that are not going to go to programs that are  
12 already in place that are going to need that funding  
13 that are going to be doing the same thing that they're  
14 asking to do. And I think that's it. I think  
15 Dr. Busman will speak on the other --

16           THE CHAIR: Do we have anybody else? Yes,  
17 sir.

18           MR. MANCERA: My name is Michael Vigil,  
19 M-I-C-H-A-E-L, V-I-G-I-L. I'm the former  
20 superintendent of business for Albuquerque Public  
21 Schools. I was in the office for about 16 years. I  
22 just wanted to address -- in APS, we border  
23 Rio Rancho, Bernalillo, Los Lunas, and Moriarty.  
24 And we've never asked the State permission for  
25 anyone to come in. And we don't have MOUs -- the

1 open enrollment law, as we understood it, where kids  
2 get to transfer to wherever they want to be.

3 Much of the overcrowding at Cibola High  
4 School occurred because of Rio Rancho coming into  
5 our school because their schools did not have a high  
6 school for a long time. And then when they built  
7 the one high school, they didn't have enough high  
8 schools. So the enrollment lines have never been  
9 based on MOUs with any other school districts, to  
10 our knowledge.

11 We did counting through the STARS program,  
12 previously the ADS program, and I've never had any  
13 exceptions with accounts and the validation of those  
14 accounts.

15 In addition, there are schools currently  
16 that are doing some of the similar things with  
17 computers and such. And I just want to advocate for  
18 this school. As I looked at the plan, and I helped  
19 to prepare the budget for the plan. I see an  
20 alternative being offered. I go back to one of my  
21 friends, Joe Vigil, when he was superintendent of  
22 APS. And joe's belief was you always had to reach  
23 out for all of the children. You couldn't leave  
24 some out just because they didn't fit into neat  
25 little blocks that we call "buildings."

1           What I want to do is advocate for a school  
2 that offers choice. And being a member of the  
3 Gordon Brunell Charter School in Albuquerque, which  
4 is the jail school, we are seeing successes there.  
5 Please don't leave kids behind because of rules that  
6 people put in place.

7           THE CHAIR: Is there anyone else? Sir?

8           MR. CHAVEZ: Thank you, Madam Chairman.  
9 This is an unsolicited statement.

10          THE CHAIR: Your name?

11          MR. CHAVEZ: My name is Ray Chavez,  
12 spelled the same way as the Senator. And I'm  
13 president of the governing council for Academia  
14 Dolores Huerta, which is the middle school charter  
15 authorized by the school district. I think the  
16 point that I would like to make, in listening -- I  
17 haven't read the documents, so I'm just playing from  
18 what I hear.

19                 Having been a retired -- being a retired  
20 juvenile probation parole officer, I saw much of the  
21 student body and the needs of those particular  
22 individuals. And particularly, since the fact that  
23 we don't argue -- I don't think we can argue that  
24 the majority of those kids are minority population,  
25 our role, as we see it, is to find a unique way, an

1 innovative way, to deal with that population and  
2 bring them forward.

3 If they do not function well within the  
4 established routine -- and I'm not saying it's bad.  
5 But if they do not function as well as they could or  
6 perhaps should, then we need to look for another  
7 route.

8 As the -- in the last two years that I've  
9 been involved with the charter schools, I've come to  
10 realize, more so than ever before -- having put  
11 11 kids through public school, 16 grandchildren, and  
12 now in the process of putting some  
13 great-grandchildren into the public schools --  
14 something was wrong. And I'm not saying everything  
15 was wrong. But we need to look at how to address  
16 the issues that we're talking about. And if it  
17 can't be done within the context of a very  
18 complicated educational system, can we not do it  
19 through a charter school approach, which, in many  
20 ways, is a lot more simple, more direct, more  
21 hands-on, and, in the long run, perhaps more  
22 beneficial for the type of student that the Academy  
23 is talking about.

24 We share that same view. We feel that as  
25 we look at continued globalization of our --



1 particularly along the border, that we need to  
2 address the leadership and the ability of our  
3 students, especially Hispanic students in this  
4 particular case, to develop a better understanding  
5 of economics and everything else that goes into  
6 making a better life for not just themselves, but  
7 the entire community.

8 That's our goal. And we share the vision,  
9 I think, that I've heard today from the -- from the  
10 proposed academy. Now, I'm not going to get into  
11 the technicalities of split schools and whether the  
12 charter covers the entire state or whatever the case  
13 might be. I'll leave that to minds of a different  
14 nature. But I can speak, I think, very clearly that  
15 the need that is being expressed to be addressed is  
16 a serious one, and it needs to be looked at from not  
17 just the same perspective. And I like to think in  
18 terms of let's do what Taco Bell says. Let's think  
19 outside of the box. Thank you very much.

20 THE CHAIR: Thank you. Is there anybody  
21 else? Yes, sir.

22 MR. ORMAND: Madam Chair, members of the  
23 Commission, thanks for listening. My name is Brian  
24 Ormand, B-R-I-A-N, O-R-M-A-N-D.

25 Madam Secretary, members of the

1 Commission, I'm -- I serve as the chair on the  
2 Council on Technology and Education, the E-Learning  
3 subcommittee. And also am on the Coalition for  
4 Charter Schools, and I applaud the innovative  
5 applications.

6 I'm a proponent of charters and of  
7 E-learning. There's a -- and there is many things  
8 brought forth in this proposal that are, I think,  
9 laudable elements and good concepts.

10 But some of the things that I just wanted  
11 to raise a couple of issues to think about. And a  
12 couple of those have to do with, in terms of the --  
13 as was mentioned earlier, a lot of the technology  
14 and the E-learning can be expensive. And there is  
15 starting to be many open source solutions and other  
16 types of things.

17 And this proposal, as well as the one for  
18 Sandia Academy, which I know we're not hearing  
19 today -- I'm cited as an author in both of those  
20 proposals, and they look very similar -- these  
21 proposals seeming very vendor-centric. And while  
22 vendors can play a very valuable role and do have a  
23 lot of good things to offer in these type of  
24 proposals, there is a concern that when there's too  
25 much driven by corporate education, that the profit

1 or the proprietary interests are -- may take a more  
2 predominant role than the educational interests.

3 And as was said earlier, there's many  
4 E-learning initiatives, such as IDEAL-New Mexico,  
5 which has achieved a 94-percent pass rate and serves  
6 over 60 districts. And they work with public  
7 charters as well as public schools. And so that is  
8 another thing.

9 So I think that the other issue was  
10 distance. And one concept in terms of best  
11 practices with E-learning is to have high tech  
12 resources and high tech solutions working with local  
13 touch. And so in having a local -- I do like the  
14 concept of a local learning center opening up the  
15 flat world to all their students in a community.

16 And what was alluded to earlier, there was  
17 a thing that got started in Raton a couple of years  
18 ago that was really about trying to serve students  
19 all over the state. And there was no incentive for  
20 local support for proctoring tests, providing  
21 on-site support to give those students the best  
22 access to the great variety of E-learning resources.

23 So, anyway, those are just two issues.  
24 But, again, I think the concepts are really good,  
25 and many of the people's hearts are in the right

1 place, and I'm for innovation. So thank you for  
2 your time.

3 THE CHAIR: Thank you. Is there anybody  
4 else? Okay. We're to the part -- at this time, the  
5 Public Education Commission reserves time to address  
6 any questions that Commissioners may have of the  
7 Applicant. The Chair would like to ask the  
8 Applicant for some additional information. Would  
9 the Applicant please -- well, you're coming up.  
10 That's just real fine, then.

11 And in your responses, please be as brief  
12 as possible to allow for questioning from other  
13 Commission members. At this time, the Chair would  
14 recognize any Commissioners who would like to  
15 address questions to the Applicants. Ms. Shearman?

16 MS. SHEARMAN: Yes, ma'am.

17 THE CHAIR: Thank you.

18 MS. SHEARMAN: What percent of your  
19 curriculum is online? Is it all --

20 MR. MARTINEZ: All online, 100 percent.

21 MS. SHEARMAN: I wasn't clear on that from  
22 the application necessarily. In light of if  
23 everything is online, I've taught online classes.  
24 I've developed a whole program. I've taught them,  
25 and I've lived through the pitfalls of some online

1 classes. How are you going to insure that the  
2 enrolled student is actually the student -- the  
3 person doing the work, and how are you going to  
4 insure that that enrolled student is the person  
5 taking the test?

6 MR. MARTINEZ: Well, they have to come  
7 to -- depending on what grade they're in -- let's  
8 say they're in high school. They have to come to  
9 the learning center twice a week. So it's not just  
10 virtual. It's also hybrid. They have to come to  
11 the learning center twice a week. They have to  
12 enroll. That way, they can see the teacher twice a  
13 week.

14 And they take those four -- those -- the  
15 four which are required under the cyber academy law,  
16 those four courses, neither English -- four hours in  
17 English, four hours in science, and four hours in  
18 the social studies, and the four hours of test  
19 preparation. So we're going to know the students.  
20 And they have to have a relationship with the  
21 students and the parents, and the parents are  
22 involved directly with the student. That's how we  
23 know.

24 And then, of course, there's also  
25 instruction given. So it's not all 100-percent

1 cyber. There's solid requirement of classroom time  
2 mandated by the statute and mandated by the cyber  
3 academy law.

4 MS. SHEARMAN: But I still ask how are you  
5 going to verify that the work that comes in online  
6 in the cyber class is done by the student?

7 MR. MARTINEZ: Only the student and the  
8 teacher have access to that particular program. In  
9 other words, the student that has it -- I can  
10 actually have K-through-12 actually answer this  
11 question, particularly. But from what I've seen in  
12 all these other cyber programs that are K-12 is that  
13 each student that has access to the computer and has  
14 online capability has a particular pass code to get  
15 in there. Okay? That student is interacting and is  
16 doing instruction, and it's interactive with the  
17 teacher. So the teacher knows that student, and the  
18 student is involved with a dialogue with the  
19 teacher. And then he sees the teacher at least once  
20 or twice a week.

21 MS. SHEARMAN: But that teacher never  
22 knows who's taking the test. That child can log in  
23 with their password, get up out of their chair, and  
24 somebody else can come in and do the test. Or they  
25 can have a book open at the side of their computer

1 while they're taking their test.

2 MR. MARTINEZ: That's a possibility. But  
3 they still have to take their standardized testing,  
4 and they take their admissions testing. They're  
5 seeing the teacher, and there's also instructions  
6 they have to turn in at the learning center.

7 MS. SHEARMAN: So there are -- I'm not  
8 browbeating you, I just want to be clear on this.  
9 There are no assurances that the student is doing  
10 the work and the student is taking the test.  
11 There's no way to guarantee that.

12 MR. MANCERA: I'd like to answer that. As  
13 you know, we try to have the security in place.  
14 With your personal experience, though, so -- doing  
15 online classes. Whenever we use the Internet for  
16 whatever we -- whenever we buy things, there's  
17 always going to be somebody attempting to circumvent  
18 that system.

19 So we will work to make sure that --  
20 that -- to have a safeguard someplace and the  
21 security in place. That I cannot sit here,  
22 Commissioner, or Mr. Martinez, and say, "Let me tell  
23 you how it's going to be done" in one hour and give  
24 you a demonstration how it's done. I think what  
25 you're asking is you've got to assure this

1 Commission that there's going to be -- that whomever  
2 you're teaching will not be somebody else on the  
3 other side passing as that student. That is your  
4 concern. That would be our concern, too. It's  
5 called cheating.

6 MS. SHEARMAN: You bet.

7 MR. MANCERA: Cheating has always  
8 occurred -- when you have a student in front of you.  
9 You have 25 students. They cheat. So even when you  
10 have them in front of you, they cheat. So -- but so  
11 we will have the technology and use the technology  
12 in such a way that we will reduce to -- to the  
13 extent as much as possible, possibly eliminate that.  
14 We will have the safeguards in place to make sure  
15 that that doesn't happen.

16 MS. SHEARMAN: Thank you. Going back to  
17 your statement earlier, you said -- and I'm not sure  
18 I've got it written down exactly correctly. You  
19 said that you look at fifth grade reading levels to  
20 know how many prisons to build?

21 MR. MARTINEZ: That's correct. If you ask  
22 any warden -- and I've been a warden before.

23 MS. SHEARMAN: Fifth-grade reading level.

24 MR. MARTINEZ: Fifth-grade reading level.

25 That's not all just New Mexico. That's all wardens



1 and superintendent of wardens that build prisons.  
2 ACA looks at that as well. It shocked me when I  
3 first became a warden. I was looking back at those  
4 things in 2003. I just was -- I was -- you know, I  
5 just was taken aback by that. That's a reality.

6 That's a statistic that works. They're  
7 looking at that. And, unfortunately, our community  
8 is most affected. This is a reason why, like I  
9 said, we're wanting to take things and try to be the  
10 solution by trying to change that status quo.

11 MS. SHEARMAN: I appreciate your  
12 enthusiasm and your zeal for helping these kids. My  
13 concern is if they can't read, they can't do online.  
14 They can't. Everything -- you've got to read and  
15 comprehend. You've got to read the textbook.  
16 You've got to read the directions. How are they  
17 going to do it?

18 MR. MARTINEZ: I've seen even through my  
19 own facilities, kids that couldn't read, and  
20 through -- we had a program with WebCT, with  
21 Doña Ana Branch, which is one of the areas that we  
22 are acquiring -- we got a letter from Marge Huerta  
23 in support of our school that I'm submitting into  
24 the package. I'm seeing kids that can't read that  
25 actually can read. Kids are intelligent. They

1 didn't have the ability. Programs like ENLACE, that  
2 have worked effectively work with our community.

3 MS. SHEARMAN: Is this something you're  
4 going to have in your school?

5 MR. MARTINEZ: Absolutely. I mean, a lot  
6 of the commentary, we're not taking anything. We're  
7 operating just like a regular charter school. We're  
8 just putting in a curriculum that's there, that  
9 works, that's been effective, that has success  
10 rates. The same students that we have here in  
11 New Mexico and Tucson, these kids are getting out of  
12 school. I'm going by those figures. Those kids  
13 that were failing in public schools are doing a  
14 grade above par.

15 And that's where a lot of us are  
16 convinced, because we've seen it. We were skeptical  
17 four or five years ago until we started seeing stuff  
18 that worked, that are proven. This is an area --  
19 we're not competing against any of the these other  
20 programs. I don't know where they're getting that  
21 information. We're looking at whatever FTE we're  
22 assigned that goes to the cost of that student. And  
23 the student that is enrolled has to come to the  
24 hybrid. If they want to live in Alamogordo, their  
25 parents want to bring them over here, that's fine.

1 But we're going after students here in this city,  
2 not anyplace else.

3 MS. SHEARMAN: We digress, I think. Let  
4 me ask you another question that I have on Page 4 of  
5 the application. You talk about hands-on material  
6 kits. What is that?

7 MR. MARTINEZ: Well, hands-on material is  
8 any type of material.

9 MS. SHEARMAN: Material kits. "Kits."  
10 That --

11 MR. MARTINEZ: Those are pretty much like  
12 textbooks or other type of materials that they're  
13 given along with their computer that they have.  
14 They have -- we also have state-of-the-art -- they  
15 update their textbooks and all of their training  
16 materials. So they just would be textbooks or other  
17 type of training materials that they have available  
18 to them.

19 DR. SANCHEZ: Madam Chair, if I could  
20 because I did research on the K12 curriculum --

21 THE CHAIR: Pardon me. I don't know,  
22 Dr. Sanchez, if it's appropriate for you to respond  
23 to that.

24 DR. SANCHEZ: I wanted to clarify what  
25 those were. They're actually very innovative.

1 THE CHAIR: Ms. Shearman, were you asking  
2 a question that needed a response from somebody  
3 other than these gentlemen?

4 MS. SHEARMAN: I still am concerned about  
5 material kits. It almost seems like home school  
6 material kits. And that's where I'm concerned.  
7 I --

8 MR. MARTINEZ: We can respond to it in  
9 writing to give you a better clarification, if you  
10 like.

11 THE CHAIR: Dr. Duran?

12 DR. DURAN: I would like to remind the  
13 Commission. Sometimes it gets unfocused. The focus  
14 of this public hearing is to assess the application  
15 and the applicants. So your focus is on the  
16 application. We appreciate the outside support.  
17 But it really is about the application. And what  
18 you're assessing is whether that application is  
19 worthy to be approved or not.

20 So if you focus your questions with the  
21 Applicants. And they certainly have the right to --  
22 and they've been also reminded -- to submit their  
23 answers in writing prior to September 1st.

24 THE CHAIR: Are you clear on her question,  
25 then, sir?

1 MR. MARTINEZ: Yes. And we've made note  
2 of it, and we will submit to that in writing.

3 THE CHAIR: Thank you, Ms. Shearman, and I  
4 appreciate that. Go ahead, please.

5 MS. SHEARMAN: Thank you. Just a couple  
6 of budget questions if I might. Let me get the  
7 budget up here so I know what I'm talking about. I  
8 lost my Excel spreadsheet.

9 THE CHAIR: If you'd like, we can come  
10 back to you.

11 MS. SHEARMAN: Yes, please.

12 THE CHAIR: Are there others?  
13 Mr. Bergman? Ms. Krivitzky? Do you have questions  
14 or comments?

15 MR. BERGMAN: I'm just curious as to why  
16 you went straight to statewide. Since you made  
17 reference to the 32-percent dropout rate here in the  
18 Las Cruces area, which is -- dropout problems  
19 everywhere, of course -- why you want to go  
20 statewide, why you wouldn't bite off the local  
21 problem first and then expand down the road.

22 MR. MARTINEZ: I just felt that that was  
23 probably a process that we would be more familiar  
24 with, I've seen other charter schools go through.  
25 We couldn't go twice -- we were looking at seeing if

1 we could do it through two. We could only do it  
2 through one, through going through the lessons with  
3 the Public Education. So we just took the choice of  
4 coming through the Public Education Division.

5 THE CHAIR: Thank you. If that's your  
6 response to his question, Mr. Bergman.

7 MR. BERGMAN: And you've already alluded  
8 to this a little bit. How is it reasonable to  
9 assume that students in Farmington or Raton or  
10 Roswell or Carlsbad are going to come here two days  
11 a week to do the in-house learning?

12 MR. MARTINEZ: With the type of clientele  
13 that we have, it's unlikely. I mean, realistically  
14 we're going after Doña Ana County, or, actually, in  
15 the Las Cruces area. We have a lot of kids. If we  
16 have a dropout rate, and kids, especially in the  
17 Hispanic community in particular, there's kids that  
18 there's a charter school waiting list, and all the  
19 surrounding charter schools have a waiting list, a  
20 long waiting list, of students.

21 So we would probably have -- if we opened  
22 up a charter school, we'd probably be in the same  
23 boat as the other charter schools. I wouldn't think  
24 it would be realistic to see kids from Farmington or  
25 any other community, and why a kid would want them

1 when they have to come to school twice a week. So  
2 it's not like a full type of cyber thing. They have  
3 to pretty much come from the district.

4 But if they come from Anthony or the  
5 surrounding areas, that's a possibility. But they  
6 have to follow the state statutes and requirements  
7 on that.

8 MR. MANCERA: If I could also add,  
9 Mr. Bergman. Of course, the focus is local. That  
10 is the publicity, the marketing. That's where we  
11 expect over 95, 98 percent. But you never know  
12 children throughout, parents throughout, that they  
13 have tried to get their kids involved in other -- in  
14 their communities, and, for whatever reason, does  
15 not exist. Let that parent have that opportunity.  
16 They want to make that drive to insure that their  
17 child gets excited about getting back to school,  
18 wouldn't it be wonderful for that to happen?

19 So even though we're not here to say and  
20 we're going to have virtual offices in Albuquerque  
21 and throughout, we're here. Our focus is local. So  
22 to answer your question, it is local.

23 MR. BERGMAN: But I assume, then, you're  
24 going to explain this to if somebody in  
25 Farmington -- let's just use them as an example --

1 contacts you, hears about it somehow, you'll explain  
2 to them that, "You have to come down here two days a  
3 week if you enroll"?

4 MR. MARTINEZ: Exactly.

5 MR. BERGMAN: And you're responsible  
6 financially?

7 MR. MARTINEZ: Exactly.

8 MR. BERGMAN: You've got to make the trip  
9 here and back, and stay at least one night in a  
10 motel? People will have the option.

11 MR. MANCERA: We'll explain that.

12 MR. BERGMAN: They'll understand that as  
13 they're signing up, yeah. Thank you.

14 THE CHAIR: Thank you. Ms. Shearman, are  
15 you ready?

16 MS. SHEARMAN: Yes, ma'am, I am. I note  
17 on your application -- I'm not to the budget yet. I  
18 note on your application you're not going to provide  
19 food service. What do you do when a child comes to  
20 school hungry -- the days they have to come to the  
21 learning center, they come hungry? Because they  
22 can't learn if their hungry. Do you have a  
23 contingency plan?

24 MR. MARTINEZ: Absolutely. We look at the  
25 administrator, if we have a need. I used to serve



1 on a charter school, a new charter school. And you  
2 know that those questions have come up and all that.  
3 But we -- you know, if you -- principal is hired,  
4 and they feel that there is a need, and we have  
5 parents that have those type of needs, then we're  
6 going to have to adjust the budget to maybe include  
7 meal service. But we're not required by statute to  
8 do that. So that's why we're not including.

9 We're giving -- basically a hypothetical  
10 question. We're giving you hypothetical answers.  
11 But when the real thing comes into play if we have  
12 students that have that need, we'll address that  
13 need in the budget and doing contracts with possibly  
14 some local vendors or local food providers. But  
15 most kids bring their own lunch or they provide  
16 their own sack lunches. And that's what's -- you  
17 know, I'm only answering what we're required to do  
18 under state statute.

19 MR. VIGIL: Many of the charters that we  
20 work with in Albuquerque do not provide food service  
21 operations. And children are -- parents are  
22 informed, and children do bring their lunch. If the  
23 children, over numerous times, do not show for  
24 lunch, then the administrator has worked out with  
25 local vendors or with the district itself to provide

1 a basic meal.

2 MS. SHEARMAN: But the money has to be  
3 there to pay for it.

4 MR. VIGIL: At that point, then, it's  
5 adjusted and worked with the parents and with the  
6 school.

7 MS. SHEARMAN: I'm looking at the budget.  
8 And I will tell you -- I assume I have the most  
9 recent, the final budget. And I will tell you, I'm  
10 rather dismayed that the numbers are the same every  
11 year. Nothing changes. Year one, year two, all the  
12 way across in every category, they're all the same.  
13 Nobody ever gets a raise. Your utilities don't go  
14 up. Your insurance doesn't go up.

15 MR. VIGIL: As we draft a budget -- let me  
16 tell you the philosophy of a budget development. We  
17 wanted to present a conservative budget. So we  
18 estimate low revenues and high expenditures. That  
19 will never get you in trouble, whether it's a school  
20 district or a charter school.

21 But, in reality, what happens in the State  
22 of New Mexico, this five-year development, your  
23 raises are mandated by the legislature. They'll  
24 also tell you either 0 to 4 to 9 percent, depending  
25 on the year and how well the State is doing. So the

1 raises are going to be dependent upon State  
2 legislative funding.

3 In addition to that, if you look at the  
4 funding formula and funding of education in  
5 New Mexico, there's above-the-line funding and  
6 below-the-line funding. Above of the line is State  
7 Equalization Guarantee and those type of things that  
8 come through.

9 Below the line is utility costs and health  
10 insurance costs, your property liability costs. And  
11 those are funded on a formula that the legislature  
12 gives us. So it was the assumption built into the  
13 budget that we would follow the direction of the  
14 State legislature in providing for increases in  
15 future years.

16 We realize, though, that this budget also  
17 does not include if schools are not given a funding  
18 formula that included the federal stimulus, the AARA  
19 monies -- the American Recovery and Reinvestment Act  
20 funds. Rather, the unit value that was given was  
21 based on the State equalization unit value, which is  
22 less than what schools are getting today.

23 As you know, the State, this year, split  
24 the State Equalization Guarantee into two pieces.

25 There was the State Equalization, and there was the

1 Federal State Equalization, is what they're calling  
2 it. And so we're -- we would follow the rules as  
3 required at the time.

4 Now, we did put on the additional revenue  
5 source the federal stimulus that is going to be on  
6 next year. And in talking to Superintendent Rounds  
7 earlier, you know, we realize that in future years,  
8 either the federal government is going to have to  
9 come forward with additional funding, or there's  
10 going to be a tremendous cut in education throughout  
11 the state. And so we would have to address our  
12 budget at that point, not only at the charter school  
13 level, but the districts and throughout the state.

14 So, you know, we're well aware of those  
15 issues. But we realize that the State legislature  
16 has a great impact on raises, on your fixed costs  
17 such as utilities, you know, your actual water/sewer  
18 type of expenses. So property insurances, liability  
19 insurance, those have always been funded through  
20 legislative appropriation. And so our budget  
21 reflects the reality of the legislative process.

22 MS. SHEARMAN: I have to disagree with  
23 you.

24 THE CHAIR: Ms. Shearman, do you need a  
25 minute?

1 MS. SHEARMAN: No. I said what I thought.

2 THE CHAIR: All right. Thank you. Do you  
3 need to continue, or do you --

4 MS. SHEARMAN: No, I'm going on. I'm  
5 going on.

6 THE CHAIR: That's what I need to know.

7 MR. MANCERA: If I may. In reference to  
8 your question. Typically, you do find 3, 4 percent  
9 on the cost of increase index. Looking at the  
10 budget. Other than having had the 3, 4 percent  
11 increase, do you find any other problems with the  
12 budget itself?

13 MS. SHEARMAN: No. I have some more  
14 questions.

15 MR. MARTINEZ: One thing I would like to  
16 mention on the budget, as a retired state  
17 administrator, including this administration, we've  
18 done a flat budget. Governor Richardson has had all  
19 State agencies on a flat budget for that simple  
20 reason, is that we can stay and we can balance the  
21 budget and not go into any debt.

22 If we're given something -- if we don't  
23 even have the school yet, we're playing with,  
24 really, essentially, a crystal ball in trying to  
25 give intelligent and estimated guesses. As a budget

1 person and as a person that administrated stuff  
2 before, you have to go by a flat budget if you're  
3 going to look at a five-year plan. Otherwise, you  
4 don't know if that's going to happen or not. And we  
5 don't want to be in a position where we're guessing.

6 This is kind of like when I was in law  
7 school. Widgets. You have an imaginary product.  
8 So that's exactly what we're trying to give you.  
9 We're trying to show the State that we know how to  
10 balance a budget, that we know what our requirements  
11 for procurement laws are and we know exactly what  
12 our government's responsibility to put a productive  
13 school together. That's what we have to show you  
14 the burden, that we are capable, we understand  
15 procurement codes, we understand a budget process.

16 And that's the whole reason, from what I  
17 understood, is we have to put a sample budget, based  
18 on what -- and we got Mr. Vigil to do that for us,  
19 because he's done other charter schools. And given  
20 that, that's the reason why we submitted that  
21 budget, because that's been what has reflected other  
22 charter schools that are starting up.

23 MS. SHEARMAN: Thank you. You have  
24 \$80,000 for contract or professional services. What  
25 is that going to fund?

1 MR. VIGIL: That fund -- you're looking at  
2 11000, 2100, 65314?

3 MS. SHEARMAN: 2100, 53414.

4 MR. VIGIL: That's where the contracts  
5 are -- because the school -- is we were working  
6 together -- my question is always going to come up,  
7 what is your special ed population going to be, how  
8 are you going to take care of them, how are you  
9 going to provide ancillary services, diagnosticians,  
10 what ancillary services do you project.

11 Rather than trying to guesstimate where  
12 the students would fall, what type of services they  
13 would need, we budgeted an amount into basically  
14 covering all sorts of ancillary services that would  
15 be needed for that purpose.

16 During the course of the year, as those  
17 services are determined what is needed, then we  
18 would present an adjustment request to the governing  
19 council to put it into -- whether it be for  
20 diagnosticians or prototypes, you know, OTs, PTs,  
21 SLPs, whatever therapies are needed, and put the  
22 money in the correct line item. And go through the  
23 process with the NMPED.

24 MS. SHEARMAN: One other question. You  
25 have Purchased Professional and Technical Services,

1 Other Professional Services, \$40,000. Other  
2 Charges, \$701,000.

3 MR. VIGIL: Right. Was that in the 11000,  
4 1000?

5 MS. SHEARMAN: 53711.

6 MR. VIGIL: And that was to purchase the  
7 curriculum and the online.

8 THE CHAIR: To purchase what, sir?

9 MR. VIGIL: The curriculum and the online  
10 aspect of the virtual school. And it is based on  
11 the number of students that were projected.

12 MS. SHEARMAN: Thank you.

13 THE CHAIR: Ms. Krivitzky?

14 MS. KRIVITZKY: I'm good.

15 THE CHAIR: Mr. Bergman?

16 MR. BERGMAN: No.

17 THE CHAIR: Okay. First of all, I will  
18 say to you, and for the public record, that each of  
19 you has the opportunity to review the Staff -- "the  
20 Staff" being the PED -- analysis. And as a result  
21 of that, you have the opportunity to respond. And  
22 so I'm very appreciative that you gave to the  
23 Commission today this response to these various and  
24 sundry concerns that occurred during the analysis.

25 And so I'm going to hope that my fellow



1 Commissioners and I, individually, have the  
2 opportunity of reviewing this document and learning  
3 what your responses to those concerns are, because I  
4 feel certain that each of us, as we reviewed your  
5 application, and as we, then, reviewed the analysis  
6 of each individual application, that we came to  
7 many, many similar concerns.

8 And depending on whatever our expertise is  
9 or inexpertise in the area of education happens to  
10 be, we looked at things and either knew that  
11 something didn't appear correct to us or  
12 something -- something just kind of came out to us  
13 and said, "You know, this is something that we have  
14 a question about."

15 And so I will tell you that I -- this is  
16 part of the record. And I am very appreciative  
17 that -- that you did do this. Many of the concerns  
18 that have been expressed here today by my colleagues  
19 are concerns that I, too, had. And so I'm not going  
20 to reiterate those, and I'm not going to go into  
21 them.

22 I will tell you that, maybe just with one  
23 or two exceptions here, I probably am not going to  
24 go into the Staff analysis. But I am going to give  
25 you an example here. And it occurs on Page 17 of

1 your response. And it has to do with the curriculum  
2 not including a PE course. And this was very  
3 troubling to me when I read through this, because,  
4 as inept as this old cowgirl is at the kinds of PE  
5 that are required on a formal basis, and I always  
6 figured I had it informally, I had a pretty good PE  
7 education. But it just wasn't what the school said  
8 was appropriate.

9 And so I'm looking at this. And in that  
10 light -- and I hope you take it in that way. It's  
11 not in jest. It's meant sincerely. Students in  
12 grades K through 8 will complete coursework that  
13 will include math, social studies, New Mexico  
14 history, physical education, so on and so forth.  
15 Page 13. K through 12 has parameters and  
16 characteristics outlined by a host of leading  
17 sources, including National Association for Sport  
18 and Physical Education. The units required for  
19 completion in order to graduate are, parentheses 5,  
20 one unit in physical education.

21 And your response to that, as I believe  
22 you said, is that it's going to be up to the student  
23 to document that he or she has done something. And  
24 not that anybody has -- has done -- there has been a  
25 formal PE teacher there and that formal PE teacher

1 is documenting what that student can do. Perhaps  
2 the teacher has individual goals, and then there  
3 certainly are national standards and various things  
4 of that sort.

5 And so I will tell you, I'm still  
6 continuing, even after you put your response there,  
7 I turned to find it because I thought maybe it might  
8 be something to which you would respond. And I'm  
9 continuing to have -- I'm -- a problem with that  
10 particular one.

11 There are some others. But I -- I just  
12 will tell you that I do have some problems  
13 throughout the document. And, of course, I haven't  
14 had an opportunity to read all of this. When we  
15 meet again for the -- for the final assessment and  
16 review, we will be taking an up-or-down vote from  
17 individual Commissioners whether or not to approve  
18 your application.

19 And so one more time, I will tell you I'm  
20 very, very appreciative that you took the time to do  
21 this for us. And I'm hoping, as I read through it,  
22 that I don't continue to have a problem, as I do  
23 with physical education. I would judge that I do  
24 not.

25 And then, Mary Helen Garcia, that I should

1 live so long that I'm probably the only one in the  
2 audience that knew Senator Dennis Chavez. You did,  
3 too. Okay, sir, because you're a "Chavez."

4 MR. CHAVEZ: That's not the only reason.  
5 I'm just old enough to have known him.

6 THE CHAIR: Okay. Is there anybody else  
7 who has a question or comment?

8 MR. BERGMAN: Let me tell you this. I --  
9 I had seen it in here, and I was going to ask about  
10 it, where you had said attendance requirements may  
11 be modified based on a student's particular  
12 circumstances and needs. But I have found in here  
13 where you answered that by withdrawing that. But my  
14 thought when I read that before I had this was when  
15 I was in high school, if someone said, "Mr. Bergman,  
16 you don't necessarily need to be here," I can tell  
17 you what my choice would have been. I would have  
18 been out on the playground.

19 But you have taken care of it, so you've  
20 answered that. But I don't think the kids get a  
21 vote at this stage whether they're in the classroom.

22 MR. MANCERA: Madam Chair?

23 THE CHAIR: Yes, sir.

24 MR. MANCERA: If you would allow us,  
25 please, I'd like just to summarize very quickly.

1 THE CHAIR: All right. I'll give you a  
2 moment or two to do that, sir.

3 MR. MANCERA: Two minutes, ma'am. Thank  
4 you. On the issue of the public school system not,  
5 right off of the bat, saying that we did not have  
6 the authority to be here, it was very, of course,  
7 troublesome. And knowing that, believe me, the  
8 LULAC would not have put this application together,  
9 dedicated the resources. And we did know that, from  
10 a legal point of view, we had the right. We ran it  
11 through attorneys. We consulted many people, the  
12 legislature and what the law says.

13 And that's why we decided to go forward  
14 because we did not want to spend our time, and much  
15 less your time, your valuable time. And so I just  
16 want you to know, from a legal point of view, we  
17 have researched this and we do have the right to  
18 apply.

19 Once you get over that issue, I'd like to  
20 also ask that -- I really was very impressed, kind  
21 of liked the idea that IDEAL came forward. And even  
22 though they did not say, well, competing for the tax  
23 dollars, I think I saw it more of a, We're doing  
24 this. We would not like somebody else to do it.

25 What impressed me was their success rate,

1 that they're doing virtual, that they're doing  
2 online. And it just goes to show you that it can  
3 work. So they, themselves, are -- have a proven  
4 record of having done that, and we would like to add  
5 more children to that success rate.

6 And, of course, finally, on the issue of  
7 technology, I'm one of those that was not very good  
8 in school with -- with technology, with computers  
9 and software. I remember going to COBALT and all  
10 those having us to write that type of software. I  
11 never thought I would end up doing that. Well, lo  
12 and behold, I ended up working for Texas Instruments  
13 selling computers in Latin America.

14 THE CHAIR: I probably am going to have  
15 legal counsel saying I shouldn't have given you an  
16 opportunity to summarize.

17 MR. MANCERA: But I want to say it is the  
18 technology is what everyone is doing. My son is six  
19 years old, got into school today. He knows how to  
20 use that mouse. He knows how to get into the  
21 computer. So we need to allow children to have  
22 access to technology, and there's no better way than  
23 that virtual school. Thank you very much.

24 THE CHAIR: Thank you very much, sir.

25 Thank you all very much for coming. Those of you

1 who didn't speak, those of you who just came to  
2 listen in, we appreciate your -- do I have to close  
3 it -- I do. Oh, I've got to say these things. Oh,  
4 wait a minute. Wait a minute. I've got to say  
5 these things.

6 The Commission encourages continued public  
7 input in writing until September 1, 2009, at  
8 5:00 p.m. Written comments should be sent to Public  
9 Education Commission in care of Beverly Friedman,  
10 300 Don Gaspar Avenue, Santa Fe, New Mexico, 87501.  
11 Or e-mail comments to Beverly Friedman at  
12 bev.friedman@state.nm.us. And the Public Education  
13 Commission would like to thank the community of  
14 Las Cruces for their hospitality. In particular, we  
15 thank the New Mexico State University for the use of  
16 their right facilities and for working so  
17 cooperatively.

18 The Commission will recess until tomorrow  
19 afternoon, August the 25th. The Commission will  
20 reconvene at 4:30 p.m. at Meadowlark Senior Center  
21 in Rio Rancho, New Mexico. Thank you very much,  
22 Dr. Duran, for keeping me on track.

23 (Proceedings concluded at 4:03 p.m.)  
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BEFORE THE PUBLIC EDUCATION COMMISSION  
STATE OF NEW MEXICO

IN THE MATTER OF:  
SENATOR DENNIS CHAVEZ ACADEMY

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 PUBLIC EDUCATION COMMISSION, held in the State of New Mexico, County of Doña Ana, in the matter therein stated.

In testimony whereof, I have hereunto set my hand on September 2, 2009.

\_\_\_\_\_  
Cynthia C. Chapman, RMR, CCR #219  
201 Third Street, NW, Suite 1630  
Albuquerque, New Mexico 87102

Job No.: 3839D