

BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS

OPEN PUBLIC MEETING

February 18, 2022

9:00 a.m.

Hybrid Meeting - Zoom Video Teleconference
and In Person

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

REPORTED BY: Cynthia C. Chapman, RMR-CRR, NM CCR #219

Bean & Associates, Inc.

Professional Court Reporting Service

201 Third Street, NW, Suite 1630

Albuquerque, New Mexico 87102

JOB NO.: 6267N (CC)

2	<p>1 APPEARANCES</p> <p>2 COMMISSIONERS:</p> <p>3 REBEKKA BURT, Chair</p> <p>4 GLENNA VOIGT, Vice Chair</p> <p>5 MELISSA ARMIJO, Secretary</p> <p>6 STEVEN CARRILLO, Member</p> <p>7 MICHAEL CHAVEZ, Member</p> <p>8 PATRICIA GIPSON, Member</p> <p>9 KT MANIS, Member</p> <p>10 DAVID ROBBINS, Member</p> <p>11</p> <p>12 PED STAFF:</p> <p>13</p> <p>14 CORINA CHAVEZ Director</p> <p>15 Charter School/Options for</p> <p>16 Parents and Families Division</p> <p>17</p> <p>18 MISSY BROWN Technical Assistance and Support and</p> <p>19 Training Administrator</p> <p>20 Charter School/Options for</p> <p>21 Parents and Families Division</p> <p>22 BEVERLY FRIEDMAN, Custodian of Record</p> <p>23 Liaison to PEC</p> <p>24</p> <p>25 COUNSEL TO THE PEC:</p> <p>26</p> <p>27 JULIA HOSFORD BARNES, ESQ.</p> <p>28 Barnes Mediation and Law, PC</p> <p>29 200 W. DeVargas Street, Suite 7</p> <p>30 Santa Fe, New Mexico 87501</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p>	4
3	<p>1 INDEX TO PROCEEDINGS</p> <p>2 PAGE</p> <p>3 1 Call to Order, Roll Call, Pledge of 4</p> <p>4 Allegiance, Salute to the New Mexico Flag</p> <p>5</p> <p>6 2 Approval of Agenda 5</p> <p>7</p> <p>8 3 Open Forum - No Speaker Requests 10</p> <p>9</p> <p>10 4 Consent Agenda 11</p> <p>11</p> <p>12 5 Discussion and Possible Action on Item(s) 12</p> <p>13 Removed from the Consent Agenda-None Removed</p> <p>14 6 Introduction of New School Leader, Moises 12</p> <p>15 Padilla, South Valley Preparatory School</p> <p>16</p> <p>17 7 Discussion and Possible Action on PEC Rule 20</p> <p>18</p> <p>19 8 Discussion and Possible Action on The GREAT 73</p> <p>20 Academy Corrective Action Plan Update</p> <p>21 9 Response by Cesar Chavez Community School 91</p> <p>22 to Notice of Breach of Contract, Discussion</p> <p>23 and Possible Action on Notice of Breach of</p> <p>24 Contract</p> <p>25</p> <p>26 10 Discussion and Possible Action on 159</p> <p>27 PEC Rules of Procedure Regarding</p> <p>28 Transcription and Minutes</p> <p>29</p> <p>30 11 Discussion and Possible Action on Upgrades 178</p> <p>31 to Mabry Hall and Inclusion in Budget</p> <p>32 12 Report from Charter Schools Division 226</p> <p>33 13 Reports from PEC Liaisons, Including 248</p> <p>34 Reports from Former Liaisons, and</p> <p>35 Discussion of Vacant Position</p> <p>36</p> <p>37 14 Report from the Chair 252</p> <p>38 15 PEC Comments 264</p> <p>39</p> <p>40 16 Adjourn 283</p> <p>41 REPORTER'S CERTIFICATE 285</p> <p>42 ATTACHMENT 1: List of Attendees</p>	5
2	<p>1 THE CHAIR: All right. And with that</p> <p>2 being said, it is February 18th, 2022. It is</p> <p>3 9:01 a.m., and I am calling this meeting to order.</p> <p>4 And if we could go ahead and start with</p> <p>5 roll call from Secretary Armijo.</p> <p>6 COMMISSIONER ARMIJO: Good morning.</p> <p>7 Melissa Armijo is here.</p> <p>8 Rebekka Burt.</p> <p>9 THE CHAIR: Here.</p> <p>10 COMMISSIONER ARMIJO: Steven Carrillo.</p> <p>11 COMMISSIONER CARRILLO: Here.</p> <p>12 COMMISSIONER ARMIJO: Michael Chavez.</p> <p>13 COMMISSIONER CHAVEZ: Here.</p> <p>14 COMMISSIONER ARMIJO: Georgina Davis.</p> <p>15 (No response.)</p> <p>16 COMMISSIONER ARMIJO: I don't believe</p> <p>17 Georgina is here.</p> <p>18 Patricia Gipson.</p> <p>19 COMMISSIONER GIPSON: Here.</p> <p>20 COMMISSIONER ARMIJO: KT Manis.</p> <p>21 COMMISSIONER MANIS: Here.</p> <p>22 COMMISSIONER ARMIJO: David Robbins.</p> <p>23 COMMISSIONER ROBBINS: Here.</p> <p>24 COMMISSIONER ARMIJO: Michael Taylor.</p> <p>25 (No response.)</p>	4
3	<p>1 COMMISSIONER ARMIJO: Michael is not here.</p> <p>2 Glenna Voigt.</p> <p>3 COMMISSIONER VOIGT: Here.</p> <p>4 COMMISSIONER ARMIJO: Madam Chair, we have</p> <p>5 a quorum.</p> <p>6 THE CHAIR: Thank you. And if I could</p> <p>7 also ask you, Secretary Armijo, to lead us in the</p> <p>8 Pledge of Allegiance.</p> <p>9 COMMISSIONER ARMIJO: Yes.</p> <p>10 (Pledge of Allegiance conducted).</p> <p>11 THE CHAIR: And Commissioner Robbins?</p> <p>12 (Salute to New Mexico Flag conducted.)</p> <p>13 THE CHAIR: Thank you. All right.</p> <p>14 We are moving to Item No. 2, Approval of</p> <p>15 the Agenda. I do have one change to propose. And</p> <p>16 that is going to be to switch Items No. 6 and 7.</p> <p>17 We -- I am requesting this because we don't want</p> <p>18 Mr. Padilla to wait until after our rule discussion</p> <p>19 in order to introduce himself.</p> <p>20 Are there any other proposed changes?</p> <p>21 (No response.)</p> <p>22 THE CHAIR: All right. I will move to</p> <p>23 approve the agenda as amended.</p> <p>24 COMMISSIONER VOIGT: Second.</p> <p>25 THE CHAIR: Thank you. There's a motion</p>	5

6

1 by Chair Burt and a second by Vice Chair Voigt.
 2 Commissioner Armijo, if you could take --
 3 COMMISSIONER ARMIJO: Yes.
 4 Commissioner Burt.
 5 THE CHAIR: Yes.
 6 COMMISSIONER ARMIJO: Commissioner
 7 Carrillo.
 8 COMMISSIONER CARRILLO: Yes.
 9 COMMISSIONER ARMIJO: Commissioner Chavez.
 10 COMMISSIONER CHAVEZ: Yes.
 11 COMMISSIONER ARMIJO: Commissioner Gipson.
 12 COMMISSIONER GIPSON: Yes.
 13 COMMISSIONER ARMIJO: Commissioner Manis.
 14 COMMISSIONER MANIS: Yes.
 15 COMMISSIONER ARMIJO: Commissioner
 16 Robbins.
 17 COMMISSIONER ROBBINS: Yes.
 18 COMMISSIONER ARMIJO: Commissioner Voigt.
 19 COMMISSIONER VOIGT: Yes.
 20 COMMISSIONER ARMIJO: And Commissioner
 21 Armijo is "yes."
 22 That motion is approved.
 23 THE CHAIR: Thank you. All right.
 24 So that -- before we move to Item No. 3, I
 25 do have -- I am going to be opening up the

7

1 rule-making hearing this morning. So I will be
 2 reading a script in order to do so.
 3 The Public Education Commission will
 4 conduct a rule-making hearing this morning from 9:00
 5 to 12:00 regarding Proposed Rule 6.2.9.
 6 I would like to outline how this hearing
 7 will be conducted and the notices of this proposed
 8 rule-making that has taken place to date.
 9 The PEC is following the requirements of
 10 the State Rules Act and the default procedural rule
 11 proposed by the Attorney General's Office. We have
 12 followed and exceeded the State Rules Act
 13 requirements through the following process:
 14 First, posting it on the agency website.
 15 The required posting was 30 days. The PEC has
 16 posted it for 64 days.
 17 No. 2 requirement was posting on the
 18 Sunshine Portal. The required was posting for
 19 30 days. It has been posted on -- for 43 days and
 20 has been corrected to show that the hearing today
 21 ends at noon instead of 5:00 p.m.
 22 No. 3, we -- making the requirement to
 23 make it available in the agency's district, field,
 24 and regional offices, if any. The required posting
 25 was 30 days. It has been posted for 64 days.

8

1 Requirement No. 4, sending it by
 2 electronic mail to persons who have made a written
 3 request for notice from the agency of announcement
 4 addressing the subject of the rule-making proceeding
 5 and who have provided an electronic mail address to
 6 the agency. This notice was sent 64 days before
 7 this hearing.
 8 The next requirement is to send it by
 9 electronic mail to persons who have participated in
 10 the rule-making and who have provided electronic
 11 mail address to the agency. The notice was sent
 12 64 days before this hearing.
 13 The next requirement is sending written
 14 notice that includes a minimum in Internet and
 15 street address where the information may be found to
 16 persons who provide a postal address. The notice
 17 was once again sent 64 days before this hearing.
 18 The next requirement is providing it to
 19 the New Mexico Legislative Council for distribution
 20 to appropriate interim and standing legislative
 21 committees. 55 -- or, sorry -- 58 days' notice was
 22 give for that requirement.
 23 No. 8 is publication in the State
 24 Registry. This was required to be posted 30 days
 25 before a hearing, which we posted 52 days before

9

1 today's hearing.
 2 The next requirement is previous
 3 opportunities for public comment. Written comments
 4 were accepted until February 1st, 2022. And we held
 5 two public comment periods at the January working
 6 session and then yesterday.
 7 And then the last requirement is to follow
 8 the Open Meetings Act. And this hearing was
 9 published according to the Open Meetings Act, along
 10 with the regular meeting of the Public Education
 11 Commission.
 12 MS. JULIA BARNES: I just have one
 13 clarification. We did not receive any specific
 14 requests for written notice for either
 15 electronically or by mailing. However, we did send
 16 it out to everyone that requests all information
 17 from the PEC.
 18 THE CHAIR: Thank you. We received one
 19 written comment before the written comment deadline.
 20 That was posted on the PEC website on the same day
 21 it was received.
 22 We received one oral comment during public
 23 comment yesterday. Neither public comment addressed
 24 the rule -- the draft rule text itself. However, we
 25 greatly appreciate the comments received and will be

10	<p>1 considering them today.</p> <p>2 Today we will start with an Open Forum for</p> <p>3 additional public comment and input. We may -- we</p> <p>4 will -- we have asked a Public Education Department</p> <p>5 representative to join us today in the next agenda</p> <p>6 item to provide input on the process. I will</p> <p>7 continue to check, and we, as the PEC, will continue</p> <p>8 to check until noon for additional public comment.</p> <p>9 We will discuss this item as an agenda</p> <p>10 item today. However, I will not entertain a motion</p> <p>11 on the rule-making until noon to ensure that we are</p> <p>12 able to hear any public comment made up until 12:00.</p> <p>13 We will finish our discussion and take</p> <p>14 possible action on the agenda item after 12:00.</p> <p>15 All right. Missy, is there anyone here to</p> <p>16 speak at Public Forum?</p> <p>17 MS. MISSY BROWN: No, Commissioner Burt --</p> <p>18 Chair Burt. There is not.</p> <p>19 THE CHAIR: All right. Thank you. So I</p> <p>20 will be continuing to ask if anyone signs up</p> <p>21 throughout the meeting today, and I'll let -- and</p> <p>22 you can let me know.</p> <p>23 MS. MISSY BROWN: Do you want to leave the</p> <p>24 Zoom chat on for people to be able to sign up then?</p> <p>25 THE CHAIR: We'll check in periodically</p>	12	<p>1 COMMISSIONER ARMIJO: Commissioner Chavez.</p> <p>2 COMMISSIONER CHAVEZ: Yes.</p> <p>3 COMMISSIONER ARMIJO: Commissioner</p> <p>4 Carrillo.</p> <p>5 COMMISSIONER CARRILLO: Yes.</p> <p>6 COMMISSIONER ARMIJO: Chair Burt.</p> <p>7 THE CHAIR: Yes.</p> <p>8 COMMISSIONER ARMIJO: And Commissioner</p> <p>9 Armijo votes "yes."</p> <p>10 That -- the Consent Agenda passes</p> <p>11 unanimously.</p> <p>12 THE CHAIR: Thank you. All right.</p> <p>13 Item No. 5, we are going to move past.</p> <p>14 There's no items moved -- removed from the Consent</p> <p>15 Agenda.</p> <p>16 So that brings us to Item No. 6, which is</p> <p>17 introduction of the new school leader, Moises</p> <p>18 Padilla, South Valley Preparatory School. And,</p> <p>19 Director Chavez, if you could start us off.</p> <p>20 DIRECTOR CORINA CHAVEZ: Good morning,</p> <p>21 Commissioners. I am just really happy to have</p> <p>22 invited Moises Padilla to join you. One of the --</p> <p>23 and joined us here today, just to introduce himself</p> <p>24 as the new head administrator at South Valley Prep.</p> <p>25 He is replacing the founding head administrator,</p>
11	<p>1 and ask people to go ahead and let us know, yeah,</p> <p>2 raise a hand on Zoom.</p> <p>3 All right. So with no current public</p> <p>4 comment, we are going to move to No. 4, the Consent</p> <p>5 Agenda.</p> <p>6 If I could get a motion to approve the</p> <p>7 Consent Agenda?</p> <p>8 COMMISSIONER GIPSON: I move to approve</p> <p>9 the Consent Agenda.</p> <p>10 COMMISSIONER VOIGT: I'll second.</p> <p>11 THE CHAIR: Thank you. There's a motion</p> <p>12 by Commissioner Gipson and a second by Chair Voigt.</p> <p>13 (Verbatim.)</p> <p>14 Any discussion?</p> <p>15 (No response.)</p> <p>16 THE CHAIR: Seeing none, Secretary Armijo.</p> <p>17 COMMISSIONER ARMIJO: Commissioner Voigt.</p> <p>18 COMMISSIONER VOIGT: Yes.</p> <p>19 COMMISSIONER ARMIJO: Commissioner</p> <p>20 Robbins.</p> <p>21 COMMISSIONER ROBBINS: Yes.</p> <p>22 COMMISSIONER ARMIJO: Commissioner Manis.</p> <p>23 COMMISSIONER MANIS: Yes.</p> <p>24 COMMISSIONER ARMIJO: Commissioner Gipson.</p> <p>25 COMMISSIONER GIPSON: Yes.</p>	13	<p>1 which is always big shoes to fill.</p> <p>2 But I am so excited that he has this</p> <p>3 position. I'm excited to be working with him moving</p> <p>4 forward. And my aim for inviting Moises to this</p> <p>5 meeting is to allow you all to have more</p> <p>6 opportunities to interact with school leaders in our</p> <p>7 schools who are doing amazing things.</p> <p>8 So this is not about me, and this is about</p> <p>9 Moises, and I'll just turn it over to him.</p> <p>10 MR. MOISES PADILLA: All right. Thank you</p> <p>11 so much. Thank you, everyone. Thank you for</p> <p>12 inviting me. I'm super excited to be here to</p> <p>13 represent.</p> <p>14 And as the new director of South Valley</p> <p>15 Prep, I know, like Director Chavez said, I have huge</p> <p>16 shoes to fill with our founding director, Ms. Char</p> <p>17 Trujillo retiring after 12 years at the helm of</p> <p>18 South Valley Prep.</p> <p>19 And one of my favorite things about this</p> <p>20 is I have worked in education for the past 18 years,</p> <p>21 all of it working and -- in schools and educational</p> <p>22 systems, as charter schools, public schools, as a</p> <p>23 teacher, as an administrator, all focused on</p> <p>24 education in the South Valley of Albuquerque.</p> <p>25 So to be a part of this is a dream come</p>

<p style="text-align: right;">14</p> <p>1 true, and I'm super excited to take the helm at 2 South Valley Prep. 3 This is my first week, and it's been 4 exciting and, it's been eye-opening, and it's been 5 good to kind of be back at -- back at that seat. 6 And, like I said, I've been in education now for 7 18 years. I was born and raised and live in the 8 South Valley with my beautiful wife, who's from the 9 South Valley as well, and my kids who go to Atrisco 10 Heritage Academy. 11 And so ever since I started 18 years ago, 12 my goal in education has always been to serve the 13 students and families of the South Valley, starting 14 from when I started my student teaching and asking 15 the dean over at New Mexico State University if I 16 could do my student teaching at Polk Middle School, 17 which is the school that I attended, to opening up a 18 charter focused on students in the southwest 19 quadrant of Albuquerque, and always working on 20 public schools in the southwest quadrant from Polk 21 to Atrisco Heritage Academy to -- my last stint now 22 was at Albuquerque High as Curriculum Assistant 23 Principal. 24 So I'm super excited to be here. I'm 25 super excited to be part of this process, and I'm</p>	<p style="text-align: right;">16</p> <p>1 know, to students and to their families and just to 2 education in New Mexico, and, in particular, in the 3 South Valley. 4 So congratulations. Can't wait to see you 5 in person sometime. And thanks for going all the 6 way to Santa Fe. I didn't even go all the way to 7 Santa Fe today, so thank you for doing it. 8 MR. MOISES PADILLA: Thank you, 9 Commissioner Armijo. Like I said, I was super 10 excited. This is the first time -- as my previous 11 charter experience has been -- we were an APS 12 charter. So this is the first time I'm working with 13 an agency that is commissioned by the PEC. 14 So I kind of wanted to check out how 15 everything goes down here and how everything works 16 and see everything in person. 17 So thank you, Commissioner Armijo. Thank 18 you for everything. 19 THE CHAIR: Thank you. 20 Commissioner Voigt. 21 COMMISSIONER VOIGT: Yes. 22 Congratulations, Moises. It's great to see you 23 here. 24 Moises and I shared some time together as 25 Kellogg Fellows and got to know each other very</p>
<p style="text-align: right;">15</p> <p>1 looking forward to working with each and every one 2 of you. 3 THE CHAIR: Thank you. And I first want 4 to say -- this is kind of a new procedure that PEC 5 is doing by -- you know, when we do receive notice 6 that there's a new head administrator, we're 7 inviting them to come up and meet us. 8 And I'm so grateful to see you in person, 9 first of all. And so thank you for coming up. 10 Commissioners, if there's anyone who would 11 like to make a comment, you're more than welcome 12 right now. 13 Commissioner Armijo. 14 COMMISSIONER ARMIJO: Thank you, Chair 15 Burt. Hi, Moises. This is Melissa. I don't know 16 if you can see me. I'm not sure where I am on the 17 screen. 18 I just wanted to welcome you. I've known 19 Moises for a little while now. He and I hail from 20 the same stomping ground down in the South Valley. 21 So I'm really excited for this opportunity for him 22 and for the students and the families at 23 South Valley Prep. 24 And, yeah, you do have some big shoes to 25 fill. And I applaud your commitment to the -- you</p>	<p style="text-align: right;">17</p> <p>1 well. And I know Moises' integrity and work and the 2 lens that he operates through to work with students 3 is a lens of equity and support. And I think he's 4 going to do that very well for his community of the 5 South Valley. 6 So I am thrilled that he has this position 7 and this opportunity to serve this community. I 8 think you're going to do a stellar job. Great to 9 see you. 10 MR. MOISES PADILLA: Thank you, Vice Chair 11 Voigt. Thank you so much. 12 THE CHAIR: Commissioner Carrillo. 13 COMMISSIONER CARRILLO: Welcome. So I'm 14 Commissioner Carrillo. I'm Santa Fe and all the 15 stuff going north to the Colorado border. But just 16 welcome. At some point it's hard for me to visit 17 schools sometimes that aren't in District 10, but it 18 would be great to stop by and see you. 19 And -- so this is a middle school, just 20 grades 6, 7, 8. 21 MR. MOISES PADILLA: That's correct. 22 COMMISSIONER CARRILLO: That's fantastic. 23 That's a special gift that people have to work with 24 that age group and prepare them for what's next. 25 MR. MOISES PADILLA: Absolutely. Thank</p>

18	<p>1 you, Commissioner Carrillo. And my invitation to 2 you or anyone else that wants to come down and see 3 the work that we're doing, more than welcome. I 4 would love to have you and showcase the work that 5 we're -- you're right. 6 Middle school, those middle school kids 7 are something else. But I'll tell you what. 8 Working with middle school students, elementary and 9 high school, that's my favorite place to be. 10 There's something about it that's special about 11 getting them prepared for high school and what's 12 ahead of them. Again, more than welcome to visit. 13 COMMISSIONER CARRILLO: Well, they can be 14 loads of fun, too, I mean, their moods and 15 everything else. Thank you very much for your 16 service and very good of you to come up here today. 17 MR. MOISES PADILLA: Thank you. 18 THE CHAIR: Commissioner Robbins. 19 COMMISSIONER ROBBINS: As the third 20 Commissioner from Albuquerque, I welcome you also to 21 the fold, more or less. Appreciate you taking the 22 leadership role at South Valley Preparatory. 23 And it is a challenge. But that school 24 has done remarkable things over the last few years. 25 And looking at the results, I just hope, and we'll</p>	20	<p>1 you're going to -- I know you're going to have a 2 busy day. So we're not going to keep you here too 3 much longer. 4 But thank you. Welcome to State 5 chartering and to South Valley, and we're excited to 6 have you collaborate with CSD and receive all the 7 supports that I know that they're available for. So 8 thank you so much for being our first new head 9 administrator to come visit us, and looking forward 10 to seeing you in the future. 11 MR. MOISES PADILLA: Awesome. And thank 12 you for having me. 13 THE CHAIR: Thank you. 14 All right. We are now going to move to 15 Item No. 7, which is Discussion and Possible Action 16 on PEC Rule, including consideration of any public 17 comment. 18 I had -- I'm going to let Corina say 19 something really quick. And then we're going to 20 go -- I'm going to have Ms. Barnes introduce this 21 item. 22 And then we're going to ask Mr. Sena from 23 the PED to speak as well. 24 Director Chavez. 25 DIRECTOR CORINA CHAVEZ: Thank you. I</p>
19	<p>1 work with you, to make sure that that success 2 continues. So thank you. 3 MR. MOISES PADILLA: Thank you. Thank 4 you, Commissioner Robbins. 5 THE CHAIR: Commissioner Gipson. 6 COMMISSIONER GIPSON: I just wanted to say 7 Go Aggies. 8 And I'd be a headline if I stayed in the 9 middle school. So I applaud anyone who -- you know, 10 and I tell people that. It wouldn't have gone well. 11 So I applaud anyone and appreciate 12 everything that you have done. And I appreciate the 13 shoes that you're trying to fill. 14 So it's -- you know, those -- it's a 15 difficult, difficult transition. And, hopefully, 16 with the support that I know CSD is going to be able 17 to offer you, and the staff, that it's going to go 18 well. 19 MR. MOISES PADILLA: Thank you, 20 Commissioner Gipson. And I hope to stay out of the 21 headlines, for bad things, anyway. So thank you. I 22 appreciate it. 23 THE CHAIR: All right. Seeing no further 24 discussion, Mr. Padilla, thank you once again for 25 coming up. I know as a new head administrator,</p>	21	<p>1 will just be reading a statement. 2 So the Public Education Department is 3 committed to working collaboratively with the Public 4 Education Commission in supporting charter schools. 5 In conversations that happened yesterday, Education 6 Secretary Kurt Steinhaus and PEC Chair Rebekka Burt 7 talked about a process to review the current PED and 8 PEC Memorandum of Understanding, recommend needed 9 modifications, share any changes to the PEC, and, 10 based upon PEC comments, potentially sign a new 11 working agreement. 12 We support transparency and clear 13 timelines for the development of policies and 14 procedures that impact charter schools, and with 15 regard to the rule-making, there has been some 16 constituent comments that warrant full 17 consideration. 18 As part of the process of considering 19 public comment, the PED offers staff assistance and 20 looks forward to the PEC working with the PED on any 21 needed language changes to a rule prior to 22 finalization. 23 At the request of Chair Rebekka Burt, John 24 Sena, my esteemed colleague, and PED's policy 25 director, is here and is able to provide any</p>

<p style="text-align: right;">22</p> <p>1 additional information, answers, or questions. 2 Thank you. 3 THE CHAIR: Thank you, Director Chavez. 4 So I'm going to go ahead and give it over to 5 Ms. Barnes to give us our starting-off point. 6 MS. JULIA BARNES: Thank you, Madam Chair. 7 I would just like to go over where we are on the 8 procedural rule-making document. 9 There is a State Rules Act that you have 10 to follow in order to do a rule. And then there is 11 a default rule-making procedure that you follow if 12 you have not adopted your own. 13 The PEC has not adopted its own procedural 14 rule-making process. It's my understanding that PED 15 has not as well. 16 So we are following, and have been 17 following, the State Rules Act and the rule 18 associated with that. 19 We are now on the section where the 20 Commission may consider the rule. I just wanted to 21 outline where you are and what process you need to 22 follow. 23 You may amend, adopt, or reject the 24 proposed rule. Any amendment to the proposed rule 25 must fall within the scope of the current</p>	<p style="text-align: right;">24</p> <p>1 decide to take in a public meeting, then you would 2 authorize the Chair to move forward on that process. 3 There is an entire second process for the 4 rule itself, to publish it in the State Registry and 5 to put it out to the public according to how that is 6 defined in the State Rules Act. It's the same exact 7 process that we followed previously. All of those 8 different entities and public notice are put out. 9 I -- I did just want to comment that the 10 State Rules Act does not require publication in a 11 newspaper or in the media. It is not required, and 12 we did not publish in a newspaper. 13 And as a commission, a statewide 14 commission with statewide charter schools, I'm 15 actually not sure what you would even have done in 16 order to -- to have taken that on as a voluntary 17 thing that you did. 18 So the State Rules Act does not require 19 it, and we did not, and you did not. And we did 20 not, through the Chair, take action to go over and 21 above what was required by the State Rules Act. 22 I'll just end by saying, as Chair Burt has 23 outlined, you did exceed the number of days for this 24 and exceeded the number of opportunities for public 25 comment.</p>
<p style="text-align: right;">23</p> <p>1 rule-making procedure. 2 If -- and since you are a commission, you 3 must consider and approve the adoption of the 4 proposed rule at a public meeting. So you may do 5 that today, or you may, if you choose to delay 6 action on the rule itself until the next public 7 meeting, you can. 8 But as a board, you must take action in a 9 public meeting. But it is optional whether that 10 happens today or not, depending on what you want to 11 do. 12 The date of adoption of the proposed rule 13 is the date that a concise explanatory statement 14 signed by the -- is signed by the agency. 15 You all do that by authorizing your chair 16 to do the concise explanatory statement. And there 17 are requirements of that. 18 This is consistent with the previous 19 action that you took, that you authorized the Chair 20 to do a notice to proposed rule-making, and then 21 that started with the Chair and moved forward 22 following the statutory requirements. 23 So there's essentially a -- another one of 24 those, where, once you take action to adopt this 25 proposed rule as amended or not, whatever action you</p>	<p style="text-align: right;">25</p> <p>1 You are welcome to take input all morning. 2 It is assumed that during the hearing, you will take 3 public comment if someone shows up between now and 4 noon. And I think it's entirely appropriate to have 5 someone from the PED also welcomed into this 6 conversation. 7 THE CHAIR: All right. With that, I would 8 like to open up for discussion. And I do want to 9 remind that we will not be entertaining a motion on 10 this item until no sooner than 12:00. 11 COMMISSIONER CARRILLO: Excuse me, Ms. -- 12 Chair Burt. Were we going to hear from Director 13 Sena? 14 THE CHAIR: I don't know if he wants to 15 come up and talk, or that's kind of what Corina did 16 by the statement, and then if anyone has any 17 questions for Mr. Sena. 18 COMMISSIONER CARRILLO: I see. Got it. 19 Thanks. 20 THE CHAIR: Correct? Okay. All right. 21 So we are open for discussion by Commissioners now. 22 Commissioner Gipson. 23 COMMISSIONER GIPSON: I think for me, it 24 would be easier if Mr. Sena wants to say something 25 about this. I think that would help inform any</p>

26	<p>1 questions and discussion that we might have.</p> <p>2 So I think it would be -- I don't know if</p> <p>3 he wants to just offer anything. But I -- you know,</p> <p>4 if he wants to say something, I'd appreciate hearing</p> <p>5 it, to help inform our discussion.</p> <p>6 THE CHAIR: Can you make sure and turn on</p> <p>7 the mic?</p> <p>8 MR. JOHN SENA: Yeah. Good morning,</p> <p>9 Commission. I just came out of the legislative</p> <p>10 session, so I'm not sure about all the protocol.</p> <p>11 I'm super protooled out.</p> <p>12 Madam Chair and members of the Commission.</p> <p>13 COMMISSIONER GIPSON: You need to</p> <p>14 introduce yourself.</p> <p>15 MR. JOHN SENA: My name is John Sena. I'm</p> <p>16 the Policy Director at the Public Education</p> <p>17 Commission. I'm not here to make a comment on the</p> <p>18 rule. More than anything, I'm here to just provide</p> <p>19 some additional support, if needed, and, as Corina</p> <p>20 said in her statement, just reaffirm that the PED is</p> <p>21 here to be a partner and a collaborator with the</p> <p>22 Public Education Commission.</p> <p>23 As Policy Director, I oversee a staff of</p> <p>24 three policy analysts. We handle a lot of</p> <p>25 legislative affairs and other things within the</p>	28	<p>1 years ago -- maybe longer -- there was a letter that</p> <p>2 went to the Attorney General indicating that the</p> <p>3 PEC -- asking for an Attorney General's opinion,</p> <p>4 which was never received, about whether the PEC</p> <p>5 should follow a rule-making provision -- should</p> <p>6 follow the rule-making process in the things that</p> <p>7 you do to approve for the charter schools.</p> <p>8 And then a second part of that was</p> <p>9 whether, if the PEC should do that, if it should be</p> <p>10 through your own rule-making or through the Public</p> <p>11 Education Department.</p> <p>12 There is a letter, a comment received, a</p> <p>13 timely comment received by the Matthews Fox law firm</p> <p>14 signed by Patty Matthews that indicates that, in her</p> <p>15 legal opinion, I'll say, she does not think that you</p> <p>16 all have the ability to make your own rule.</p> <p>17 Nathan Winger and I have looked at that</p> <p>18 and have provided you a link to a memo from us that</p> <p>19 it's our legal opinion that you do have that</p> <p>20 ability. And I'm happy to walk through that.</p> <p>21 The one thing I want to highlight is --</p> <p>22 I'll highlight a couple of things about that.</p> <p>23 You are a constitutionally created</p> <p>24 commission. You were created at the same time in a</p> <p>25 reorganization as the Public Education Department.</p>
27	<p>1 Department. But one of our main duties is the</p> <p>2 promulgation of rule for the agency.</p> <p>3 And so we have a -- I have a staff who is</p> <p>4 probably more expert in the rule-making process than</p> <p>5 even I am, but just want to be able to lend that</p> <p>6 expertise and knowledge for the Commission as it</p> <p>7 thinks about this process.</p> <p>8 So I'm not here to comment specifically on</p> <p>9 the rule, but happy to answer questions if I can.</p> <p>10 THE CHAIR: Thank you. And so I'm going</p> <p>11 to ask Ms. Barnes, once again, to go ahead and give</p> <p>12 us some more context about some of the public</p> <p>13 comments that were heard and some of the meetings</p> <p>14 that have happened since last meeting.</p> <p>15 MS. JULIA BARNES: So I'll just outline</p> <p>16 the written comment that we received, and then --</p> <p>17 and then just talk a little bit about the oral</p> <p>18 comment that we received yesterday, which I think</p> <p>19 was also in support of that letter.</p> <p>20 And then I'll let you know what I think</p> <p>21 are options for you all; although, I'm taking no --</p> <p>22 I'm taking no position on what I think you should</p> <p>23 do. I just want to outline where I think -- where I</p> <p>24 think we are.</p> <p>25 So I think you might recall that about two</p>	29	<p>1 The Public Education Department, in that</p> <p>2 reorganization, created a series of divisions,</p> <p>3 including the Charter School Division, which,</p> <p>4 obviously, provides you with support. But you were</p> <p>5 constitutionally created.</p> <p>6 You are required, under the Constitution,</p> <p>7 to provide input to the Public Education Department</p> <p>8 and other duties assigned to you by law.</p> <p>9 Those duties under which you're creating</p> <p>10 this rule are under the Charter School Act.</p> <p>11 You are administratively attached, and</p> <p>12 the -- and nowhere -- and you kind of show up</p> <p>13 several times in the law; you know, under the</p> <p>14 Constitution; then under the authorizing</p> <p>15 legislation; and, then again, under the Charter</p> <p>16 School Act as an authorizing entity.</p> <p>17 Nowhere does it expressly provide you with</p> <p>18 rule-making; nor does it expressly indicate that you</p> <p>19 cannot do it. Nor does it expressly say that you</p> <p>20 must do it through the Public Education Department.</p> <p>21 In a line with what Director Chavez just</p> <p>22 read, the Public Education Department -- and</p> <p>23 Mr. Sena could speak to this further, I think -- is</p> <p>24 interested in, I believe, some kind of a process to</p> <p>25 ensure that a rule-making by the Public Education</p>

30	<p>1 Commission is somehow resolved so that you are also 2 working in collaboration with the Public Education 3 Department.</p> <p>4 And I want to say that we've discussed 5 this, as you guys remember. I'm looking up at 6 Commissioner Armijo, because she's the one that 7 asked the question previously. But kind of what is 8 the scope of the kind of rule that you can make? 9 And it's my legal opinion that this one is 10 absolutely squarely smack in the middle of the 11 things that you are asked to do.</p> <p>12 I -- and I think that that may be 13 something that the PED is looking to define. Where 14 is it appropriate for you? Where is it appropriate 15 for them to do the rule-making?</p> <p>16 You know that you often comment on their 17 rules and provide our -- you know, your input to 18 them about -- we just did it a couple of months ago 19 on an issue that I felt pretty strong about, which 20 is concurrent powers with the Secretary of the PEC 21 (verbatim), where we want two agencies, or two 22 entities, to be able to act with different 23 authorities.</p> <p>24 And if you take an extreme on both sides, 25 if -- if it were legally true that only the PED</p>	32	<p>1 discussion, unless you want to know kind of a couple 2 of options I think are available to you. I don't 3 know if that's helpful now or not. I don't want to 4 presuppose any conversation.</p> <p>5 THE CHAIR: Commissioner Gipson. 6 COMMISSIONER GIPSON: So thanks. I just 7 have one question. The public comment that was made 8 yesterday, how do we get access to that? Because 9 it's not --</p> <p>10 MS. JULIA BARNES: It was given orally. 11 The cutoff for the -- for the written comments was 12 the 1st.</p> <p>13 COMMISSIONER GIPSON: Right. 14 MS. JULIA BARNES: And so we should have a 15 Zoom link to the meeting yesterday.</p> <p>16 COMMISSIONER GIPSON: Because I went and 17 looked on our site where you see the other link for 18 the written comment, but there's nothing there to 19 get the -- what was done yesterday.</p> <p>20 MS. JULIA BARNES: The Zoom. 21 DIRECTOR CORINA CHAVEZ: Commissioner, we 22 have a recording of that meeting and that comment 23 made yesterday that we can share. But it is not 24 scripted out.</p> <p>25 COMMISSIONER GIPSON: Can we just get sent</p>
31	<p>1 could make your rules, they could throw this rule 2 out and say, "We like the State of Connecticut's 3 rule. You have to adopt that."</p> <p>4 That would be, to me, an absurd result 5 under the law.</p> <p>6 This is your job. These are your duties. 7 These are your decisions, how you want to move 8 forward.</p> <p>9 On the other hand, to me, an equally kind 10 of extreme example would be that if you decided that 11 all State charters should teach a certain kind of 12 math, and you were going to make a rule on that, 13 well, that's not within your purview anywhere. So 14 that would be an equally kind of not legally 15 supported rule-making.</p> <p>16 But this one, and this process, is so 17 exactly required by you under the charter school law 18 and as a constitutionally created entity, I think 19 it's Nathan Winger's opinion and mine that you can 20 do that. Obviously, there's lawyers that are not 21 agreeing.</p> <p>22 So I just wanted to outline that. And I 23 wanted to remind you that you could either take 24 action today, or you could wait and take action at 25 the next meeting. And I think we should open up for</p>	33	<p>1 that copy of the link so if we want to look at it -- 2 sorry.</p> <p>3 DIRECTOR CORINA CHAVEZ: Absolutely. Do 4 you want me to send it to all the Commissioners 5 right now?</p> <p>6 COMMISSIONER GIPSON: Yeah. Thanks. 7 THE CHAIR: Commissioner Carrillo. 8 COMMISSIONER CARRILLO: I don't want the 9 link. Just play it. I mean, I don't need the link. 10 If you've got the audio --</p> <p>11 COMMISSIONER GIPSON: We have to play 15 12 minutes of --</p> <p>13 COMMISSIONER CARRILLO: The comment was 14 15 minutes?</p> <p>15 COMMISSIONER GIPSON: Well, I know the 16 whole time period was 15. Has it been narrowed down 17 so that we can just play that comment, or we have to 18 play the 15 minutes?</p> <p>19 MS. MISSY BROWN: Commissioners, I have 20 not uploaded it yet to YouTube. I have not edited 21 it down. But I could probably advance it and play 22 just that part.</p> <p>23 COMMISSIONER CARRILLO: That would be 24 great.</p> <p>25 COMMISSIONER GIPSON: So to continue, I</p>

<p style="text-align: right;">34</p> <p>1 appreciate the written comment that was sent because 2 I think it's always important to get another -- get 3 another side. And we don't always have to agree. 4 And, to me, the -- the disagreements often come to a 5 better agreement at some point sometimes. 6 But I also want to say that there was just 7 one legal counsel that offered that opinion, and 8 there's four or five other legal firms that 9 represent charter schools that did not weigh in. So 10 I also take that into consideration. 11 I also do take into consideration that the 12 legal counsel that -- as Ms. Barnes said, the legal 13 counsel that weighed in did file the complaint to 14 the AG's office that we should be doing this through 15 rule-making. 16 So it's, like, "You should be doing this 17 by rule-making," and then, when we do it, they file 18 a comment that says, "You can't do that." 19 So I find that kind of rich. 20 So it's -- you know, I take that into 21 consideration as well. 22 But, you know, I think the process, as 23 outlined, we're not trying to step out of our lane. 24 We understand our lane is authorizing. 25 This is one rule. The anticipation is not</p>	<p style="text-align: right;">36</p> <p>1 we do have the video ready. Do you want to do that 2 before your comments? Is that okay? 3 COMMISSIONER CARRILLO: Oh, okay. Also, 4 the video first -- but David -- I'm sorry -- 5 Commissioner Robbins had his hand up before mine. I 6 don't know if you saw his. 7 THE CHAIR: Oh, I did not. So I had you 8 two flipped. So I'll go Robbins and Carrillo. 9 COMMISSIONER ROBBINS: You can go ahead 10 and do the video first. 11 THE CHAIR: Do the video first? All 12 right. Thank you, Commissioner Robbins. We're 13 going to watch the public comment from yesterday. 14 (Pre-recorded public comment:) 15 THE CHAIR: All right. You're on mute. 16 MR. CHRIS MECHELS: There we go. Okay. 17 Can you hear me now? 18 THE CHAIR: We can hear you perfectly. 19 MR. CHRIS MECHELS: Oh, okay. Fine. 20 THE CHAIR: If you could go ahead and 21 introduce yourself and -- 22 MR. CHRIS MECHELS: Yes. I'm Chris 23 Mechels. I'm a member of the public. Got some 24 concerns this morning. And just as a quick 25 background, as I've been working some of these</p>
<p style="text-align: right;">35</p> <p>1 that we're going to be firing out all these other 2 rules. This rule is to set up the process of how 3 we're going to set up our policies and procedures. 4 And that makes it more transparent, and it's 5 clearer. And any entity can find our policies and 6 procedures in a -- in a much more cogent manner 7 through this process. 8 And we are not looking to exercise any 9 other educational control. This is trying to work 10 cooperatively with PED. So I think, for us, it 11 establishes also a better rhythm for reviewing 12 policies and procedures that we have been trying to 13 get at. And this helps to outline that. So I think 14 it only helps us. 15 And it also helps the Commission going 16 forward when none of us are here. It's not always 17 this, "Remember, we said we wanted to do this?" 18 And going back to records and saying, 19 "Hey, we said we were going to do this, now we're 20 going to do this"; it doesn't matter. 21 It's outlined for each of the 22 Commissioners as they come in. They understand the 23 processes and we stay within that lane. Thanks. 24 THE CHAIR: Thank you. 25 Commissioner Carrillo, if you don't mind,</p>	<p style="text-align: right;">37</p> <p>1 issues with -- with administratively attached 2 agencies with the Law Enforcement Academy Board 3 going back about seven years; so I'm familiar with 4 your format, though. Though that board has even 5 more direct authority to do rule-making than you do. 6 So -- my -- I'm looking at what you're 7 doing here, and I've made some comments. 8 Unfortunately, I couldn't make these comments 9 written, because your rule-making is so odd that I 10 don't think it's decipherable. 11 I think your rule-making is -- especially 12 your Sunshine Portal is very confusing and doesn't 13 comply with the State Rules Act. 14 But a bigger concern is I don't think 15 you've got -- I don't think this rule-making holds 16 up the way you're doing it. As far as I can read 17 it, the only way you can actually make rules with 18 this commission is by going through PED, because 19 you're an administratively attached agency. And 20 when you do that, you've got to follow the PED 21 mandates, part of which you've got to give 30 days' 22 notice in the media. 23 I don't see how you can avoid that. We 24 went around and around with this on the Law 25 Enforcement Academy Board, and they thought they</p>

<p style="text-align: right;">38</p> <p>1 could get away with that, too. And it turned out 2 finally that they couldn't.</p> <p>3 So if you look at what that board is doing 4 right now, they're following the rules of the Public 5 Safety Department, because they are administratively 6 attached to it. I would say they've got a lot more 7 authority to make rules by -- by statute than you 8 do. I can't find that you have any direct authority 9 to make rules.</p> <p>10 I don't see why you can't make this rule 11 going through PED. But if you do that, then you've 12 got to follow the PED, let's say, mandates. And 13 that includes advertising it, which you haven't 14 done.</p> <p>15 So I think really what you need to do is 16 for -- is to sort of back up, cancel your coming 17 here, reschedule it, go through PED. And then I 18 think you arguably are legal, if you do it that way.</p> <p>19 I disagree -- I think Fox -- the Fox 20 letter has some excellent points. I do think, 21 however, that they're missing something, which is 22 that -- is that you do have the authority to make 23 rules if you run through PED.</p> <p>24 So I'll leave you with that. I think you 25 should -- I think your only legal way forward at</p>	<p style="text-align: right;">40</p> <p>1 think the rule-making as you're doing it is 2 completely illegal and invalid. So, anyway, good 3 luck. I hope to see you with a rescheduled meeting.</p> <p>4 THE CHAIR: Thank you so much for 5 attending today and for your time and comments. 6 (Pre-recorded public comment concluded.) 7 THE CHAIR: All right. Commissioner 8 Robbins, before I get to you, if you don't mind, I'm 9 going to just check in and make sure there's nobody 10 on Zoom or additional here for public comment, 11 because we just brought it back up. 12 So, Missy, is there anyone who has 13 informed you that they're here for public comment on 14 the rule? 15 And if you're on Zoom, if you want to 16 raise your hand right now, that would also inform us 17 that you would like to speak right now on the rule. 18 MS. MISSY BROWN: Chair Burt, I don't see 19 anybody with their hand raised, no. 20 THE CHAIR: Okay. Thank you. All right. 21 Commissioner Robbins. 22 COMMISSIONER ROBBINS: Thank you. Well, 23 I'm glad Mr. Mechels' comments were heard. I think 24 he's gravely mistaken. As our counsel has 25 indicated, we do have, in her opinion, the</p>
<p style="text-align: right;">39</p> <p>1 this point is to cancel and reschedule it, in which 2 case I hope to see you all again.</p> <p>3 But another issue that you've got today, 4 which I'll point out to you is you have obligations, 5 direct obligations, to disclose under the Financial 6 Disclosure Act. I can't see where any -- I checked 7 it this morning. I can't see where any of you have 8 done that. Under that Act, if you do not disclose, 9 you have no right to participate in meetings.</p> <p>10 This has changed this year. Your counsel 11 should have advised you of this. They did a 12 rule-making which took effect the end of 2021, which 13 directly puts the responsibility on members of this 14 commission and other such groups to file a 15 disclosure online with the Secretary of State.</p> <p>16 That's new. You should have been made 17 aware of that. And being aware of that, you 18 should -- you must -- you must file those 19 disclosures in the first month of the year.</p> <p>20 None of you, as far as I can tell, have 21 done that. Again, that's something that you could 22 address and clean up -- clean that part of it up 23 before your rescheduled meeting.</p> <p>24 So I'll leave you there. I'm not going to 25 speak to the content of your rule-making because I</p>	<p style="text-align: right;">41</p> <p>1 authority. We are a constitutionally created 2 commission. That's different from a lot of other 3 boards and commissions in this state.</p> <p>4 We were constitutionally created at the 5 same time that the Public Education Department was 6 created. And we are administratively attached 7 financially, because we were not given a separate 8 budget, other than we get the 2 percent. But we 9 don't have other staff. The CSD is our support 10 staff, and that division was constitutionally and 11 statutorily retained within the PED.</p> <p>12 We do have an MOU. While I did not agree 13 with all the content of that MOU, it does provide 14 collaborative relationship with the PED and the PEC.</p> <p>15 Also, there are statutory requirements, 16 specific requirements which I don't believe have 17 been followed 100 percent of the time. Under a 18 previous administration, some schools were 19 threatened to be closed. But statute says the PEC 20 should be consulted by the Secretary before any 21 school is proposed for closing. That was not done, 22 along with other things.</p> <p>23 We're to consult, but we do not -- we do 24 not overrule the PED; nor are we subordinate to the 25 PED. We're to work collaboratively with the PED,</p>

1 which I think the MOU was the -- the intent of the
2 MOU was to kind of lay out the structure for doing
3 that.

4 But I do believe constitutionally and
5 statutorily, we do have the authority to issue a
6 rule, provided that rule does not infringe upon the
7 Constitution or statutory authority of the PED.

8 Thank you.

9 THE CHAIR: Thank you.

10 Commissioner Carrillo.

11 COMMISSIONER CARRILLO: So, Chair Burt and
12 other Commissioners, how come we don't do that here?

13 Like, in other commissions and other legislative
14 bodies, they always address the Chair first, and
15 then other Commissioners? I don't know. I just --

16 COMMISSIONER GIPSON: We always did when
17 it was live.

18 COMMISSIONER CARRILLO: Oh, okay. Chair
19 Burt and Commissioners, no, I like the protocol. I
20 like the formality.

21 Chair Burt, Fellow Commissioners. So
22 what's interesting to me about this, one, the amount
23 of time and money and attorneys going round and
24 round and round, spending tons of money and time.
25 And I don't see anything here really helping kids.

1 And so sometimes that just makes me crazy.
2 It's, like, at the end of the day, what did we just
3 do to make publication better -- public education
4 better for our kids in New Mexico? And it just
5 troubles me sometimes the amount of time we spend on
6 some of this.

7 So when I looked at that, having been
8 said, when I look at the Matthews Fox letter sent by
9 Ms. Matthews -- and if you look at it, if you have
10 it in front of you, there's the section where it
11 says, right after the address portion "Regarding
12 Proposed Rule-Making by the Public Education
13 Commission."

14 So what's interesting to me is that I want
15 to go back to July and August. And to me, when all
16 of this kind of started -- because that's when we,
17 as a Commission, were really looking at policies and
18 procedures. And I remember we had -- it was, like,
19 eight pages of them, and we modified things and went
20 back, and there were blue lines and red lines and
21 all this different stuff that we were making changes
22 to be more efficient, be more transparent, be more
23 accessible, things of that nature.

24 And we had many readings where we changed
25 many things. And then Ms. Barnes came on and gave

1 us, I think, really sage advice on what to do in
2 different areas.

3 That's how this started. It started
4 relative to having our policies and procedures be
5 much more public friendly, you know, on every level.

6 And so this idea of now there having to be
7 a rule -- I mean, I -- and I know that Ms. Matthews
8 has said before, that we're not in compliance with
9 the State Rules Act. But I see us as just making
10 policies and procedures for the internal workings of
11 the Commission and doing so -- our intent is to do
12 so to be as transparent, accessible to the public as
13 possible; I mean, that, to me, being the end goal.

14 And then somehow, this kind of got wrapped
15 up in the State rules process; right?

16 So, to me, it seems like let's just go
17 back and let's just make this simple again, you
18 know, where we have policies and procedures, and we
19 discuss them. And to be in compliance with those
20 elements of the State's Rules Act -- which I
21 believe, when we -- I firmly agree with Ms. Matthews
22 that we'd have something in a work session on
23 Thursday and vote on a Friday -- we really did not
24 give the public any opportunity to really engage
25 with us when we were having different changes in

1 either our internal procedures or maybe the rule
2 procedure, or -- I know with the Performance
3 Framework, there was every opportunity under the sun
4 for people to participate.

5 But I just -- I want this -- this needs to
6 be more simple. And, to me, it's more simple if we
7 just have our rule, if you will; not our own
8 individual rule, but have it be the PED rule that
9 we're following, that essentially is all the
10 different time compliances, postings, and everything
11 else that we need to do whenever we're making any
12 kind of a change.

13 And that just seems perfectly reasonable
14 to me without having to have our own rule, or even
15 debating whether or not we have the ability to do
16 so.

17 And I know that, in December, I think, I
18 supported the idea of us having our own rule-making
19 authority. But as you know, I read some of the
20 information from Ms. Matthews and listened to the
21 gentleman that just spoke. You know, I think I've
22 modified my view on our need for our own rule.

23 And -- and this, in and of itself, this
24 public comment period and our receiving the letters
25 and our receiving the -- seeing the YouTube of the

<p style="text-align: right;">46</p> <p>1 public comment, I just think that underscores that 2 it's working, that we had -- that I, personally, at 3 least, had new information that I could now take in 4 on which to base my decision, and, in this case, 5 kind of changing my position. 6 So I would say that kind of having a 7 collaborative relationship with PED, having our 8 rule-making, if you will, authority flow through PED 9 does not inhibit us in any way. And if there is a 10 way that it inhibits us, I'd like that to be 11 explained to me, like where we now, all of a sudden, 12 we wouldn't be able to do one, two, or three 13 things -- right? -- that I see us being able to do 14 even if we are adhering or attached to the PED rule 15 process. 16 So let's see. I had some notes here. And 17 that's all for now. Thank you. 18 THE CHAIR: All right. Before I come back 19 to a Commissioner, I want to make sure that any 20 other Commissioners who have not yet spoken have the 21 opportunity now. 22 Commissioner Voigt? 23 COMMISSIONER VOIGT: Thank you. You know, 24 I think the -- when we look back to the original 25 intention last fall of how this came about, I think</p>	<p style="text-align: right;">48</p> <p>1 is, because I don't think PED has a process in place 2 for how we would -- if we're making changes, I don't 3 think PED has a rule for how they're going to 4 announce, advertise, put out their rule changes, 5 because they changed their policies and procedures, 6 especially through COVID -- no, this is not 7 disrespectful to them. But they changed literally 8 overnight, so that I don't quite -- I think I need 9 an explanation as to what that procedure would be 10 that we're going to follow of PED and not follow our 11 own, because I don't know what that rule is. 12 COMMISSIONER CARRILLO: I understand 13 complete- -- Chair Burt, Commissioners, no, I 14 understand that completely. And I agree completely 15 with Commissioner Voigt. And this is why we need 16 more time to do better at this particular thing, to 17 vet it more, and, I think, to work collaboratively 18 more. 19 So as I understand it, PED, you're right, 20 doesn't have all of that in place, their rule, if 21 you will. And I would say we work together on what 22 that rule is and so that it can apply in a 23 collaborative way to all of us. 24 Now, the thing -- relative to the COVID, I 25 understand. I mean, PED -- I'm sure the Secretary,</p>
<p style="text-align: right;">47</p> <p>1 it had really great intentions around transparency, 2 collaboration, you know, all of those great working 3 pieces. 4 But the bottom line is it's the people 5 behind it, whether it's going to work or not. You 6 know, whether it can be a rule; it can be a policy, 7 whatever. But unless you have those people behind 8 it to make it happen is really where the 9 construction is. 10 I feel that the way this has evolved, it's 11 become a quagmire, and it seems like we need more 12 time at the table. 13 I think there needs to be more time for 14 discussion, for interpretation, for intentions to 15 come out. And I think it needs more vetting. So I 16 just wanted to say that. 17 THE CHAIR: All right. I do have 18 Commissioner Gipson, then Carrillo. Is there anyone 19 who has not spoken that would like to speak? 20 All right. Commissioner Gipson. 21 COMMISSIONER GIPSON: Mine is really just 22 a question for Commissioner Carrillo, Chair. 23 When you say that we should -- if we -- we 24 should stick with the PED rule-making in terms of 25 the policy schedules, I don't understand what that</p>	<p style="text-align: right;">49</p> <p>1 I'm sure, somewhere in statute has the ability to do 2 whatever they need to do in the case of an 3 emergency -- a public emergency or a public health 4 challenge. And so then they don't have to post 5 anything for even five days; they just need to do 6 what they need to do. 7 But that's my thought on that, that we 8 would work on this rule, if you will, together and 9 with all the different compliance pieces. 10 THE CHAIR: All right. I would like to 11 ask Mr. Sena -- 12 COMMISSIONER GIPSON: May I just do a 13 follow-up? 14 THE CHAIR: I would like to ask Mr. Sena 15 to address that comment regarding PEC procedure. 16 MR. JOHN SENA: Madam Chair, members of 17 the Commission. 18 So I just wanted to clarify. You're right 19 with that. PED does not have its own rule-making 20 rule. But we do have a set of procedures that 21 comply with the State Rules Act and the State rule 22 on rules. 23 And just speaking to COVID specifically, 24 those procedures didn't change during COVID. What 25 did change was the format in which we accepted</p>

50	<p>1 public comment.</p> <p>2 So, normally, for a public hearing, we</p> <p>3 would be in person. Folks would come up just like</p> <p>4 you're having today. That changed during COVID and</p> <p>5 that -- to Zoom. That was literally the only change</p> <p>6 that was made to our -- to our procedure during</p> <p>7 COVID, and that was just to accommodate folks so</p> <p>8 that we could continue to follow that.</p> <p>9 COMMISSIONER GIPSON: Okay. But I don't</p> <p>10 think our comment had to do with -- or at least mine</p> <p>11 didn't have to do with the rule-making procedure.</p> <p>12 But our rule is, basically, "This is how</p> <p>13 we're going to set up our processes. And those</p> <p>14 processes, if we're going to change the renewal</p> <p>15 application, the new application, that, you know,</p> <p>16 we're going to take X amount of time for comment and</p> <p>17 so on," that's not going to be -- when we do the</p> <p>18 review of the renewal application, as an example,</p> <p>19 that's not going to be a new rule. So we're not</p> <p>20 going to do that through the rule-making process.</p> <p>21 So it's more like we're changing a policy,</p> <p>22 not changing a rule.</p> <p>23 So it's different when -- I wasn't</p> <p>24 referring to the rule-making changed; it's the</p> <p>25 procedure of PED for districts to do something, that</p>	52	<p>1 yes, anyone can violate it. You can get a whole new</p> <p>2 Commission that would say, "Oh, we're not going to</p> <p>3 do that."</p> <p>4 But that's on the people to keep us --</p> <p>5 like Mr. -- I don't remember his name -- but that's</p> <p>6 what he does for sport. So God bless him for that.</p> <p>7 But I don't think that saying we're just</p> <p>8 going to go along with what PED does, they don't</p> <p>9 have that procedure in place internally for</p> <p>10 transparency for their policies that we're trying to</p> <p>11 do here.</p> <p>12 COMMISSIONER CARRILLO: May I follow up?</p> <p>13 THE CHAIR: Yes. Commissioner Carrillo.</p> <p>14 COMMISSIONER CARRILLO: Chair Burt,</p> <p>15 Commissioners.</p> <p>16 Completely understand. They don't have a</p> <p>17 rule; we don't have a rule. But I believe we should</p> <p>18 collaboratively come up with a rule that's done</p> <p>19 through PED that's in compliance with the State</p> <p>20 Rules Act. And everything that you're speaking --</p> <p>21 the things that I understand you're speaking of,</p> <p>22 notices, things like that, whether -- if we're</p> <p>23 changing the renewal procedure, if we're changing</p> <p>24 our contract procedure, that we then follow those</p> <p>25 guidelines that are in the State Rules Act, which,</p>
51	<p>1 memo comes out. "We're now going to do X."</p> <p>2 And we're saying, "We're not going to do</p> <p>3 this on Thursday at a work session and Friday, roll</p> <p>4 it out."</p> <p>5 But PED can, for all intents and purposes,</p> <p>6 do that now, because it's not through the</p> <p>7 rule-making; they're just changing a process.</p> <p>8 And we're saying we don't want to do it</p> <p>9 that way. We want to establish it so that there's a</p> <p>10 more thoughtful process that's going out.</p> <p>11 So that's where -- they don't have a rule</p> <p>12 that outlines that for all of their day-to-day</p> <p>13 processes and policies that we're trying to do.</p> <p>14 So there is a -- there is no rule we can</p> <p>15 attach ourselves to that would establish this rhythm</p> <p>16 that we're trying to establish with this.</p> <p>17 I don't have any issue with people want</p> <p>18 more time. But I -- but to say, "I have an issue if</p> <p>19 it's like, well, we're just going to attach to</p> <p>20 this," because there's nothing to attach to and say,</p> <p>21 "We're going to follow the PED rule on how they do</p> <p>22 their policies," because they don't have that.</p> <p>23 And, to me, this helps to solidify the</p> <p>24 process for everyone and make it clearer so everyone</p> <p>25 understands, and that, at some point in time -- and,</p>	53	<p>1 as I understand it, would then be adopted with PED</p> <p>2 coming -- you know, establishing their rule.</p> <p>3 The thing that to me is very confusing</p> <p>4 about this entirely is the way we use the words</p> <p>5 rule, policy, and procedure, and how they often just</p> <p>6 get confused.</p> <p>7 It's like -- so the fact that we meet on</p> <p>8 Thursdays and Fridays, that's not a rule. That's a</p> <p>9 policy of the PEC. Right.</p> <p>10 And if we wanted to change that, which I</p> <p>11 often wonder every Friday morning, like, why the</p> <p>12 heck do we meet Fridays? It's a three-day weekend.</p> <p>13 People want to take a four-day. ¡Hijole! What's</p> <p>14 the story there? So something to look at later.</p> <p>15 But that's not a rule; right?</p> <p>16 But if we wanted to change that, and let's</p> <p>17 just say we wanted to do Wednesday-Thursday, we</p> <p>18 would then have to follow those guidelines in the</p> <p>19 State Rules Act, posting all the times that we need</p> <p>20 to do it.</p> <p>21 I don't know how we would handle the media</p> <p>22 thing, because we're a statewide commission, so that</p> <p>23 would be super challenging in terms of newspapers,</p> <p>24 as you said, Ms. Barnes.</p> <p>25 But that's -- that's where I see we</p>

<p style="text-align: right;">54</p> <p>1 could -- and maybe we can't do it. This is why I'm 2 glad Mr. Sena is here. I think we would -- my 3 impression is we'd still have the freedom to make 4 policies and procedures as we see fit. We would 5 just have to follow the Rules Act relative to 6 guideline -- the public. 7 COMMISSIONER GIPSON: But there is a Rules 8 Act that does -- 9 THE CHAIR: Sorry. I'm going to go ahead 10 and speak now. 11 All right. So this is kind of where I'm 12 coming from. The intent behind it, to me, is 13 amazing. Perfect. Like the intent behind what 14 we're trying to do is to allow transparency and 15 consistency, not just for ourselves, but I think for 16 CSD, and especially for the charter school community 17 and the public. That's what we're trying to do. 18 There's no intention of trying to 19 overstep, of trying to make something -- a mountain 20 out of a molehill as far as what we're intending to 21 do. And I think that's what that -- I think that's 22 what Commissioner is saying, like the end of what 23 we're trying to do is very honorable as a body, and 24 it's something I wholly support. 25 I think the letter that we more recently</p>	<p style="text-align: right;">56</p> <p>1 this formal process and just getting it as an 2 internal procedure that we do to follow this kind of 3 guideline. 4 I do think there's an argument to be made 5 that a rule to do this is more meaningful, that 6 being -- because it formalizes, codifies this 7 procedure for -- not saying it can never be changed. 8 Rules can be changed. But it's a much more in-depth 9 process and a much more transparent process and 10 public process to change a rule than it is to change 11 our Rules of Procedure. 12 Our Rules of Procedure, we change twice a 13 year and can be changed at any time. If we were 14 able to do this through a rule, it just solidifies 15 it a little bit deeper and allows us to keep this -- 16 this idea of what we're trying to do a little bit 17 more solid. 18 That being said, over the last -- I'm so 19 grateful that we did 60 days of public comment, 20 because, you know, it did allow for conversations 21 from public, but also with the PED. 22 And I -- you know, once again, I am in 23 favor of having a collaborative approach on this. 24 If there is an opportunity to partner with the PED 25 on this rule, and if it is as simple as, you know,</p>
<p style="text-align: right;">55</p> <p>1 found out about that was years old from the 2 attorneys for the charter schools that said, "Hey, 3 you guys aren't following the Rules Act," I think 4 wasn't -- it wasn't necessarily meaning that we even 5 needed to make a rule, per se, but that even in our 6 Rules of Procedure, we can -- we have already -- 7 like, the one thing I'll say, we have already in 8 practice already started following this. 9 Whether it's been -- in the NMAC, whether 10 in our Rules of Procedure, we already started 11 following what we, as a Commission, have said we 12 want to do. 13 And so I think that's something -- 14 actually, I talked to Commissioner Gipson about it 15 yesterday. It was very rewarding yesterday to have 16 to have had canceled the work session, and nothing 17 from the work session having affected today; right? 18 I mean, that is exactly the practice of what we're 19 trying to do moving forward. 20 That being said, I also was -- I don't 21 think there's -- I think there's a good argument for 22 having a rule to do this. I do think we can do it 23 in the Rules of Procedure, which is what I kind of 24 think Commissioner Carrillo is talking about, not 25 doing it as a rule at all, like, getting it out of</p>	<p style="text-align: right;">57</p> <p>1 the Secretary cosigning with the Chair, or looking 2 at the process and seeing what did we already do 3 that we can continue, that we can move forward from 4 in -- in collaboration with the Policy Department, 5 with our own counsel, I'm open to that. 6 You know, I'm open to whatever -- to me 7 the means is not as important as the end for this 8 one. 9 So if it -- I honestly am open to it not 10 being a rule at all and just being considered in our 11 Rules of Procedure and really laid out in black and 12 white in our Rules of Procedure that this is kind of 13 the timeline and how we're going to follow things in 14 order to comply with the State Rules Act when we are 15 making updates to our policy and procedure; I'm open 16 to that. 17 I'm also open to looking at working with 18 PED in order to see what have we already done and 19 what can we do in order to cement the partnership in 20 this as well. 21 And as an administratively attached agency 22 what does that look like, which is why, as was said 23 in the statement, I did talk to Secretary Steinhaus 24 about, you know, looking at that MOU again and 25 seeing -- I think when we started with the MOU, we</p>

<p style="text-align: right;">58</p> <p>1 do our due diligence to put as much in there as we 2 can possibly do -- right? -- to try to figure out 3 this relationship and put it in there and try to 4 figure out what could come up in the future. 5 But it's pretty impossible to figure out 6 what could come up in the future. And this is 7 something that came up that wasn't necessarily 8 addressed in the MOU. And so, once again, I think 9 that's an important item that I will be proposing to 10 be on the agenda next month, to really look at -- 11 start going through the MOU as well, and this 12 rule-making and process and relationship being part 13 of that. 14 So I also am in agreement with 15 Commissioner Voigt that I think this needs a little 16 bit more time, some more conversations before we 17 make a decision, because there is new information. 18 And I'm okay with the -- with there being new 19 information and having more discussions on that, 20 very open -- like I said, for me, I would like this 21 process to be cemented somewhere. And where it is 22 and exactly how it is, I'm open to what that best 23 looks like to where we're collaborating with the PED 24 and still doing what we need to do as a PEC with our 25 internal processes that makes sense for us.</p>	<p style="text-align: right;">60</p> <p>1 schools. 2 Yes, a commission later on can change 3 that. But they have to go through a process, 4 because now it's a rule. They'd have to go through 5 a process to change it, and charter schools could 6 comment and things like that. 7 We're not changing -- this rule doesn't 8 really change the way we've operated. It's 9 codifying the way we've operated beyond our internal 10 policies and procedures. 11 It does not prevent us from having the 12 internal discussions and everything like we've had. 13 But I do believe it is a protection for the charter 14 schools, for those students, and for potential 15 charter schools. 16 So I like it. Whether we vote on it today 17 or we defer for a month, I think this Commission has 18 the right and the obligation to do this to protect 19 our charter schools. 20 Thank you. 21 THE CHAIR: All right. Any other 22 discussion right now? 23 Commissioner Carrillo -- oh, sorry. I did 24 have you written down. I didn't call on you, 25 Commissioner Carrillo.</p>
<p style="text-align: right;">59</p> <p>1 So that's -- I think that's where -- you 2 know, we -- I think if we go back to the intention 3 behind it, that's really what we're trying to get to 4 is just cementing this -- this internal kind of 5 timeline, calendar, way of doing business. We want 6 to put it out somewhere; right? Have it in black 7 and white somewhere. 8 So if this isn't the best way to do it -- 9 or maybe this is -- we can do it this way, but 10 should we do it this way, I'm open to that 11 conversation. And I think that merits more time. 12 Commissioner Robbins. 13 COMMISSIONER ROBBINS: Yes. And, you 14 know, I look at this rule, one, I clearly believe 15 the Commission has the authority to do it. PED, 16 from my understanding, submitted no comment, 17 providing any argument against our ability to make 18 the rule, which they could have. 19 And I think it protects the charters. It 20 protects existing State charters, and it protects 21 potential State charters, because it lays out a time 22 frame for certain actions to take place, where, as 23 you said, internally, as an internal procedure, we 24 can change that anytime we want to. This lays out 25 specific time frames as a protection for the charter</p>	<p style="text-align: right;">61</p> <p>1 COMMISSIONER CARRILLO: I didn't know if 2 there was anybody out there with their hands up. I 3 don't think we need to do it right now. You 4 bring -- it's very interesting, Commissioner 5 Robbins. You're right. 6 Why did -- why wasn't there someone from 7 PED offering their legal opinion or comment on this? 8 Or, you know, they still have, you know, an hour and 9 45 minutes to do so. They can come down here and 10 say, "¡Hijole! You can't have your own rule; it's 11 wrong." 12 A friend of mine -- this is totally an 13 aside. We were joking last night in terms of how 14 the person taking the script spells "¡Hijole!." 15 So, anyway, I don't -- I like what 16 Chair Burt said regarding we can do this, but should 17 we? I honestly don't think it's necessary we have 18 our own rule, because I think that as long as 19 we're -- the intent of the Commission is to stay in 20 compliance with the State Rules Act as we do 21 anything with our policies and procedures, we can 22 follow the Act. There's nothing that prevents us 23 from following the Act. 24 And if PED comes up with their own rule, 25 and in some way that rule limits us, then I think</p>

62

1 that -- you know our hair should stand on end,
 2 because I believe that we should have the autonomy
 3 that we enjoy in how -- our relationships with our
 4 charters and how we operate.
 5 But, yeah.
 6 THE CHAIR: Thank you. I'm going to call
 7 on Ms. Barnes for comment.
 8 MS. JULIA BARNES: Just -- it is
 9 confusing. I thought I would just kind of outline a
 10 few things.
 11 The State Rules Act and the purpose of it
 12 is that there be this very extensive process that is
 13 gone through with all the comment and all the
 14 publication to establish a rule.
 15 And then part of it says, "To affect
 16 persons, not members or employees of the issuing
 17 agencies, including affecting persons served by the
 18 agencies."
 19 So what the request previously to the AG,
 20 which was not responded to, the reason this was
 21 brought up by quite a few of the charter school
 22 attorneys, said, "You should do something, because
 23 we are affected by what you do. Charter schools,
 24 statewide charter schools are affected by what you
 25 do."

63

1 And they had a list of things that -- that
 2 they were raising.
 3 And it's a hassle to do a rule. And
 4 Mr. Sena, I think, spends lots of his life doing
 5 rules. And they take time, and they're expensive,
 6 and they are exhaustive. But that's because they
 7 want people who are affected to come forward.
 8 What the process rule tries to do is to be
 9 responsive to what the charter schools said, which
 10 is, "Can we please, as a school, know what we're
 11 going to be bound by on July 1 for that next year,
 12 and that in exceptional circumstances, that's what
 13 we need to know."
 14 And they were finding it difficult when
 15 things changed in the middle of the year, or they
 16 had to pay attention to all the long meetings. And
 17 so it was an attempt to be responsive to them to put
 18 some boundaries or -- around when you all were going
 19 to look at things that affected them, and that you
 20 were going to do it so that even if you took during
 21 the year to get there, on July 1, a State-chartered
 22 head of school, like was here today, could look at
 23 those rules on January -- on July 2nd and know what
 24 they were going to be governed by for a year.
 25 So the -- and I -- I know from the -- I

64

1 just pulled up again this request that was made to
 2 the Attorney General -- and, again, not responded
 3 to. They believe you had to follow the State Rules
 4 Act. And that's what it means is to go through this
 5 whole process that we're going through right now.
 6 So I just wanted to clarify kind of a
 7 confusing thing. And back to what Commissioner
 8 Gipson said, we're doing one rule, and then you will
 9 follow it with all of your procedures.
 10 THE CHAIR: Commissioner Voigt.
 11 COMMISSIONER VOIGT: Thank you,
 12 Madam Chair.
 13 So thank you for that, Julia. And I agree
 14 that all of everything we do should be in support of
 15 our schools and in support of the students. I think
 16 it was Chair Burt who mentioned that this is
 17 codification, or maybe it was Commissioner Robbins.
 18 I really am all for that, that we codify our
 19 procedures and that they are transparent.
 20 And I think to respond to Commissioner
 21 Robbins and Commissioner Carrillo about why PED
 22 didn't come for input, I think is they don't want to
 23 fight.
 24 And this shouldn't have to be that thing,
 25 you know; right? So it's like there's -- they

65

1 should not be put in the middle of this. And
 2 especially the Charter School Division should not be
 3 landed in the middle of this conversation that we
 4 are having.
 5 And that's typically what happens, and
 6 it's very uncomfortable and very unfair.
 7 So I still hold firm that we really need
 8 more time to flush (verbatim) this out.
 9 I agree with the "why" behind it, but I
 10 think it's the "how" that we're looking at right
 11 now. It's the "how." The "why" is there. And it's
 12 justified, and I think it's a good "why." But I
 13 think it's the "how," and, again, it boils down to
 14 the original intentions.
 15 And because this came forward from charter
 16 school attorneys, you know, it's good that we listen
 17 to that. That's it.
 18 THE CHAIR: Commissioner Carrillo.
 19 COMMISSIONER CARRILLO: Chair Burt and
 20 Commissioners, I have a question.
 21 Did we hear -- if there was any public
 22 comment other than this last day's, we would have
 23 heard about it, because I'm surprised we didn't hear
 24 anything from any of the schools in this period of
 25 time, just, you know, weighing in on based --

<p style="text-align: right;">66</p> <p>1 because it affects them; right? And I would have 2 wanted to.</p> <p>3 So maybe we didn't get the word out enough 4 somehow. I don't know how that's possible, because 5 Lord knows, there was a lot of time. But we didn't 6 hear from any schools.</p> <p>7 COMMISSIONER VOIGT: They probably didn't 8 know about it.</p> <p>9 Thank you. I don't -- the school leaders 10 that I know probably don't know about this. I don't 11 know what the school attorneys shared with their 12 schools about this. But I don't know of any school 13 leaders that knew about it.</p> <p>14 THE CHAIR: Before -- before -- one 15 second.</p> <p>16 COMMISSIONER CARRILLO: Maybe we can do 17 something in this next 30 days.</p> <p>18 THE CHAIR: Before we continue, I'm going 19 to have Ms. Barnes -- and then I'll come to you -- 20 talk about that outreach to charter -- getting the 21 word out.</p> <p>22 MS. JULIA BARNES: I'm just going to go 23 back to what's required under the State Rules Act.</p> <p>24 It was sent on December 16th, I think, to 25 every single person who gets notice, which I believe</p>	<p style="text-align: right;">68</p> <p>1 I think I, personally, think that's part of it.</p> <p>2 But schools were notified of this. And I 3 have no doubt about the fact that -- and it went out 4 early, and it went out often, and it's been on our 5 agendas that we've had the comment. So that if you 6 don't -- if you didn't know about it, that's on you 7 that you didn't know about it, plain and simple.</p> <p>8 THE CHAIR: All right. Commissioner 9 Voigt.</p> <p>10 COMMISSIONER VOIGT: Thank you. Thanks a 11 lot.</p> <p>12 Madam Chair, you know, I think -- okay. 13 Let's say schools knew about it.</p> <p>14 Do they have the time to even, you know, 15 reach out to their Commissioner and say, "What is 16 this?"</p> <p>17 That's where they would bring in their 18 attorney, and, hopefully, their attorney would 19 explain it to them since it did originate from their 20 representa- -- their counselors; right?</p> <p>21 Schools -- I'm telling you, as a former 22 charter leader, I'm not going to come and speak in 23 public comment about something that is ambiguously 24 laying out there that is not even flushed (verbatim) 25 out and the details not written -- I mean, it's not</p>
<p style="text-align: right;">67</p> <p>1 to be every charter school leader and, I know, the 2 lawyers. And it's been posted.</p> <p>3 So -- and, frankly, it's been discussed at 4 many of our meetings. So I want to say that the way 5 that you reach out is first established in the State 6 Rules Act. And you absolutely met that requirement. 7 And then whether they take it up or bring it to you 8 is up to them.</p> <p>9 But to say they didn't know about it, I 10 guess I'm going to pretty much push back against 11 that, because every single way that we're required 12 to do it has been followed. So...</p> <p>13 THE CHAIR: Commissioner Gipson.</p> <p>14 COMMISSIONER GIPSON: And I'm going to say 15 Beverly has an 800-and-some-odd list, so that the 16 notion that people didn't know about this and that 17 charter leaders -- I think I'm going to strongly 18 disagree with that, because that list goes out to 19 everyone.</p> <p>20 And I'm also going to say that's each and 21 every one of our job to keep our own schools 22 notified of what's going on as well.</p> <p>23 So that that's part of the discussion 24 that -- and I'm not going to tell Commissioners how 25 they should do their job. But, you know, that's --</p>	<p style="text-align: right;">69</p> <p>1 going to happen. That's why school leaders didn't 2 come to the table or for public comment, you know. 3 That's -- it's irrelevant at that point when it's 4 just an ideology that's laying somewhere out in the 5 universe. You know, that's not a priority for 6 school leaders.</p> <p>7 THE CHAIR: Commissioner Robbins.</p> <p>8 COMMISSIONER ROBBINS: You know, my 9 experience over the last couple of decades with 10 legislation and things like that, if something is 11 controversial, you'll have public comment both pro 12 and con. When something is not controversial and 13 something is proposed and there's not really, you 14 know, a lot of people in opposition, you're not 15 going to have people who are in favor of it taking 16 the time if you don't have an organized opposition 17 to something.</p> <p>18 So the people who were opposed to this 19 would have -- given 60 days, they would have said 20 something. The fact that they didn't tacitly says, 21 "Okay, fine. It's good for me," because, you know, 22 if I don't have -- you know, talking with a 23 legislator, there were a lot of e-mails I sent to 24 legislators, because there were certain bills that 25 were before the Legislature that I had an opinion</p>

70

1 on. I didn't like some bills, and I said, "Don't
 2 let this go forward," or, "Please vote against
 3 this."
 4 The ones where there was general
 5 approval -- I mean, you know, we had bills in the
 6 Legislature where -- that were passed with
 7 unanimous -- I don't know that they received a lot
 8 of public comment saying, "Please don't do that."
 9 You know, "Please" -- so we have to understand,
 10 after 60 days, opportunity was given, even for the
 11 Attorney General to say, you know -- I don't know --
 12 "I think you guys need to take a step back."
 13 That's all they had to say. And they
 14 didn't. PED didn't have to say, "We are vehemently
 15 opposed," and they're going to create this big rift.
 16 They just said, "Could we talk about this?"
 17 That didn't happen, either.
 18 So I think we have to take silence -- you
 19 know, this Commission can take silence as approval,
 20 because there -- we have one attorney that opposed.
 21 We have one other gadfly that said, you know, he
 22 doesn't think we have the authority.
 23 But, again, he addressed rule-making. He
 24 didn't address the fact that we are a
 25 constitutionally established commission,

71

1 administratively attached only for that financial
 2 and the support of what we need for the charter
 3 schools.
 4 You know, we have to understand. We are
 5 not part of PED. The Constitution specifically set
 6 us apart. And while I don't want to have a conflict
 7 unnecessarily, I'm all for fighting the battles
 8 where I have strong opinions.
 9 You guys have heard me before. Where I
 10 have strong views, I'll state them. And I go to the
 11 mat on those things. And I -- sometimes I lose on a
 12 9-to-1 vote. Okay. Fine.
 13 But, you know, I think if there was a lot
 14 of opposition, we would have heard something
 15 somewhere, other than one person who's dealing with
 16 something on a procedural issue, which even the
 17 Attorney General didn't address. Thank you.
 18 THE CHAIR: All right. I'm going to
 19 Commissioner Carrillo, and then we're going to hold
 20 off on this item and then move forward, because we
 21 are going to come back to it. I think we're getting
 22 kind of in a circular motion now.
 23 So we're going to move on after
 24 Commissioner Carrillo's.
 25 COMMISSIONER CARRILLO: Thank you, Chair

72

1 Burt and the Commissioners.
 2 I never meant to imply we didn't get the
 3 word out appropriately. I know we did everything
 4 imaginable, and we're always in compliance, and I
 5 think we do great at that as a Commission.
 6 I would agree with Commissioner Robbins
 7 that -- you know -- and it -- it's not about kids.
 8 And the head learners at these schools, it's not
 9 affecting their kids directly, really. And so why
 10 should they, right, as it's an idea, as Commissioner
 11 Voigt said -- or would you like to be -- Vice
 12 Chair -- said.
 13 So I just wanted to kind of clarify that,
 14 and, that no one here speaks that; no one is adamant
 15 one way or another about this.
 16 So -- and I definitely don't want to have
 17 conflict with PED. I want us to collaborate. Like
 18 the idea of maybe using the next 30 days to see what
 19 we want to do together and then come back and vote.
 20 THE CHAIR: All right. Thank you,
 21 Commissioners.
 22 Thank you, Mr. Sena, for being here and
 23 available. And we will be coming back to this item
 24 later today.
 25 COMMISSIONER CARRILLO: I have a

73

1 procedural question. If somebody pops in to chat
 2 and stuff like that, do we stop what we're doing
 3 because it's that three-hour period?
 4 THE CHAIR: Yes.
 5 COMMISSIONER CARRILLO: Okay. Thank you.
 6 THE CHAIR: So right now, after each
 7 agenda item, I'm going to be pausing and asking if
 8 anyone is here to speak.
 9 So we are in between an agenda item. So,
 10 Missy, is there anyone signed up to speak right now
 11 about the rule comment?
 12 MS. MISSY BROWN: No, Chair.
 13 THE CHAIR: All right. So we're going to
 14 be moving on to Item No. 8, which is Discussion and
 15 Possible Action on The GREAT Academy, the Corrective
 16 Action Plan Update.
 17 Director Chavez.
 18 DIRECTOR CORINA CHAVEZ: Commissioners, in
 19 your folder, I have uploaded the most recent
 20 additions to The GREAT Academy Corrective Action
 21 Plan. And there were not a lot of documents
 22 submitted this month. But, notably, there was some
 23 information that they provided on student
 24 assessments. And because there's no comparative
 25 data, it's hard to make many comments about it.

74	<p>1 The other thing I'd like to note is that</p> <p>2 carryover from last meeting. I did not yet have the</p> <p>3 list of foundation board members. But they have</p> <p>4 provided a current list of foundation board members.</p> <p>5 So they are not here today. I did hear</p> <p>6 from Keisha Matthews to let me know that she's under</p> <p>7 the weather and not here today. And that's the</p> <p>8 report.</p> <p>9 THE CHAIR: Commissioner Gipson.</p> <p>10 COMMISSIONER GIPSON: Can I just ask a</p> <p>11 question? Do we know how -- 'cause we usually --</p> <p>12 sometimes there's a budget update. And I know</p> <p>13 there's no budget issues. But how many staff --</p> <p>14 instructional staff do they have on budget? Do you</p> <p>15 know?</p> <p>16 DIRECTOR CORINA CHAVEZ: If you give me a</p> <p>17 little time to do that investigation, I can</p> <p>18 definitely let you know.</p> <p>19 COMMISSIONER GIPSON: Thanks. Thanks.</p> <p>20 Thanks.</p> <p>21 THE CHAIR: All right. Any other</p> <p>22 discussion from Commissioners?</p> <p>23 Commissioner Carrillo.</p> <p>24 COMMISSIONER CARRILLO: Is there any word</p> <p>25 or any indication on when the District Court is</p>	76	<p>1 THE CHAIR: Sorry, Commissioner Robbins.</p> <p>2 I was getting information from Ms. Barnes, so I</p> <p>3 apologize.</p> <p>4 COMMISSIONER ROBBINS: It's there. And</p> <p>5 you can go to it.</p> <p>6 MS. JULIA BARNES: That's fine,</p> <p>7 Commissioner. Thank you.</p> <p>8 COMMISSIONER ROBBINS: No. It says the</p> <p>9 school is not on track to complete the board</p> <p>10 training by February, which was required.</p> <p>11 MS. JULIA BARNES: Okay.</p> <p>12 COMMISSIONER ROBBINS: That was part of</p> <p>13 their Corrective Action Plan, to complete that.</p> <p>14 Unless the three members with zero hours this year</p> <p>15 register and complete that training that is offered</p> <p>16 this month and next. The other two members have 5</p> <p>17 and 7 hours, which, again, they're on track so long</p> <p>18 as they keep up with that.</p> <p>19 But the fact that three members have zero</p> <p>20 hours, they're going to take an awful lot of --</p> <p>21 dedicate a lot of time to complete that. And this</p> <p>22 is a requirement, that there was a CSD review</p> <p>23 performed this week, and they are not on track.</p> <p>24 So that, I think, warrants a Letter of</p> <p>25 Concern to the board saying, "If this is not</p>
75	<p>1 going to stop with the bonbons and watching Oprah</p> <p>2 and give us a decision?</p> <p>3 THE CHAIR: I'm sorry. So we will be</p> <p>4 addressing that later in the meeting today, as</p> <p>5 that's not a part of this agenda item. So I'll be</p> <p>6 talking about that later.</p> <p>7 Thank you for the question.</p> <p>8 COMMISSIONER CARRILLO: Thank you.</p> <p>9 THE CHAIR: Any other discussion on the</p> <p>10 Corrective Action Plan on The GREAT Academy?</p> <p>11 Commissioner Robbins.</p> <p>12 COMMISSIONER ROBBINS: I would like to</p> <p>13 point out one thing, where three of their five board</p> <p>14 members have not completed any training. That is a</p> <p>15 great concern, because that basically puts them in</p> <p>16 non-compliance. And, you know, if they don't</p> <p>17 complete it in time, you know, the indication on the</p> <p>18 spreadsheet was --</p> <p>19 THE CHAIR: I'm sorry, Commissioner</p> <p>20 Robbins. This isn't a part of the agenda, and so</p> <p>21 we're going to need to -- that is not a part of the</p> <p>22 Corrective Action Plan.</p> <p>23 COMMISSIONER ROBBINS: It is. I have</p> <p>24 the -- I have the spreadsheet in front of me for the</p> <p>25 Corrective Action Plan.</p>	77	<p>1 completed, your board could be out of compliance,</p> <p>2 and you're not allowed to act as a board," which</p> <p>3 would then put the school out of compliance.</p> <p>4 So that is a concern, and I think we need</p> <p>5 to take consideration of that. And, you know,</p> <p>6 again, we keep coming back to this, coming back to</p> <p>7 this, it seems like every meeting. And it's like</p> <p>8 we're -- we inch forward. Instead of actually</p> <p>9 taking steps forward, we're inching forward. You</p> <p>10 know, a sloth moves very slowly. You know, I think</p> <p>11 a sloth moves faster than this.</p> <p>12 And so we need to try to get something</p> <p>13 underneath them to indicate that, you know, this is</p> <p>14 important. It is something that the Commission</p> <p>15 wanted addressed. And it's not just a perfunctory</p> <p>16 requirement. It's statutorily required also.</p> <p>17 Thank you.</p> <p>18 THE CHAIR: Commissioner Gipson.</p> <p>19 COMMISSIONER GIPSON: So I guess -- and I</p> <p>20 agree wholeheartedly. But I guess my question is</p> <p>21 how -- how often has it been enforced, that a school</p> <p>22 is out of compliance with their board training that</p> <p>23 they haven't been able to operate?</p> <p>24 DIRECTOR CORINA CHAVEZ: If I may answer</p> <p>25 your first question, Commissioner, the -- The GREAT</p>

<p style="text-align: right;">78</p> <p>1 Academy has three instructional staff with Mr. and 2 Mrs. Matthews also providing some classroom work. 3 We're running a S.T.A.R.S. report if you want more 4 details on the percentage FTE. I think it might be 5 able to provide that information. 6 And so -- okay. I'm getting some 7 discrepancy. Another staff person has reported that 8 there's 12 staff. So I retract what I just said 9 until we can actually verify. 10 So back to the question on the board 11 training, charter boards actually have until the end 12 of July to complete all of the -- excuse me -- end 13 of June -- to complete all of the board training. 14 And so we often -- we gauge and we provide 15 information to the schools about how on track their 16 board members are towards completing the training. 17 We also offer all the hours that a board 18 member might need on a monthly basis. So a board 19 member actually could complete all of the training 20 in one month if they attended the sessions which are 21 offered at various times of the day. If they had a 22 job that prevented them from attending, for example, 23 the financial hour, they might not be able to 24 complete it that day. 25 This board also obtained some hours from</p>	<p style="text-align: right;">80</p> <p>1 report back to you more specific data if we know 2 exactly what you're interested in hearing more 3 about. 4 THE CHAIR: Commissioner Robbins. 5 COMMISSIONER ROBBINS: If -- just to 6 follow up. I'm not asking for a letter of breach or 7 a letter of revocation. This would be the first 8 step. And that's in our -- our hierarchy, if they 9 have not -- and the indication from CSD is it looks 10 like there's three members who may -- may -- not. 11 To me that's a concern. I think it warrants a 12 Letter of Concern, not a Letter of Breach or a 13 Letter of Revocation. It's a Letter of Concern, 14 just saying, "We're aware that these board members 15 haven't done any hours. You have four months to 16 complete them. Please get those done. Otherwise, 17 this -- this commission will take action." 18 You know. And it doesn't even have to 19 have that secondary thing in there. It can just 20 say, "Please take the necessary training that's 21 required, and that's part of your Corrective Action 22 Plan." 23 That's why I asked for a Letter of 24 Concern, not more. 25 And, you know, whether it's coming just</p>
<p style="text-align: right;">79</p> <p>1 Public Charter Schools New Mexico, and we recognize 2 their training. 3 The CAP did specify how many of the board 4 members we expected to have training from our staff, 5 and that was not met exactly. It was not met 100 6 percent. 7 And to respond to your question, 8 Commissioner Gipson, I think that board training is 9 an area that we really closely monitor and that 10 schools sometimes do not meet for various reasons. 11 Some boards are really diligent. And some 12 have already completed all their training for the 13 school year. 14 When a school has board members that join 15 midyear, they still have to complete all the hours. 16 No matter whether the board member joined in July or 17 if they joined in March, they still have to complete 18 the same number of hours. And if a board member 19 leaves in December with only partial hours, then we 20 don't consider that being met. 21 So that's a complex question. And one of 22 the topics that, in my report I will talk about, is 23 board membership, board membership training. I know 24 that it's an area of concern. It's an area we put a 25 lot of time and attention to. And I think we could</p>	<p style="text-align: right;">81</p> <p>1 from CSD -- but if CSD makes them aware and 2 everything, and they haven't done anything up to 3 this point, I think the Commission should take a 4 little bit more firmer stance by issuing a Letter of 5 Concern. Thank you. 6 THE CHAIR: Commissioner Carrillo. 7 COMMISSIONER GIPSON: And -- 8 THE CHAIR: Commissioner Carrillo. Then 9 Commissioner Gipson. 10 COMMISSIONER GIPSON: Oh. Sorry. Sorry. 11 COMMISSIONER CARRILLO: I would just 12 second what Commissioner Robbins said. This school 13 has given me cause for grave concern over this year 14 and several months. And the fact that they're not 15 in compliance on this and not moving toward it is, 16 to me, another indication that -- I don't know. I 17 just feel like they're always thumbing their nose at 18 us and their responsibilities. So I would support 19 the idea of a Letter of Concern. 20 THE CHAIR: Commissioner Gipson. 21 COMMISSIONER GIPSON: So I guess my 22 question is -- and I think Missy can best answer 23 this, or maybe the Director, I don't know which. 24 But schools are -- correct me if I'm wrong. Schools 25 are regularly apprised of -- or at least -- of where</p>

82	<p>1 they stand in terms of their governing council</p> <p>2 members and their hours of training.</p> <p>3 Because I know I've seen it in minutes of</p> <p>4 schools, you know. "We've got three that are still,</p> <p>5 you know, short," and so on. So that that</p> <p>6 notification comes on a fairly regular basis;</p> <p>7 correct?</p> <p>8 DIRECTOR CORINA CHAVEZ: So, Chair Gipson,</p> <p>9 absolutely not, just that we are -- I knew I was</p> <p>10 going to do that. I apologize.</p> <p>11 COMMISSIONER GIPSON: I'm going to change</p> <p>12 my name just to "Chair."</p> <p>13 DIRECTOR CORINA CHAVEZ: Commissioner</p> <p>14 Gipson, I will ask Missy Brown to describe.</p> <p>15 But I will say that they have access to</p> <p>16 that information at real time at any time.</p> <p>17 MS. MISSY BROWN: That is correct. This</p> <p>18 year for the first time, they have access to every</p> <p>19 single one -- every single board member has access</p> <p>20 to their school's tracker. The head administrator</p> <p>21 has access to their school's training tracker.</p> <p>22 So in years past, we did send out monthly</p> <p>23 e-mails saying this: "You're not close. You're not</p> <p>24 close."</p> <p>25 This year, we're going to do it more</p>	84	<p>1 DIRECTOR CORINA CHAVEZ: No, I'm not</p> <p>2 looking at the database. But we will get that</p> <p>3 information. Give me one moment.</p> <p>4 COMMISSIONER VOIGT: In the meantime,</p> <p>5 then, I would support a Letter of Concern based on</p> <p>6 the governing board training and the fact that</p> <p>7 they're not here to provide any update around that.</p> <p>8 THE CHAIR: All right. I would like to</p> <p>9 ask, if there hasn't been a motion made, is there a</p> <p>10 motion?</p> <p>11 COMMISSIONER ROBBINS: I'll make the</p> <p>12 motion.</p> <p>13 THE CHAIR: Commissioner Robbins.</p> <p>14 COMMISSIONER ROBBINS: Madam Chair, I move</p> <p>15 that the Public Education Commission issue a Letter</p> <p>16 of Concern to The GREAT Academy regarding the</p> <p>17 compliance with the Corrective Action Plan on board</p> <p>18 training for all of their board members,</p> <p>19 specifically reminding them that the Corrective</p> <p>20 Action Plan said three of five board members would</p> <p>21 complete 100 percent of the training by February 1st</p> <p>22 and 100 percent of the board members would complete</p> <p>23 training by June 30th of 2022.</p> <p>24 Thank you.</p> <p>25 COMMISSIONER VOIGT: I'll second that.</p>
83	<p>1 quarterly, because last year, we didn't have very</p> <p>2 good results.</p> <p>3 COMMISSIONER GIPSON: Okay. So the onus</p> <p>4 is on the school to get on their tracker. And if</p> <p>5 the school isn't -- if someone at the school isn't</p> <p>6 doing it -- or the individual --</p> <p>7 DIRECTOR CORINA CHAVEZ: So what I heard</p> <p>8 Ms. Brown say is that they have access at any time</p> <p>9 to check on their own. However, we are sending</p> <p>10 notifications on a quarterly basis to remind the</p> <p>11 schools their on-track status.</p> <p>12 And if I may, I do have a report out from</p> <p>13 S.T.A.R.S. on staff at The GREAT Academy. And there</p> <p>14 are three full-time teachers. There are two --</p> <p>15 three educational assistants. And there's a social</p> <p>16 worker, administrative business support,</p> <p>17 administrator/teacher, related service personnel,</p> <p>18 administrative clerk, dean of students, and</p> <p>19 attendance coach on staff.</p> <p>20 COMMISSIONER GIPSON: Thank you.</p> <p>21 THE CHAIR: Commissioner Voigt.</p> <p>22 COMMISSIONER VOIGT: Thank you. I just</p> <p>23 have a question for the Director. What is their</p> <p>24 current enrollment right now, since you have that</p> <p>25 up?</p>	85	<p>1 THE CHAIR: All right. There is a motion</p> <p>2 by Commissioner Robbins and a second by Commissioner</p> <p>3 Voigt.</p> <p>4 Any discussion on the motion?</p> <p>5 Commissioner Gipson.</p> <p>6 COMMISSIONER GIPSON: I'm just going to</p> <p>7 say, for me, I understand the reason for the motion.</p> <p>8 But the onus is on the school to do what they're</p> <p>9 supposed to do. And this, to me, is just another</p> <p>10 piece of hand-holding to, "Look, you didn't do</p> <p>11 this."</p> <p>12 They know they have to do this. It's part</p> <p>13 of the Corrective Action Plan. They've got the</p> <p>14 tracker.</p> <p>15 You know, at the end of the day, it's what</p> <p>16 happens in June with the expiration of the contract,</p> <p>17 plain and simple. And I don't think this is going</p> <p>18 to lead to anything additional to them, for them. I</p> <p>19 think it's just -- I think it's just one more burden</p> <p>20 on us to keep track of and for the school to answer.</p> <p>21 And I think it's going to be an</p> <p>22 unsuccessful answer. So I don't support the motion</p> <p>23 simply because I don't think it's necessary at this</p> <p>24 point in time.</p> <p>25 DIRECTOR CORINA CHAVEZ: Commissioners, if</p>

86	<p>1 I may, I am getting text messages from the head 2 administrator at the school. And would you like for 3 me --</p> <p>4 COMMISSIONER CARRILLO: Excuse me. I'm 5 sorry. Procedurally, I don't think that we can -- 6 if he wants to get on Zoom, as I think he has a 7 responsibility to do so, he can have his comments 8 heard. But texting is not going to be in compliance 9 with OMA.</p> <p>10 THE CHAIR: So I also -- they cannot make 11 any comments because there is a motion.</p> <p>12 Director, if you have an update on the 13 enrollment number, I think that's the only comment 14 we can hear right now.</p> <p>15 COMMISSIONER ROBBINS: I had my hand up.</p> <p>16 THE CHAIR: Commissioner Carrillo.</p> <p>17 COMMISSIONER CARRILLO: Chair Burt -- 18 Chair Burt and Commissioners, while I understand 19 completely Commissioner Gipson's opinion on this and 20 how it may not do anything, I think it's just 21 necessary to have it as part of the record, to have 22 it as a step that we've taken so that if other 23 actions that are more severe have to be taken in the 24 future, we're on record of having done this first. 25 And that's why I think it's super</p>	88	<p>1 that you agreed to, that's a concern." 2 I want it documented, and I think that's 3 the proper way to document it, rather than just it 4 coming from CSD. Thank you.</p> <p>5 THE CHAIR: All right. Any other 6 discussion on the motion? 7 I'm sorry, Corina. I can't. 8 I will say I also am in agreement. I 9 think it is -- I definitely see our intervention 10 ladder as a ladder of support as well. I know it 11 can be seen as punitive, but I think it also can be 12 seen as support.</p> <p>13 And so I do believe that this -- it is the 14 proper way to do it. I am encouraged by the 15 notification that CSD has been able to provide 16 multiple times. The fact that they have real-time 17 data on this makes it to where it's a very open, 18 accessible item.</p> <p>19 And so I am in support of issuing a Letter 20 of Concern and allowing them the opportunity to 21 correct it. I mean, this is -- it is a part of the 22 CAP that they have agreed to. And so I think it's 23 an important step moving forward to bring it to -- 24 to bring it to their attention, allow them to have 25 the response, and, hopefully, prior- -- have their</p>
87	<p>1 important that we -- and I stand in support of this, 2 absolutely. And I'm really kind of concerned that 3 given that this is on the agenda and Albuquerque is 4 only 55 minutes away, could somebody not have 5 attended?</p> <p>6 DIRECTOR CORINA CHAVEZ: So I will 7 interrupt. Mr. Matthews is here. He is in 8 attendance now on Zoom. So I don't know if you want 9 to promote him -- okay.</p> <p>10 COMMISSIONER ROBBINS: Madam Chair? 11 THE CHAIR: Commissioner Robbins. 12 COMMISSIONER ROBBINS: As Commissioner 13 Carrillo said, this helps to go into the record. 14 We've had actions taken against charters 15 by this Commission in the past where they've gone to 16 court. And because they weren't given -- or the 17 Court ruled that they weren't given proper notice or 18 accommodations weren't made, that they basically 19 ruled in favor of the schools. 20 This is giving them notice, saying, "Hey, 21 the Commission is aware. We're making you aware. 22 The fact that your head administrator doesn't go 23 in..." -- or maybe they have gone in and looked at 24 the tracker. "But the fact that you have not 25 complied with what is in the Corrective Action Plan</p>	89	<p>1 governing board prioritize these trainings and still 2 move forward, and not be in -- out of compliance 3 moving forward in the future.</p> <p>4 Any other discussion? 5 (No response.) 6 THE CHAIR: All right. Commissioner 7 Armijo, could you please take roll for a vote? 8 COMMISSIONER ARMIJO: Yes. 9 Commissioner Carrillo. 10 COMMISSIONER CARRILLO: Yes. 11 COMMISSIONER ARMIJO: Commissioner Chavez. 12 COMMISSIONER CHAVEZ: Yes. 13 COMMISSIONER ARMIJO: Commissioner Gipson. 14 COMMISSIONER GIPSON: Yes. 15 COMMISSIONER ARMIJO: Commissioner Manis. 16 COMMISSIONER MANIS: Yes. 17 COMMISSIONER ARMIJO: Commissioner 18 Robbins. 19 COMMISSIONER ROBBINS: Yes. 20 COMMISSIONER ARMIJO: Commissioner Voigt. 21 COMMISSIONER VOIGT: Yes. 22 COMMISSIONER ARMIJO: Commissioner Armijo, 23 "yes." 24 Commissioner -- Chair Burt. 25 THE CHAIR: Yes.</p>

90	<p>1 COMMISSIONER ARMIJO: So the motion 2 carries -- the motion is approved. 3 THE CHAIR: All right. So the Letter of 4 Concern will be issued. 5 We're back on the agenda item, if we have 6 any other discussion on the agenda item. 7 COMMISSIONER ROBBINS: Could we, either 8 not now, but within the next few minutes, take a 9 short five-minute break. 10 THE CHAIR: After this agenda item, we 11 will be taking a short break. 12 COMMISSIONER ROBBINS: Thank you. Thank 13 you. 14 THE CHAIR: Any other discussion on this 15 agenda item? 16 (No response.) 17 THE CHAIR: All right. Is there anybody 18 for public comment? 19 MS. MISSY BROWN: No. 20 THE CHAIR: Okay. No. So seeing that -- 21 COMMISSIONER CARRILLO: Is it just me? Or 22 is it, like, super cold in here? 23 COMMISSIONER GIPSON: It's you. 24 COMMISSIONER CARRILLO: Okay. 25 THE CHAIR: All right. We're going to</p>	92	<p>1 has happened as a reminder and moving forward what 2 we're doing today. 3 MS. JULIA BARNES: So I just -- I'm 4 looking at the contract for Cesar Chavez and the 5 intervention ladder and kind of telling you where I 6 think we are. And Dan Hill and I have had a couple 7 of conversations, and I think we're understanding 8 the process in the same way. 9 The PEC had the school on the last agenda, 10 but not on the agenda for Notice of Breach. Last 11 meeting, there was a motion indicating that the -- 12 the violations of law were serious enough to justify 13 a heightened initial response to put Notice of 14 Breach on this agenda. 15 The school received a letter with the -- 16 with the items outlined in the motion. And this has 17 been noticed for them to be able to respond and -- 18 and for the PEC to take action on a Notice of 19 Breach. 20 So the school is here first to provide 21 their response and will provide their full response. 22 And then the Commission can take -- I believe can 23 take action to indicate that the Commission is 24 satisfied with the response, or can take action 25 regarding the Notice of Breach either at this</p>
91	<p>1 take a ten-minute break, and we'll be back at three 2 till 11:00. 3 COMMISSIONER GIPSON: Three till 11:00. 4 (Recess taken, 10:48 a.m. to 11:00 a.m.) 5 THE CHAIR: All right. We are moving to 6 Item No. 9, Response by Cesar Chavez Community to 7 Notice of Breach of Contract, Discussion and 8 Possible Action on Notice of Breach of Contract. 9 If we could start by having counsel inform 10 Missy who needs to be moved into the panel. 11 MR. DAN HILL: Madam Chair, members of the 12 Commission. Missy, I believe we have Tani Arness, 13 the executive director of the school, and then two 14 others who are waiting to be moved in. 15 MS. MISSY BROWN: So I've moved Tani. Who 16 else am I moving? 17 MR. DAN HILL: I think it's Nathan is the 18 second. 19 DIRECTOR CORINA CHAVEZ: And Anacelie 20 Verde-Claro. 21 MR. DAN HILL: And Anacelie, the board 22 chair. 23 THE CHAIR: All right. Thank you. 24 All right. We're going to start this 25 agenda item by Ms. Barnes giving an update on what</p>	93	<p>1 meeting or at a following meeting. 2 Counsel, are you -- is that consistent -- 3 I'm going to say one more thing. 4 Once a Notice of Breach -- I'm just going 5 to read from it. Once a Notice of Breach is issued, 6 schools are required to submit a Corrective Action 7 Plan for financial or organizational performance or 8 an improvement plan for academic performance -- so I 9 think at this point, you would be looking at an 10 improvement plan for academic performance, since 11 those were the concerns -- that details the actions 12 and timelines that the school will implement to 13 correct the breach. 14 PEC-authorized representatives will 15 monitor the school's implementation of the 16 Corrective Action and Improvement Plans and 17 regularly update PEC on the progress. 18 Once the school has met the Notice of 19 Breach requirements, they will be returned to good 20 standing. 21 Repeated notices of concern or breach may 22 lead to increased oversight, including annual site 23 visits or regular phone calls to discuss key 24 performance indicators. 25 THE CHAIR: Thank you, Ms. Barnes. All</p>

<p style="text-align: right;">94</p> <p>1 right. I'm going to now turn over --</p> <p>2 COMMISSIONER CARRILLO: Madam Chair, I</p> <p>3 have a question for Ms. Barnes before -- if that's</p> <p>4 okay.</p> <p>5 THE CHAIR: Yes. Commissioner Carrillo.</p> <p>6 COMMISSIONER CARRILLO: Madam Chair,</p> <p>7 guests. So, Ms. Barnes, are you suggesting that</p> <p>8 because breach, in and of itself, was not on the</p> <p>9 January agenda, we were not in compliance by taking</p> <p>10 that action?</p> <p>11 MS. JULIA BARNES: I think it was.</p> <p>12 COMMISSIONER CARRILLO: Because the way</p> <p>13 I'm looking at that --</p> <p>14 MS. JULIA BARNES: The way I took that was</p> <p>15 that they were to be given an opportunity at this</p> <p>16 meeting to respond.</p> <p>17 COMMISSIONER CARRILLO: Got it. Thank</p> <p>18 you.</p> <p>19 THE CHAIR: All right. Thank you.</p> <p>20 All right. If you all would like to</p> <p>21 present your response.</p> <p>22 MR. DAN HILL: Madam Chair, members of the</p> <p>23 Commission, one, thank you for having us here, and</p> <p>24 it's nice to see the folks who are in person and the</p> <p>25 folks on Zoom.</p>	<p style="text-align: right;">96</p> <p>1 having to do with academics.</p> <p>2 It's limited to the four items that are in</p> <p>3 the Notice of Breach. So, respectfully, I would</p> <p>4 disagree that this automatically implies a</p> <p>5 Corrective Action Plan is triggered.</p> <p>6 But with that being said and out of the</p> <p>7 way, I do want to focus on what we're here for</p> <p>8 today.</p> <p>9 We're here to provide the school's</p> <p>10 response to the Notice of Breach. The Notice of</p> <p>11 Breach is very limited, and we're only going to be</p> <p>12 directed at the Notice of Breach.</p> <p>13 At the last hearing, having read the</p> <p>14 transcript, there was very spirited discussion about</p> <p>15 perhaps the merits of virtual instruction, about how</p> <p>16 the school was implementing virtual instruction.</p> <p>17 None of that is on the table today. What the PEC</p> <p>18 chose to put in its Notice of Breach is what we're</p> <p>19 responding to.</p> <p>20 I also want to be very clear that we're</p> <p>21 not talking about what's going to happen at this</p> <p>22 school next year today. We're not talking about</p> <p>23 future plans for the school.</p> <p>24 And I also want to be very clear we're</p> <p>25 limiting in our response the fact that the school's</p>
<p style="text-align: right;">95</p> <p>1 I just want to make an initial note before</p> <p>2 we get into our response.</p> <p>3 THE CHAIR: Can you first introduce</p> <p>4 yourself, please?</p> <p>5 MR. DAN HILL: Apologize.</p> <p>6 THE CHAIR: That's okay.</p> <p>7 MR. DAN HILL: So I'm Dan Hill, counsel</p> <p>8 for the school. And I'm joined by Daniel Ivey-Soto,</p> <p>9 who's my law partner.</p> <p>10 We also have members of the school on</p> <p>11 Zoom. We have the board chair, Anacelie</p> <p>12 Verde-Claro. We have Nathan Everett and Tani</p> <p>13 Arness, who are also administrators at the school.</p> <p>14 So apologies for jumping past the</p> <p>15 introduction.</p> <p>16 I do want to address one thing that was</p> <p>17 just mentioned by Ms. Barnes.</p> <p>18 The Notice of Breach that was provided to</p> <p>19 the school and we're here to talk about today is not</p> <p>20 based on academic indicators of the school. It's --</p> <p>21 the allegations in the Notice of Breach do not</p> <p>22 specify that the school is not following the</p> <p>23 mission, that there's been any failure to support</p> <p>24 the students, that there's a failure to support the</p> <p>25 mission-specific goals of the school or anything</p>	<p style="text-align: right;">97</p> <p>1 choices for how it's providing instruction this year</p> <p>2 are in response to the COVID-19 pandemic, and we're</p> <p>3 not going into sort of other considerations that in</p> <p>4 the future might inform how the school chooses to</p> <p>5 operate.</p> <p>6 I also want to reiterate there hasn't been</p> <p>7 any allegation by the PEC Commission or a finding by</p> <p>8 the Commission, or a finding that the school is not</p> <p>9 following its mission. There's not been any finding</p> <p>10 by the Commission that the school is not meeting the</p> <p>11 needs of its students.</p> <p>12 The -- really, the findings are only</p> <p>13 limited to those in the letter, the Notice of</p> <p>14 Breach. And that's what we're going to be limited</p> <p>15 to do today.</p> <p>16 I also want to be very clear that the</p> <p>17 school feels strongly they need to clarify some of</p> <p>18 the things that were presented at the last hearing.</p> <p>19 I think, unfortunately, there was -- and some of</p> <p>20 this was by virtue of procedure -- the school was</p> <p>21 not able to respond to certain comments after the</p> <p>22 motion was made. And so I think it's important that</p> <p>23 the school is able to clarify and expand upon some</p> <p>24 of the presentation that was made.</p> <p>25 The school remains primarily in remote</p>

<p style="text-align: right;">98</p> <p>1 instruction. I think we're not disputing that. 2 We're not going to tell you something different. 3 What was unclear at the last meeting, and 4 I think is important for us to clarify today, is 5 that there are in-person educational services and 6 instruction being provided by the school. 7 Now, the school is doing it in a way that 8 they feel is safe and responsive to the COVID-19 9 pandemic. For this school, that means those 10 services are being provided at the school site, but 11 outdoors with social distancing and other protective 12 measures in place. 13 But we want to be very clear about that. 14 This school is not a virtual school, where there is 15 no in-person component or no ability for students to 16 receive instruction or academic -- or educational 17 services in person. And those are being provided. 18 Now, the school building itself has been 19 used as a resource center for the community 20 throughout the pandemic and remains open. There are 21 staff at the building daily. 22 Now, it's a rotating staff. It may not be 23 the entire staff of the school. But there are staff 24 present. 25 Student needs have been met in person</p>	<p style="text-align: right;">100</p> <p>1 And I also want to be very transparent and 2 clear about this. This school has been upfront 3 about its intentions throughout the pandemic. The 4 school was forced to go remote like every other 5 school in the state. It wasn't their choice. They 6 were doing their thing, rolling along, thinking they 7 were doing the best they could for students in 8 person, and the State forced them to close and then 9 to go to remote instruction. 10 The guidance and policy directives from 11 the State have changed over the course of the 12 pandemic greatly. Initially, schools were not 13 allowed to be in person and were told specifically 14 they could not be in person. 15 Then there were parameters in place for 16 how schools could transition to in-person 17 instruction. Now we're in a state where it's really 18 left up to local decision-making as to the decision 19 as to whether to go to remote instruction. 20 This school, though, has been very 21 transparent throughout the pandemic that when the 22 shift to remote instruction occurred, their 23 governing council and school community made the 24 decision to analyze, on a semester-by-semester 25 basis, whether it was appropriate to return to</p>
<p style="text-align: right;">99</p> <p>1 throughout the pandemic, as I said, in a way that 2 the school views as a COVID-safe practice. 3 Some of those include registration, 4 provision of materials, a school lunch; so student 5 nutrition needs are being met in person at the 6 school, which is very important given the mission of 7 the school. 8 In addition, there's been direct 9 instruction that happens at the school, including 10 tutoring, technology instruction, as well as 11 assessments that are being done in person. 12 Essentially, if something needs to be done 13 in person, the school is doing it in person to the 14 extent it can do so safely. 15 I think we're not trying to hide the ball, 16 though. We want to be very transparent. Those 17 things that are happening in person, the school has 18 made a decision as to what they believe the 19 acceptable risk is. And they have deemed that it's 20 most acceptable for them to do those outdoors; so 21 not in a classroom. And they are limited in nature. 22 We're not going to dispute with you that the primary 23 mode of instruction has been virtual for the school. 24 So with that out of the way, I think I 25 want to -- for this school year.</p>	<p style="text-align: right;">101</p> <p>1 in-person instruction. 2 Obviously, that's based on the risk 3 factors of the COVID-19 pandemic, that the school 4 and its community are uniquely placed to assess for 5 their own risk. 6 But also the school has a desire, based on 7 the students and population it serves, to avoid 8 unnecessary chaos and transitions. And so this 9 school, I think rightly so and in somewhat of a 10 prescient manner, has said, "If we think we're going 11 to have to go from in-person to remote instruction, 12 we view that as very disruptive to our population," 13 very difficult, frankly, for the school community to 14 execute with any sort of fidelity or in a meaningful 15 way, and that they would rather err on the side of 16 sticking to one mode of instruction for that 17 semester. 18 Again, this -- this Commission has 19 recognized that this school serves a very vulnerable 20 population of at-risk students. The mission of the 21 school highlights the need for flexibility and to 22 meet those students where they are. And the school, 23 in its wisdom, decided that the possibility of 24 having to switch abruptly from in-person instruction 25 to remote instruction would be very detrimental to</p>

<p style="text-align: right;">102</p> <p>1 their community and desires to avoid that.</p> <p>2 And so I understand that there might be</p> <p>3 some who say, "Well, it's not that hard. You just</p> <p>4 say, 'Hey, we're going to be remote next week and</p> <p>5 then we'll tell you when we're back in person.'"</p> <p>6 This school has made the determination</p> <p>7 that, for their community, that's not feasible.</p> <p>8 They need predictability. They need flexibility in</p> <p>9 their scheduling and to understand when -- when and</p> <p>10 where they need to be.</p> <p>11 And so the desire was to avoid this sort</p> <p>12 of back-and-forth. I think, you know, obviously,</p> <p>13 over the past couple of months with the Omicron</p> <p>14 Variant, we've seen a number of schools</p> <p>15 transitioning from in-person instruction to remote.</p> <p>16 I can say, personally, my children's</p> <p>17 school has done that. And the school has done their</p> <p>18 best job to make that transition. But it's far from</p> <p>19 seamless. And it's understandable why this school</p> <p>20 might make a different consideration.</p> <p>21 So with that being said, I want to shift</p> <p>22 to the four points in the Notice of Breach and</p> <p>23 address each individually.</p> <p>24 The first item in the Notice of Breach --</p> <p>25 and I'm going to just read it into the record</p>	<p style="text-align: right;">104</p> <p>1 The -- the Notice of Breach itself refers</p> <p>2 to this memorandum as a directive of the Public</p> <p>3 Education Department.</p> <p>4 I would argue at best the memorandum is</p> <p>5 administrative guidance from the Department. The</p> <p>6 memorandum itself does not cite any law or statute</p> <p>7 or regulation that gives the PED the authority to</p> <p>8 make that pronouncement.</p> <p>9 And so just as an initial matter, the</p> <p>10 school cannot be in violation of Section 8X of the</p> <p>11 contract by failing to follow this memorandum,</p> <p>12 because it is not a statute; it's not a regulation</p> <p>13 or a rule.</p> <p>14 And I think it's important to be very</p> <p>15 clear about what rules and regulations are.</p> <p>16 Statutes, I think it's obvious. We all</p> <p>17 understand what a statute is.</p> <p>18 In New Mexico, we refer to regulations as</p> <p>19 rule. Most places in this country refer to them as</p> <p>20 regulations.</p> <p>21 Rules and regulations are not memorandums</p> <p>22 that are signed by a secretary of education. As you</p> <p>23 guys talked about this morning, we have a State</p> <p>24 Rules Act, has a very clear process for which</p> <p>25 regulations can be promulgated.</p>
<p style="text-align: right;">103</p> <p>1 directly.</p> <p>2 "Failure to follow directives of the</p> <p>3 Public Education Commission regarding instruction</p> <p>4 during COVID, as shown in the January 4th, 2020</p> <p>5 (verbatim), memorandum provided to all</p> <p>6 superintendents and charter school directors"</p> <p>7 parentheses "Document 8.8.A, PED Memo on Remote</p> <p>8 Instruction, and attached" parentheses, "as required</p> <p>9 by Section 8X of the contract."</p> <p>10 As an initial matter I want to focus you</p> <p>11 on what is actually said in Section 8X of the</p> <p>12 contract. I quote again:</p> <p>13 "The school shall comply with applicable</p> <p>14 federal, state, and local rules, regulations, and</p> <p>15 statutes related to public education unless the</p> <p>16 school is specifically exempted from provision of</p> <p>17 law."</p> <p>18 As an initial matter -- and I know you</p> <p>19 spent a lot of the morning talking about rules and</p> <p>20 what rules are -- the January 4th, 2022, memorandum,</p> <p>21 which is the only basis that the PEC contends the</p> <p>22 school is in violation of Section 8X of the</p> <p>23 contract, is not a federal, state, or local rule.</p> <p>24 It is not a regulation, and it's certainly not a</p> <p>25 statute.</p>	<p style="text-align: right;">105</p> <p>1 The State Rules Act give- -- under the</p> <p>2 State Rules Act, only certain bodies have the</p> <p>3 authority to promulgate rules, and that authority</p> <p>4 has to come from statute. They have to have the</p> <p>5 authority to actually make those rules. I think</p> <p>6 that's a very important distinction here.</p> <p>7 The memorandum that was provided, the</p> <p>8 January 4th memorandum, is not a regulation or a</p> <p>9 rule. It was not subject to the same notice and</p> <p>10 comments requirements of the State Rules Act. And I</p> <p>11 would submit to you the PED would not have the</p> <p>12 authority to promulgate such a rule if it chose to.</p> <p>13 But setting aside that issue, when you</p> <p>14 actually read the memorandum itself, it's clear to</p> <p>15 me that the memorandum doesn't set forth any sort of</p> <p>16 actionable standard that the PEC could act on.</p> <p>17 If you look at the memorandum, the</p> <p>18 decision to transition to remote instruction is</p> <p>19 vested in the local authority. It is not vested in</p> <p>20 the PEC; it is not vested in PED.</p> <p>21 The memorandum itself states that the</p> <p>22 transition to remote instruction is to be made on an</p> <p>23 individual basis for each school. It doesn't set</p> <p>24 forth a mechanism for how those localities are to</p> <p>25 make that determination.</p>

<p style="text-align: right;">106</p> <p>1 And in practice, no one in this state has 2 been scrutinizing how those local authorities are 3 making the decision to either stay in in-person 4 instruction or move to remote instruction. 5 Previous public health orders, of which 6 this memorandum is not, have set forth very clear 7 parameters for returning to in-person instruction 8 that were based on things like caseloads, positivity 9 rates in the community. 10 This memorandum is silent on any sort of 11 parameter. It doesn't give any sort of direction as 12 to how a school should decide to stay in person or 13 go remote. And that's because the authority is 14 given to the Local Educational Agency, not to any 15 sort of oversight body. 16 Similarly, there's no direction in this 17 memorandum as to how long a school or district can 18 stay remote and the conditions for which -- which 19 must be in place for the school to stay remote. 20 Again, the memorandum leaves that all up to the 21 Local Education Agency's discretion. 22 There -- and I just -- I want to be very 23 clear about this. I understand that the Commission 24 may disagree about the reasoning that the school has 25 employed in going to remote. The PEC may have a</p>	<p style="text-align: right;">108</p> <p>1 schools that are virtual all along. The Commission 2 has -- has authorized virtual schools. There are 3 thousands of students in the state who attend school 4 virtually. It's undisputed that that's within the 5 law. It's undisputed that they can do so. 6 The January 4th memorandum, while on face 7 says the PED thinks in-person instruction is best, 8 and you should endeavor to do so as much as possible 9 is silent as to those schools that are virtual. 10 In addition, this Commission authorizes a 11 number of schools who have offered, during the 12 COVID-19 pandemic, a remote-only option for their 13 students. I can tell you the schools that I 14 represent who have remote-only options tell me that 15 they are -- they all have wait lists for that 16 option. 17 But this memorandum is silent as to those 18 schools with remote-only options. It's patently 19 unfair that the Commission would say, "Well, this 20 school should be forced to be in person, but the 21 other schools have the option to have a completely 22 remote program for certain students." 23 And I think it's also important to point 24 out, none of those schools have had their choices 25 scrutinized in the same manner that this school is.</p>
<p style="text-align: right;">107</p> <p>1 different assessment of the risk of the COVID-19 2 pandemic to this school and may disagree about 3 whether or not the school is right in its 4 determination that it's not safe to be in person. 5 It's not the PEC's place to substitute its 6 judgment for that of the school. The school is the 7 only body that is well placed to understand the 8 needs of its community, of which have been -- the 9 community's input has been sought throughout and 10 has -- as documented in the previous meeting, the 11 school has made great efforts to ensure that the 12 voice of its community is heard in this process. 13 It is not the Commission's role to 14 substitute its judgment for that of the school. And 15 nowhere in this January 4th memorandum does the 16 discretion to make that decision fall to anyone 17 other than the school. 18 I would argue, in addition to the 19 memorandum not providing a basis for the PEC to 20 disagree or trump, in effect, the school's 21 determination, the way that the PEC is attempting to 22 enforce this memorandum -- which, again, we dispute 23 is even something that can be enforced -- is 24 arbitrary and capricious. 25 One, this memorandum is silent to the</p>	<p style="text-align: right;">109</p> <p>1 Schools that have chosen to have 2 remote-only options have faced -- have not faced 3 similar pushback or been told that they're in 4 violation of this memorandum, in violation of their 5 contract. 6 Similarly, the virtual schools that this 7 Commission authorizes have not been told, in light 8 of this January 4th memorandum, that they must go 9 back to in-person instruction. 10 And so I would argue that this is an 11 arbitrary and capricious interpretation, both of the 12 contract language, which is similar to all of the 13 contracts that the Commission has with charter 14 schools, to single out this school and say they must 15 go back to in-person because of this memorandum 16 while not looking at those other schools. 17 In addition, this Commission authorizes a 18 number of schools who have been on remote 19 instruction for lengthy periods of time, even as 20 recently as now. I am aware of schools that are -- 21 that have been in remote instruction for two months. 22 There are schools who have decided that 23 it's not safe to be in person and have taken a month 24 of remote instruction. What is evident is the 25 January 4th memorandum provides no parameters for</p>

<p style="text-align: right;">110</p> <p>1 the Commission or PED to dispute those schools' 2 determinations. It's up to the local wisdom of 3 those schools as to what's right for their 4 community. 5 This school has determined that they need 6 to be remote for the entire semester. Other schools 7 have decided one week is sufficient. Other schools 8 have decided a month or two months. There is no 9 reasonable basis for the PEC to make a distinction 10 and say, "Well, this school is wrong in its 11 determination, but those others who have been out 12 for two months, they're fine; they don't need any 13 sort of amendment; they're not in violation of their 14 contract." 15 Moving on to the second point of the 16 Notice of Breach. And, again, I'm going to read it 17 into the record. 18 "Failure to provide instruction at the 19 school site pursuant to Section 11 of the contract." 20 I'm going to read Section 11 of the 21 contract, at least in part. 22 "The school shall provide educational 23 services, including the delivery of instruction, at 24 the following locations" And then the address to 25 the school is given.</p>	<p style="text-align: right;">112</p> <p>1 specifically lists that community service, service 2 learning, work experience, and/or experiential 3 learning will be offered to Cesar Chavez Community 4 School students. Those necessarily happen off 5 campus. 6 So the contention somehow that Section -- 7 paragraph 11 -- or Section 11 -- I believe it's 8 actually -- I believe it's actually a typo in the 9 notice, but I think we all know what we're talking 10 about. 11 But the section about sites, the 12 contention that it includes any off-campus 13 instruction, is inconsistent with the contract 14 itself. 15 The Commission could have, in its 16 contract, said, "Well, we recognize that you're 17 going to do work, community service, other forms of 18 learning; but those can only be 20 percent of the 19 instructional time of the students." 20 They haven't -- you haven't done so here. 21 The contract could state, "All students 22 must be present on campus at least four days a 23 week." 24 The contract doesn't so state. 25 There is a myriad of different ways where</p>
<p style="text-align: right;">111</p> <p>1 Educational services, including 2 instruction, are still being provided at the school 3 site. I will agree with you that the primary mode 4 of instruction is remote. Those services that are 5 being provided in person are limited, but they're 6 still being provided. 7 There is a dispute about what this 8 contract means. And while not part of our response, 9 the school has provided the Commission with a Notice 10 of Dispute, pursuant to Section 6, paragraph 12 of 11 the contract. 12 The Commission contends that this section 13 of the contract would preclude the school from using 14 remote instruction or would require that the school 15 only provide in-person instruction. That's not what 16 the contract says. 17 The PEC easily could have negotiated a 18 contract that set forth parameters for percentages 19 of in-person versus not in-person instruction. And 20 I do want to point out that the contract itself 21 contemplates that this school will provide 22 instruction and educational services outside of the 23 school site. 24 The comprehensive educational program of 25 the school, as set forth in the contract,</p>	<p style="text-align: right;">113</p> <p>1 the PEC could put in conditions on how instruction 2 was to be delivered and the mode, and they're not 3 present here. 4 Really, the only piece of the contract 5 that the Commission relies on to say that remote 6 instruction is prohibited is this paragraph that is 7 really meant to just list where the school site is. 8 In addition, this language that's being 9 referenced is in virtually every contract the PEC 10 has. Now, I will agree with you that for those 11 schools that are exclusively virtual, there is a 12 change to this section that it says will be 13 delivered virtually. But, again, this school is not 14 a 100 percent virtual school. 15 For other schools with similar language, 16 they are providing virtual instruction. Some of 17 those schools have remote-only options. 18 In the notice of dispute, we reference 19 Southwest Secondary Learning Center. That school 20 has a -- it uses a virtual platform for virtually 21 all of its instruction. Our understanding is 22 students at that school show up when they please, 23 and that many of them are very infrequently in 24 person at all. 25 They have the same contract language as</p>

<p style="text-align: right;">114</p> <p>1 this contract. The PEC is treating this school much 2 differently than they're treating those schools. 3 In addition, there are some contracts the 4 Commission has entered into that have stronger 5 language than this section. Roots & Wings has 6 language that says, "The school shall provide 7 educational services, including the delivery of 8 instruction, only at..." -- and then listing the 9 site of the school. 10 I will, though, note that Roots & Wings is 11 an expedition-based school, and it's in the contract 12 that the students -- just as an aside, seems like an 13 amazingly cool opportunity -- those students go on 14 expeditions as part of their -- as part of the 15 delivery of instruction and educational services. 16 Clearly, this section of the contract 17 cannot mean that schools can only provide 18 instruction in person at the site. 19 And the interpretation by the PEC that 20 this school is in violation of this contract, when 21 looking at those other schools who are facing no 22 scrutiny, is arbitrary and capricious. 23 I also just want to reiterate. There are 24 sections of the contract that are specifically 25 entitled "Operation."</p>	<p style="text-align: right;">116</p> <p>1 The school still has fidelity to its mission and 2 it's still fulfilling that mission. 3 And so I just want to address that, as 4 it's not as though the school is changing its 5 identity. It's still doing those things that it's 6 laid out in its mission. And I would argue it's 7 doing them very well and even better than it has in 8 the past. 9 So the contract itself does not -- you 10 know, the plain language of the contract does not 11 preclude the school from utilizing virtual or remote 12 learning. The -- at best, the contract says that 13 the school must do some instruction and provide some 14 educational services at the school site, which the 15 school is doing. 16 There's no threshold for what that some 17 amount is. The Commission essentially could have 18 put in the contract a number or a metric, a 19 percentage, number of hours, number of days, and has 20 chosen not to do so. 21 The third point -- or Notice of Breach -- 22 and I will read into the record. 23 "Possible fiscal violation regarding the 24 acceptance of funds for the building as an 25 educational facility if the facility is not used as</p>
<p style="text-align: right;">115</p> <p>1 We've already talked about the sections of 2 the contract that list the -- the mission of the 3 school and the academic -- the academic procedure -- 4 the academic program of the school or the 5 comprehensive educational program of the school. 6 Those are the logical places where the 7 Commission would insert language to limit the modes 8 of instruction of the school. They haven't done -- 9 you haven't done so here. 10 I also want to address a point that was 11 made at the previous hearing about a hypothetical 12 situation. And I think it's instructive to remind 13 the Commission, no one is alleging that the school 14 is failing to follow its mission. There has been 15 speculation of, well, what if a school was an 16 arts-based school, and they decided, well, arts 17 isn't where it is anymore; let's go and become a 18 math-based school. 19 That school would clearly be violating and 20 changing the mission -- its mission. This school is 21 not. 22 The school is in a very difficult setting 23 trying to make the best decisions in the interest of 24 its students and their safety and has changed the 25 mode of instruction, not the mission of the school.</p>	<p style="text-align: right;">117</p> <p>1 such." 2 Now, I want to point out a distinction 3 with this -- this third Notice of Breach. 4 The previous two items were affirmative 5 alleging the school is in violation and citing what 6 the school is in violation of. 7 This is speculative. The Commission is 8 essentially saying, "We think maybe the school might 9 be in violation of something." 10 What that something is is not clearly 11 defined. 12 The burden is on the Commission to 13 establish and to present what the alleged breach is, 14 not for the school to guess and make a determination 15 thereof. 16 That being -- you know, that being put 17 aside, this school's position is that it's not in 18 violation of any sort of fiscal requirement related 19 to the use of its building. There are still 20 educational activities occurring at the building. 21 And, in addition, there's been no 22 authority that has determined that this is improper. 23 The school is audited annually. The audits -- 24 there's been no indication from an audit that 25 there's been a violation here. There's been no</p>

<p style="text-align: right;">118</p> <p>1 indication from any body, be it PSFA, Public School 2 Capital Outlay Council, or the PED, that the school 3 is in violation of fiscal requirements here. 4 You know, as we've said, the school site 5 is still being used for educational purposes and 6 instruction. And, again, the school reiterates 7 there are other schools that have paused in-person 8 instruction due to the COVID-19 pandemic, and 9 they're not facing the same scrutiny from the PED -- 10 or from the PEC -- excuse me -- and being alleged to 11 be in violation of these amorphous fiscal 12 requirements. 13 Schools that have transitioned to lengthy 14 remote instruction, you're not calling them up and 15 saying, "You've been out for two months; you need 16 to -- you need to tell us why you're not in 17 violation of these -- these fiscal issues by 18 receiving lease reimbursement." 19 The last point of the last Notice of 20 Breach item, "Failure to provide an amendment to 21 these sections, as required in Section 6, 22 paragraph 2, and violating the contract by 23 implementing the amendment without approved -- an 24 approved amendment." 25 The school contends that no amendment is</p>	<p style="text-align: right;">120</p> <p>1 due to the COVID-19 pandemic and is a temporary mode 2 of remote instruction. It is limited to this 3 semester. 4 And, again, we're here in response to this 5 Notice of Breach. We're not here to discuss the 6 future plans of the school. The school has not made 7 a determination as to how it will provide 8 instruction going forward in the future after this 9 semester. 10 Perhaps an amendment would be appropriate 11 if the school determines to permanently move to 12 virtual instruction, but that determination has not 13 been made at this time. 14 So the school contends that, one, it does 15 not need an amendment, and so it's not in violation 16 of the contract by failing to request an amendment. 17 The school would also contend that the 18 Commission's application of this provision to the 19 school is arbitrary and capricious, given the other 20 schools that have been able to operate without the 21 Commission contending they need such an amendment, 22 including both schools that have gone to temporary 23 remote instruction and schools that are utilizing a 24 remote-only approach for some of their students. 25 And as such, there's no amendment required.</p>
<p style="text-align: right;">119</p> <p>1 required here. 2 One, as we've already discussed, the 3 school does not believe it's in violation of the 4 contract. And a violation of the contract, it seems 5 to be the position of the PEC, is that that 6 violation of the contract or supposed violation of 7 the contract could be avoided through an amendment. 8 In other words, it seems as though the 9 Commission's position is that should you amend the 10 site section of the contract to say something 11 specifically about virtual instruction, there would 12 not be a problem here. 13 The school's position is that it doesn't 14 need to make that amendment because the contract 15 doesn't preclude it from providing virtual 16 instruction. 17 Similarly, the school notes, as we've 18 previously discussed, that there are a number of 19 other schools that this Commission authorizes that 20 have gone to extended remote learning, and no such 21 requirement to request an amendment has been made to 22 those schools. 23 Again, this school's determination to go 24 to remote instruction is based on its determination 25 that it's not safe to provide in-person instruction</p>	<p style="text-align: right;">121</p> <p>1 To the extent the Commission contends that 2 the contract preclude the school from utilizing 3 virtual instruction, the school's position is that 4 actually the Commission would be the body in need of 5 an amendment to the contract to make that preclusion 6 explicit. 7 And so with that response, the school -- 8 one, the school believes it's fully responded to the 9 Notice of Breach and has explained its reasons for 10 why it believes it's not in violation of the 11 contract. 12 The school would ask of the Commission 13 that it find that it is not in breach of the 14 contract and that the school be allowed to continue 15 to serve the needs of its students. 16 THE CHAIR: Thank you. All right. So now 17 I will open up for discussion by Commissioners. 18 All right. Commissioner Gipson. 19 COMMISSIONER GIPSON: So thanks for that. 20 And welcome, everyone. 21 So -- and I -- and I appreciate this. And 22 I think, to me, there were two separate issues. 23 I get this year. I have no issue with a 24 school, whenever, however they felt that they needed 25 to be remote. I get that. You know, that's clearly</p>

<p style="text-align: right;">122</p> <p>1 not, for me, when we had the discussion last time. 2 To me, that's not -- that's not the problem, that -- 3 you know, you had to do what you had to do, and I 4 get that guidance changed all the time, and what 5 memo are we paying attention to right now. I get 6 all that. And that schools clearly had the 7 authority and should make the decision for what's 8 best for their students. 9 There was a concern that there was a -- 10 there was a drop in enrollment. So we know across 11 the state there was drops in enrollment. And there 12 were concerns about where did those students go. 13 So -- but that's not the issue. To me, 14 when the school came before us last time and said, 15 "And going in the future, we're going to be remote. 16 We're not going back," I heard -- excuse me. I 17 heard, "We're never going back live." 18 That, to me, was where my hackles went up. 19 I'll fully admit that, that that's not -- that's not 20 what that school applied to be. And for me, there's 21 a big distinction between off-campus experiential 22 whatever it is and remote learning. There is a 23 sharp distinction, because those off-campus learning 24 experiences are -- very often, there's staff there; 25 there's -- there's interaction; it's live; it is not</p>	<p style="text-align: right;">124</p> <p>1 with any decision, then I think the Commission 2 simply needs to say, "Okay, there is no breach." 3 And let's -- you know, hopefully, the 4 school's going to make the right decision going 5 forward. 6 MR. IVEY-SOTO: And Madam Chair, 7 Commissioner Gipson. The school has made a decision 8 for the semester. And it was in that context that 9 they were -- that they were responding back. 10 And -- and I understand, having looked at 11 the -- at the transcript, how it might have been 12 interpreted as a permanent decision. 13 The school has not made a permanent 14 decision. The school has made a pandemic decision 15 on a semester basis. 16 COMMISSIONER GIPSON: And thanks for that. 17 THE CHAIR: Commissioner Robbins. 18 COMMISSIONER ROBBINS: Well, I appreciate 19 what counsel has shared. And I think this school, 20 at a minimum, had an obligation to present a plan to 21 the Commission that it was going to stay hybrid -- 22 or not hybrid -- stay virtual. And although it's 23 providing some services, most schools, including 24 charter schools, have gone back at least to a 25 hybrid.</p>
<p style="text-align: right;">123</p> <p>1 remote. 2 So there's a sharp distinction in my mind 3 between what is off-campus learning and what's 4 remote learning. 5 But, like I said, to me, the -- it was the 6 going forward. And that's where -- you know, you're 7 getting a per MEM lease reimbursement next year. 8 There is going to be no audit finding for this year, 9 because everyone; but -- so that the audit findings 10 or concerns about budget or from PSFA wouldn't come 11 up until next school year, when there was going to 12 be the full remote. That's when the concern would 13 be. 14 If I'm hearing now that the school has not 15 made that determination -- they said last time they 16 made that determination. But if I'm hearing now the 17 school -- the school has not made that 18 determination, then as far as I'm concerned, the 19 breach -- we should just simply say, you know, there 20 is no breach at this point in time, because this 21 year is this year, and every school had every right 22 to be as remote, as in person as they wanted to be, 23 needed to be, not a want-to-be. And they made those 24 educationally sound decisions. 25 And if the school isn't moving forward</p>	<p style="text-align: right;">125</p> <p>1 You talked about several schools are 2 virtual schools. They were chartered as virtual 3 schools. They had curriculum; they had the 4 technology that was specific so they could track 5 student participation virtually. You know, their 6 computers were on. They could check keystrokes, 7 make sure someone is there and things like that. 8 A school that -- you know, what I've 9 heard, talking with many schools and things, they 10 went remote. But they didn't know, because many 11 teachers weren't even -- when they were doing Zooms, 12 they weren't requiring their students to have the 13 camera on. They didn't even know if the students 14 were there. That, to me, is a concern. But that -- 15 for the district schools, that's a PED concern. 16 But for the charter schools, the State 17 charters, that's a PEC concern, that if they don't 18 have the mechanism to ensure attendance, and if they 19 didn't provide a mechanism to ensure attendance, 20 then that's a breach, not only of the contract, but 21 also of PED requirements for attendance and things 22 like that. 23 So I understand. The pandemic created 24 situations. 25 The Governor, yesterday, thankfully,</p>

<p style="text-align: right;">126</p> <p>1 removed a mask mandate. And you're saying that the 2 school made the decision a month ago, month and a 3 half ago, to remain virtual all semester, even 4 though now this mask mandate has been removed. "But 5 we're staying virtual." 6 Now, I'm on the PSCOC, you know. They 7 haven't come to a determination -- and I know, 8 during the pandemic, there was the allowance for 9 paying for the leases for school facilities when 10 they weren't being used as intended for leases. 11 But when a school has the opportunity to 12 use space that they're paying a lease on for in 13 person, and they choose not to, under the lease 14 agreements and under lease reimbursements, that room 15 is no longer being used as education space, and, as 16 such, would not be -- again, this is an 17 interpretation -- may not be eligible. 18 So let's say the school -- and I don't 19 know. I didn't look at Cesar Chavez Community 20 School. But let's say that that school was 21 serving -- 80 percent of their space was considered 22 education and allowed administration space. But now 23 they're not using any of the education space except 24 limited. 25 And they also look at it from the</p>	<p style="text-align: right;">128</p> <p>1 make the decision that they were not going to allow 2 that was not really serving that community fully. 3 They were looking at a pandemic issue, but they 4 weren't looking at other secondary or tertiary 5 issues that they probably should have. 6 You know, again, I'm mixed in terms of my 7 feelings right now if they are in breach, because, 8 as you said, some activities have taken place at the 9 school site, you know. Maybe physical education, 10 things like that, they're using. 11 So perhaps they're not in full breach. 12 But I would urge the school to better communicate 13 and that if they wanted to stay -- go to a virtual 14 format after this school year, that their contract 15 should be amended, that they should identify 16 appropriate mechanisms for attendance and software 17 tools for providing that, rather than just trying to 18 throw something together that may or may not be the 19 best for their students. 20 Thank you. 21 THE CHAIR: Commissioner Carrillo. 22 COMMISSIONER CARRILLO: Thank you for your 23 presentation. And, Madam Chair, Commissioners. 24 So I have a quick question first. It's 25 probably off -- you know, off the top of your head.</p>
<p style="text-align: right;">127</p> <p>1 standpoint of the percent of time it's being used to 2 be counted as education space. The PE- -- PSCOC and 3 PSFA may make a determination that they're not 4 entitled to full lease reimbursement that they 5 assumed at the beginning of the year, since they 6 chose, on their own, to stay virtual, even though 7 they could have been hybrid. 8 And they're making a determination -- 9 because I understand. Some parents didn't want 10 their students to go back in person for a variety of 11 reasons. That's the parents' choice, I think. 12 But when a school, you know, unilaterally 13 themselves, make the decision, "We're not going to 14 allow your students to come back," I think the 15 Commission had -- had the -- the school had the 16 obligation to let the Commission know that and to 17 let all the students and the parents know, "We're 18 not going back. And so if you want to change 19 schools or whatever, you can." 20 Because if you -- you know, many parents 21 want their kids to be in school for a variety of 22 reasons. They need to go to work. They have young 23 children and they want them to be at school so that 24 they can go to work and perform their duties. 25 And I think for the school to unilaterally</p>	<p style="text-align: right;">129</p> <p>1 When was the contract signed? Or renewed? 2 MR. DAN HILL: I believe it's 2019. But 3 let me just give you the actual date. 4 COMMISSIONER CARRILLO: 2019 is even good. 5 Because so much of what you've said relative to 6 other schools in the contract was pre-COVID. So the 7 idea of changing language relative to location of 8 the school, location of the learning, whether they 9 would be virtual, no one knew this was coming. It's 10 not in any of the contracts, because this is 11 something that we just had to wing it, so to speak. 12 And so that would be kind of one of the 13 first concerns for the argument that you made in 14 that regard. 15 The thing that I'm recollecting took this 16 from a Letter of Concern to a breach was when we 17 became aware in August -- August-September -- that 18 the school was not warned, but was, you know, asked 19 by the PEC, like, "When are you going back to 20 school?" 21 And it was going to be in the second 22 semester. And our expectation was they were going 23 to be back, as the State allowed, to in-person 24 learning in the second semester. And then even 25 after that was -- the understanding from the PEC,</p>

130

1 they didn't.

2 And, you know, they gave us -- I have a

3 lot of notes from that last meeting -- a number of

4 reasons why they didn't want to go back. And I

5 thought, in many cases, the reasoning relative to

6 instruction, relative to discipline, all sorts of

7 different -- attendance, I found the arguments that

8 were presented in January really flawed and, really,

9 there being almost no data to back up anything that

10 was asserted in the January meeting. And I think

11 that's what kind of elevated this from a Letter of

12 Concern to a breach.

13 In fact, I'm remembering that, you know,

14 you sit here. And when you have an idea that you're

15 putting forward or a motion, you're gauging the

16 room, or, in that case, gauging the screen in

17 January.

18 Do I have seven -- do I have six votes?

19 Right?

20 And you -- and just based on all of the

21 discussion, it seemed for a while that, you know,

22 maybe there's not six votes there for a breach, and

23 a Letter of Concern is where we should go.

24 But then when this came up around fall,

25 that it was a really -- a big concern for PEC in

131

1 fall, and then it wasn't -- advice of PEC wasn't

2 taken into account or what was told to PEC wasn't

3 done, that's when I looked at this -- the -- around

4 the screen and other Commissioners and felt like

5 this is elevated from a concern to a breach; the

6 seriousness of this, saying you're going back in

7 February, and then you didn't.

8 And, I mean, for me, that's what took me

9 from concern to breach.

10 I mean, I think you make a lot of great

11 points. But I think a lot of those points are kind

12 of pre-COVID points. And, I mean, to use Roots &

13 Wings as an example when they go backpacking or when

14 they do the expeditionary work as not being, you

15 know, in school, I find that argument very flawed in

16 terms of -- and agree with Commissioner Robbins on

17 that.

18 And that's all I have for now. Thank you.

19 THE CHAIR: All right. Commissioner

20 Voigt.

21 COMMISSIONER VOIGT: Thank you,

22 Madam Chair. And thanks so much for the

23 presentation.

24 I find it compelling. I've never felt

25 that Cesar Chavez should have been escalated to

132

1 breach. I feel that we have some work to do in

2 defining our educational programs within the charter

3 school contract, because there's nothing that says

4 "method of instruction."

5 And so I think going forward, a

6 subcommittee should be formed to study virtual

7 schools. And this is something that should come

8 under that.

9 And I think, you know, as we are looking

10 at our Performance Framework, I think the Executive

11 Committee has some discussion around method of

12 instruction within the PF that we can revise.

13 Because Southwest Secondary is a great example.

14 That is a huge campus. They have probably more

15 square footage than Cesar Chavez.

16 I think that the director, Director

17 Arness -- hi, Toni -- is -- she was responding to

18 her community's input. And she did the right thing

19 by taking that at heart and doing the best for her

20 community.

21 Granted, communication might have been a

22 little better than it was, especially with the

23 Charter School Division reaching out to support

24 them, and maybe there not being a quick enough

25 response that led to wonder or concern.

133

1 But, no, I never felt that this school

2 should have been escalated instantly to breach. I

3 felt that it was punitive of the PEC to take that

4 stance, and I felt that it was unnecessary.

5 So I would be all in favor of taking the

6 breach status away and letting the school resume

7 with this second semester as to how best serve their

8 community. Thanks.

9 THE CHAIR: Thank you. Before I go to

10 Commissioner Armijo, I do want to pause just one

11 second on this agenda item and ask Missy one last

12 time, before our noon time frame, if there's anybody

13 here for public comment on the rule.

14 MS. MISSY BROWN: No.

15 THE CHAIR: Okay. All right. So the

16 answer was no.

17 All right. So we are closing public

18 comment at noon, which is in two minutes.

19 MR. IVEY-SOTO: Excuse me. Was that on

20 the rule?

21 THE CHAIR: Yes.

22 MR. IVEY-SOTO: Can I just do a quick

23 comment on it?

24 THE CHAIR: You have two minutes. You're

25 more than welcome.

<p style="text-align: right;">134</p> <p>1 MR. IVEY-SOTO: So -- so I've always 2 thought that this Commission had rule-making 3 authority. If I could just make a suggestion, which 4 is that it is kind of an odd thing to pass a rule to 5 say that you have the authority to make a rule. 6 And it may actually be cleaner for this 7 Commission to pass a resolution within the context 8 of the -- where it defines itself using the 9 definitions of the State's rule -- State Rule Act, 10 Chapter 14, Article IV, of the fact that it makes 11 reference to commissions; and that rule is something 12 that affects someone outside of that commission, 13 which would be the schools that you -- that you 14 authorize; and that -- and that, therefore, you have 15 rule-making authority. 16 Do that by means of a resolution. And 17 then after that, follow the State Rules Act to 18 actually adopt rules. 19 Thank you. 20 THE CHAIR: Thank you for that comment. 21 All right. We're going back to the agenda 22 item. 23 Commissioner Armijo. 24 COMMISSIONER ARMIJO: Thank you. So I 25 just want to sort of piggyback off of what</p>	<p style="text-align: right;">136</p> <p>1 That being said, that is not the 2 information that was presented to us. And so I 3 know -- I was trying to decide whether I was going 4 to -- because I'm not in favor of moving forward on 5 the breach. So I was trying to decide whether I 6 wanted to address some of the legal arguments or 7 not, because is it really worth it? 8 The only thing that kind of stuck out to 9 me that I just wanted to make sure I feel strongly 10 about is the notion of singling out this school. 11 I know if this school was able to have 12 communicated more clearly with CSD to begin with, we 13 may not be here. I believe if this school was able 14 to communicate better with PEC last month about 15 the -- I mean, from my recollection -- and we can 16 look back -- we were actually told there was 17 absolutely no kids there; there's no staff there; 18 there's no -- I mean, there's nothing. 19 And that's just not the case. And that's 20 fine. And, once again, I respect the opportunity to 21 be able to provide that response and clarify things. 22 But I do not believe the PEC is in the 23 world in which we're singling out this school. I 24 think, based off the information we received from 25 the school, I do think it was a serious -- I think</p>
<p style="text-align: right;">135</p> <p>1 Commissioner Voigt just said. I also didn't vote in 2 favor of the Letter of Breach. I also felt it was 3 punitive. And I felt that Director Arness was doing 4 what she could in her situation. 5 And I felt that she really did listen to 6 her community and put her students where -- where 7 feeling and how they felt that they could move 8 forward. So I would also be in favor of removing 9 the Letter of Breach right now, especially after 10 hearing what counsel has had to say. 11 Thank you. 12 THE CHAIR: All right. Before I speak, 13 I'd like to see if any other Commissioners who have 14 not spoken would like to. 15 (No response.) 16 THE CHAIR: All right. So what I will say 17 is that I think the process worked the way it 18 should, where we were able to receive a response, 19 based off of the information that we received last 20 month is very different than what we received today. 21 And that's the purpose of offering the opportunity 22 for a response. So I am completely open to that. 23 And I actually am not in favor of moving forward any 24 longer on breach, and I do think that for this 25 semester, this makes sense for this school.</p>	<p style="text-align: right;">137</p> <p>1 it was serious. 2 And, once again, I also -- I am in full 3 agreement with Commissioner Gipson. If there had 4 never been any conversation on staying remote for 5 forever, I also, once again, do not think I would 6 have voted the way I did last month. 7 So based on the new information, I will 8 not vote to continue on this path. 9 But I do think that that's -- that's kind 10 of (someone speaking off the microphone) -- I think 11 that's -- I do want to make sure that that's clear. 12 Because in saying that we're singling out 13 this school -- I mean -- and that the memo does not 14 address virtual schools, it's -- this is not a 15 virtual school; right? For me, this is not a 16 virtual school. 17 So, yes, that doesn't -- it does apply to 18 them, because they're not a virtual school. That's 19 kind of where I was coming from and where I'm moving 20 forward. 21 I appreciate the independence and the 22 autonomy of the governing board to make a decision 23 that's best for their school and for their school 24 community. I think it's -- I am in complete support 25 of that autonomy for a school to be able to do that,</p>

138

1 especially in a public health emergency, as they've
 2 been doing throughout the past year and a half.
 3 So I feel like the actions they have taken
 4 through the pandemic have been reasonable. I wish
 5 they were able to have provided more information so
 6 we didn't get to this point.
 7 And so that's the only thing I'll say
 8 moving forward is if we're able to communicate
 9 better in the future, I think it would prevent a lot
 10 of these kind of -- that they rise to the level of
 11 this, and it could be mitigated.
 12 I think we have a great CSD director and
 13 staff who wants to mitigate these things. And so
 14 utilizing those avenues of communication in order to
 15 do that, I think is the best thing for our charter
 16 schools moving forward.
 17 Director Chavez and then Commissioner
 18 Carrillo.
 19 DIRECTOR CORINA CHAVEZ: Thank you. I
 20 also really appreciate the presentation that was
 21 made today and the clarification about what is
 22 actually happening on campus. I think it was a lot
 23 more detailed, and you present information about how
 24 students are being served, which is my primary
 25 concern; right?

139

1 I know that the pandemic has been
 2 difficult, and that last school year, schools were
 3 asked to move in and out of remote and in-person
 4 learning, and that was really disruptive.
 5 I'm coming from a place where this school
 6 year, the directive, both verbally and in that memo
 7 that was included, was that schools should be in
 8 person to the greatest extent possible.
 9 And I -- the only caveat that I would add
 10 to that is that they should be offering that to
 11 families. There -- it is true that there are a few
 12 virtual schools in the state. We authorized two of
 13 those statewide virtual schools, and a few districts
 14 operate 100 percent virtual schools. Those are all
 15 on the PED's radar as virtual schools, that that's
 16 what they offer. They don't offer in person.
 17 But this school year, districts and
 18 charter schools were given an opportunity to have a
 19 100 percent virtual program. That's different than
 20 being 100 percent virtual for every student, no
 21 choice for the family.
 22 And when I first heard about the school
 23 being -- excuse me -- 100 percent virtual, it wasn't
 24 clear to me how you had been engaging families and
 25 students to ensure that there was choice.

140

1 And when I -- when I called the school, I
 2 got a message that said something to the effect of
 3 people weren't there. And it diverted us to a
 4 second phone number. So then that was concerning.
 5 And then we know the rest, because we
 6 invited the school to the meeting. I wanted to have
 7 this discussion last month. So I really appreciate
 8 this discussion now.
 9 I was not intending that the school go
 10 down the closure route. I think that we're in a
 11 really complex time in education and that, indeed,
 12 there are families that -- and students that are
 13 doing okay virtually. And to hear that you are
 14 offering in person for the students that need it on
 15 campus, I think is a really important point that I
 16 had not heard clearly articulated before.
 17 So I would -- if I were to be asked about
 18 a recommendation, I would say that we drop the
 19 Notice of Breach and concerns around that, and
 20 moving forward, conversations with the school around
 21 community engagement, family engagement, student
 22 engagement will be really critical for this year's
 23 annual review. And we look forward to visiting the
 24 school in person and seeing how that's working and
 25 ensuring that you're meeting the needs of kids.

141

1 Thank you.
 2 THE CHAIR: All right. Commissioner
 3 Carrillo, before you go, I want to make sure
 4 Ms. Barnes does want to make one more comment. So
 5 if you're not making a motion, then I'll call on
 6 you.
 7 If you are intending to make any kind of
 8 motion, I'm going to call on her first.
 9 Okay. Ms. Barnes.
 10 MS. JULIA BARNES: Thank you. Thank you,
 11 Commissioners. I want to outline where I think we
 12 are.
 13 And in -- and I guess the next kind of
 14 situation comes up like this. Because the
 15 intervention ladder anticipates providing the school
 16 with an ability to respond, I think that the letter,
 17 which went out -- and the motion should have had my
 18 counsel that you do a -- an intention to issue a
 19 breach, list those items, allow for counsel or the
 20 school to come forward. So the process was right.
 21 But the words in the intervention ladder
 22 kind of threw me off a little bit. And then in
 23 talking with counsel about it, it was -- so I think
 24 we're at a situation right now that, in order to
 25 clear something up, if you want to -- I think it

<p style="text-align: right;">142</p> <p>1 would be appropriate to move to put this school back 2 in good standing just so that it's clear from the 3 record if you choose to do that. Next time 4 utilizing that intervention ladder I think we'll 5 make sure it's a several-step process. 6 Second thing I want to say -- and there's 7 three points. Sorry. The second thing is because 8 we have just heard the response and a lot of issues 9 by counsel, if it's not your decision to put this 10 school back in good standing and have this issue be 11 resolved, I have not had an ability to hear anything 12 that counsel has said today. And I think that 13 Director Chavez would have more things to look at. 14 If you wanted to move forward, I would request time 15 for your staff, both Director Chavez and myself, to 16 be able to bring you more information if you're not 17 going to put them in good standing today. 18 The third thing is I think that Mr. Hill 19 referenced a document that he just gave us today. 20 And they have triggered a provision in the contract 21 to negotiate whether the school is -- and the PEC 22 are interpreting that. I want to come back to that 23 after the motion so that we can discuss with the 24 Commission how -- and you don't have the letter yet. 25 We just got the letter -- I don't know -- just right</p>	<p style="text-align: right;">144</p> <p>1 across the state, there's a lot of chaos, not just 2 in schools, everywhere. 3 Most of us are sitting here today without 4 a mask. Director Chavez has her mask on. There are 5 some schools that, in the middle of the school day 6 yesterday, did an announcement that everybody could 7 take their mask off. 8 There are other schools that are saying, 9 "We need to wait for our governing council to meet 10 and decide what we're going to do. It would have 11 been nice to have had some notice on this." 12 You know, we're all -- we're all trying to 13 react to what's coming at us in the -- in the 14 pandemic. And, you know, what this school has tried 15 to do is to react in a way where they're not having 16 to pivot several times throughout the semester. 17 I do agree that -- that communication is 18 healthy, and I appreciate very much the diligence of 19 this Commission, both in terms of looking at this 20 issue, but also in terms of listening as we've come 21 back before you. And -- but, you know, we're all -- 22 we're all frankly trying to do the best we can under 23 the circumstances. 24 And in the case of Cesar Chavez, they're 25 trying to provide, in the midst of a pandemic, as</p>
<p style="text-align: right;">143</p> <p>1 before this. 2 They -- so -- but we do -- I think it 3 would be very helpful to get clarity from the 4 Commission as to how you would like to respond to 5 this letter. 6 So, number one, if you want to put the 7 school back in good standing for clarity, I suggest 8 that we do that, given -- given the way the letter 9 went out. I don't want there to be any ambiguity if 10 the school is put back in good standing. 11 Two, if you want to look at this further, 12 I request time for my office and Director Chavez's 13 office to bring you back more information. 14 Three, I'd like to look at the letter. 15 THE CHAIR: All right. Thank you. 16 Commissioner Carrillo. 17 COMMISSIONER CARRILLO: So I am going to 18 make a motion, but because we don't allow discussion 19 from participants after the motion is made, I would 20 like just to hear once again from Mr. Hill and 21 Mr. Ivey-Soto before I make a motion if you have 22 anything that you want to add. You don't have to. 23 MR. IVEY-SOTO: At the risk of continuing 24 after you've said that -- and then I'll leave it to 25 Mr. Hill to have the last word -- you know, today,</p>	<p style="text-align: right;">145</p> <p>1 much predictability as possible right now. Thank 2 you. 3 COMMISSIONER CARRILLO: Thank you. 4 MR. DAN HILL: I just want to reiterate. 5 I think -- I think we can all agree we could have 6 done better last month. And, you know, I come here 7 humbly saying that, of there -- was 8 miscommunication. I think sometimes there's a 9 little bit of a loss in translation as to what the 10 hearing is going to be. And a school -- and, 11 candidly, the school did not have counsel at that 12 time. 13 We could have done better. And so -- and 14 I don't put that on the Commission or on Director 15 Chavez. I think we all could have done a better 16 job. And it's regretful that, you know, the 17 communication wasn't as clear. And so I thank you 18 all for listening today. 19 You know, on the issue of the Notice of 20 Dispute, which Ms. Barnes just kind of referenced, 21 it may be that that issue is moot after today's 22 hearing. So I don't want to -- you know, we don't 23 need to waste time on something that -- if it's not 24 necessary. So we're certainly not trying to be 25 unreasonable there.</p>

146	<p>1 So, again, we thank you all for your time 2 and for listening. I think, you know, as 3 Mr. Ivey-Soto said, this school is in very difficult 4 circumstances trying to do what's right for the 5 students. And that looks different for every school 6 around the state. Communities and within individual 7 families people are making different decisions about 8 what that looks like. And it's been a very hard 9 time. And so, you know, I appreciate the grace 10 given to the school. 11 THE CHAIR: Commissioner Carrillo. 12 COMMISSIONER CARRILLO: So all of that 13 having been said, I want to thank you very much. 14 And I think the meeting, in general, added a great 15 deal of clarity. And so I have a comment after the 16 motion. 17 But I would move that the school -- that 18 Cesar Chavez Charter School be placed as a school in 19 good standing and that we remove the Letter of 20 Breach. 21 COMMISSIONER GIPSON: Second. 22 THE CHAIR: Thank you. There is a motion 23 by Commissioner Carrillo and a second by 24 Commissioner Gipson. 25 Is there any other discussion by</p>	148	<p>1 something we bring up on an agenda in the future, 2 maybe that's what we do. But I think right now is 3 not an appropriate time for that. 4 COMMISSIONER ROBBINS: I was just looking 5 at what counsel had provided for an optional. 6 MS. JULIA BARNES: I'll just address that. 7 I think we can address this within the next 8 conversation about what might be next steps with 9 this letter that's been provided. And I appreciate 10 that and the confusion that might have caused. 11 THE CHAIR: All right. Any further 12 discussion on the current motion? 13 COMMISSIONER CARRILLO: Then the last 14 thing I'd say before we vote is -- and I can say for 15 Cesar Chavez and any other school that's thinking of 16 making hybrid or remote part of their plan, that for 17 myself, as a Commissioner, really going to be 18 looking at data, really going to be looking at -- 19 and I really hope you're taking really good notes as 20 to how the kids really are doing and testing and all 21 these different things that have to happen, because 22 we're going to be looking, I think, as a Commission 23 much more closely at that, based on the fact that we 24 just renewed a number of schools without very much 25 data, kind of taking a lot on faith.</p>
147	<p>1 Commissioners? 2 Commissioner Robbins. 3 COMMISSIONER ROBBINS: Is it possible, or 4 should we have a second motion? Because if they 5 intend to stay remote after this school year, I 6 think we should require in this motion that they 7 come back to this Commission for a contract 8 amendment stating that they will be a virtual 9 school. Otherwise, I think it would remain a 10 concern for me, especially since the State is moving 11 away from the pandemic to an endemic. 12 Thank you. 13 COMMISSIONER CARRILLO: So there doesn't 14 need to be another motion. It could be a 15 friendly -- 16 THE CHAIR: I'm sorry, Commissioner 17 Carrillo. 18 COMMISSIONER CARRILLO: I'm sorry. 19 THE CHAIR: What I would say about that is 20 that's not on the table for discussion right now. 21 We're discussing the Notice of Breach, which does 22 not contemplate future amendments or future -- it's 23 just about what is happening now. 24 And so I do think that's not something 25 that should be discussed at this point. And if it's</p>	149	<p>1 So, anyway, that's all I would have to 2 say. And if the Chair wants to do the roll-call 3 vote, I'm certainly ready. 4 THE CHAIR: All right. 5 Commissioner Armijo, if you could do the 6 roll-call vote, please. 7 COMMISSIONER ARMIJO: Commissioner Chavez. 8 COMMISSIONER CHAVEZ: (silence). 9 COMMISSIONER ARMIJO: We'll come back to 10 him. 11 Commissioner Gipson. 12 COMMISSIONER GIPSON: Yes. 13 COMMISSIONER ARMIJO: Commissioner Manis. 14 COMMISSIONER MANIS: Yes. 15 COMMISSIONER ARMIJO: Commissioner 16 Robbins. 17 COMMISSIONER ROBBINS: Yes. 18 COMMISSIONER ARMIJO: Commissioner Voigt. 19 COMMISSIONER VOIGT: Yes. 20 COMMISSIONER ARMIJO: Commissioner Armijo 21 votes "yes." 22 Chair Burt. 23 THE CHAIR: Yes. 24 COMMISSIONER ARMIJO: Commissioner 25 Carrillo.</p>

150

1 COMMISSIONER CARRILLO: Yes.
 2 COMMISSIONER ARMIJO: And Commissioner
 3 Chavez.
 4 THE CHAIR: Commissioner Chavez is not
 5 present.
 6 COMMISSIONER ARMIJO: Okay. Not present.
 7 Then that motion is approved, seven to
 8 zero.
 9 THE CHAIR: Thank you. All right. And so
 10 now I'm going to go to Ms. Barnes, and we're going
 11 to discuss the next steps forward.
 12 MS. JULIA BARNES: So in response to -- as
 13 part of the response, as Mr. Hill has stated, they
 14 have provided a letter of February 18th. And I -- I
 15 guess I wasn't clear if -- if you're going to remove
 16 that or not. If you're not or if we think that
 17 there needs to be further conversation on the
 18 letter --
 19 MR. DAN HILL: We can remove the letter at
 20 this time.
 21 MS. JULIA BARNES: So seeing that the
 22 letter has been removed, I think we can -- the
 23 Executive Committee can discuss if something, in the
 24 future, needs to be put as an agenda item for
 25 further conversation by the Commission. So I don't

151

1 have any other lingering questions.
 2 Counsel?
 3 MR. IVEY-SOTO: And, Madam Chair, we are
 4 certainly happy to keep the Commission informed as
 5 the school proceeds in terms of how we're managing
 6 pandemic, endemic, health issues and whatnot, so
 7 that that way the Commission knows.
 8 THE CHAIR: Thank you, Mr. Hill. Thank
 9 you, Mr. Ivey-Soto. Thank you, Tani. And, too, the
 10 Charter School staff that joined us today. Thank
 11 you.
 12
 13 MS. TANI ARNESS: Thank you for this
 14 meeting and giving us your time.
 15 THE CHAIR: All right. So we are going
 16 to -- I would like to entertain a motion on No. 7,
 17 what's now No. 7, which is the rule, and then we
 18 will be taking a break after that. We are.
 19 COMMISSIONER CARRILLO: May I suggest
 20 since the rule may require a great deal of
 21 discussion that we take the lunch? My understanding
 22 was the Secretary was going to come down.
 23 THE CHAIR: No, the Secretary did -- he
 24 was here this morning. But he was going to come
 25 yesterday, and then we canceled our meeting.

152

1 COMMISSIONER CARRILLO: Oh, got it.
 2 THE CHAIR: So if you all think we're
 3 going to take a lot of time to do the rule
 4 discussion and a vote or possible action, then,
 5 yeah, we can take a 30-minute lunch break right now.
 6 Otherwise...
 7 COMMISSIONER VOIGT: I have a motion
 8 ready. I have a motion ready. I -- give me
 9 30 seconds.
 10 COMMISSIONER CARRILLO: Madam Chair, do we
 11 want to have this discussion before a motion?
 12 COMMISSIONER VOIGT: I'm making the motion
 13 right now.
 14 So I move that we move the -- any action
 15 about the rule-making to next month.
 16 COMMISSIONER GIPSON: Second.
 17 THE CHAIR: All right. There's a motion
 18 and a second.
 19 Any discussion?
 20 Commissioner Carrillo.
 21 COMMISSIONER CARRILLO: Just make -- I
 22 just want to make sure that, during this month,
 23 before the next meeting, that we have an idea of
 24 what it is we want to accomplish in working with PED
 25 and everything else. That's all.

153

1 I mean, it doesn't need to be an
 2 amendment, nothing like that; just so we have some,
 3 you know, clarity on what we want to do next.
 4 Thank you.
 5 THE CHAIR: Commissioner Robbins.
 6 COMMISSIONER ROBBINS: I think, based upon
 7 my comments earlier in the meeting today and the
 8 feeling that we do have justification, I think the
 9 rule is specific enough. It doesn't need a lot of
 10 extra discussion. I'll be voting against this
 11 motion for those reasons.
 12 Thank you.
 13 THE CHAIR: I will say, especially based
 14 off of the very last-minute comment that was given
 15 at 11:58, that there may be another path as well
 16 that I'd like to explore. So I would like to
 17 propose a friendly amendment to allow the Executive
 18 Committee to enter negotiations and conversations
 19 with our legal counsel and with PED about
 20 possible -- possible options moving forward that
 21 will then be presented next month.
 22 COMMISSIONER VOIGT: I accept that
 23 amendment.
 24 THE CHAIR: All right. So any discussion
 25 on the motion, as amended?

154	<p>1 (No response.)</p> <p>2 THE CHAIR: All right. Hearing and seeing</p> <p>3 no hands raised, Commissioner Armijo, roll-call</p> <p>4 vote, please.</p> <p>5 COMMISSIONER ARMIJO: Commissioner Gipson.</p> <p>6 COMMISSIONER GIPSON: Yes.</p> <p>7 COMMISSIONER ARMIJO: Commissioner Manis.</p> <p>8 COMMISSIONER MANIS: Yes.</p> <p>9 COMMISSIONER ARMIJO: Commissioner</p> <p>10 Robbins.</p> <p>11 COMMISSIONER ROBBINS: No.</p> <p>12 COMMISSIONER ARMIJO: Commissioner Voigt.</p> <p>13 COMMISSIONER VOIGT: Yes.</p> <p>14 COMMISSIONER ARMIJO: Commissioner Armijo,</p> <p>15 "yes."</p> <p>16 Commissioner Burt.</p> <p>17 THE CHAIR: Yes.</p> <p>18 COMMISSIONER ARMIJO: Commissioner</p> <p>19 Carrillo.</p> <p>20 COMMISSIONER CARRILLO: Yes.</p> <p>21 COMMISSIONER ARMIJO: And Commissioner</p> <p>22 Chavez is still not here. So that rule is approved,</p> <p>23 five to one.</p> <p>24 THE CHAIR: So the motion passes, five to</p> <p>25 one.</p>	156	<p>1 cell was a carryover from last month.</p> <p>2 As of today, three of the five members</p> <p>3 have completed their training hours.</p> <p>4 So I don't know if that is something that</p> <p>5 you would like to revisit in terms of the Letter of</p> <p>6 Concern. We understand that one of the members of</p> <p>7 the governing board for the school completed their</p> <p>8 hours with Public Charter Schools of New Mexico. We</p> <p>9 don't have the exact date. The indicator says</p> <p>10 February 1.</p> <p>11 But as of today, we have three of the</p> <p>12 members actually have completed their training.</p> <p>13 Commissioner Robbins, I know that you</p> <p>14 issued the motion for a Letter of Concern. So I am</p> <p>15 rescinding the comment that I had in there and</p> <p>16 updating it to say that I actually believe that the</p> <p>17 school has completed that requirement, which says</p> <p>18 three of the five have completed their training.</p> <p>19 COMMISSIONER ROBBINS: Okay. Good. So do</p> <p>20 I need to remove the motion? We haven't voted on</p> <p>21 it; right?</p> <p>22 We did vote.</p> <p>23 Well, I'll make another motion that the</p> <p>24 Letter of Concern for Cesar Chavez -- The GREAT</p> <p>25 Academy, excuse me -- I'll make a motion that the</p>
155	<p>1 COMMISSIONER ARMIJO: Six to one. I'm</p> <p>2 sorry.</p> <p>3 THE CHAIR: All right. Motion passes, six</p> <p>4 to one. So we will now take a 30-minute break, and</p> <p>5 we will be back at 12:55.</p> <p>6 (Luncheon recess taken at 12:25 p.m. and</p> <p>7 reconvened at 12:59 p.m., as follows:)</p> <p>8 THE CHAIR: Let's get started. I would</p> <p>9 like to go back to Item No. 8. There is some new</p> <p>10 information that is available.</p> <p>11 So Item No. 8 is Discussion and Possible</p> <p>12 Action on The GREAT Academy, Corrective Action Plan</p> <p>13 update.</p> <p>14 And so I would like to hand that over to</p> <p>15 Director Chavez to talk about the new information</p> <p>16 that is available, based -- that we took action on.</p> <p>17 DIRECTOR CORINA CHAVEZ: Okay. Thank you,</p> <p>18 everyone. I just want to make sure that, A, we're</p> <p>19 reading the indicator correctly, and then also</p> <p>20 correct my report out on it.</p> <p>21 So when we look at the Row 12, Governing</p> <p>22 Body Training, it talks about three of the five</p> <p>23 board members having 100 percent of their hours by</p> <p>24 February 1.</p> <p>25 And I think that what was noted in that</p>	157	<p>1 Letter of Concern for The GREAT Academy regarding</p> <p>2 their Corrective Action Plan be rescinded.</p> <p>3 COMMISSIONER VOIGT: I'll second.</p> <p>4 THE CHAIR: All right. We have a motion</p> <p>5 by Commissioner Robbins and a second by Commissioner</p> <p>6 Voigt. Any discussion?</p> <p>7 Commissioner Carrillo.</p> <p>8 COMMISSIONER CARRILLO: And I guess -- it</p> <p>9 seems to me like this would be -- or could be an OMA</p> <p>10 violation, too, because we already -- we passed -- I</p> <p>11 mean, we've passed this agenda item. So that</p> <p>12 anybody that may have been attached to this agenda</p> <p>13 item watching could have even left the meeting if</p> <p>14 this was why they were there. But now we've gone</p> <p>15 back, and they haven't had the opportunity to know</p> <p>16 we were going back.</p> <p>17 So I'm happy to rescind the letter of</p> <p>18 correction. But I don't think we can go back and</p> <p>19 then take another action on something that's already</p> <p>20 been a closed issue, in my experience.</p> <p>21 THE CHAIR: Commissioner Gipson.</p> <p>22 COMMISSIONER GIPSON: I'm going to agree.</p> <p>23 I don't know -- and I don't know if it's an actual</p> <p>24 fact that we can't. In my experience, we haven't.</p> <p>25 But I just think, in practice, it's really not a</p>

<p style="text-align: right;">158</p> <p>1 good thing to do, because the school's not here -- 2 even though it's a positive move. 3 It could have been a negative move. You 4 know, if we're going to open up and say, "Well, 5 we've got updated information," it could potentially 6 be a negative move. 7 So just because it's a positive move, it's 8 not necessarily to say, "Well, it's okay that we do 9 this because it's not a harmful action we're taking. 10 Or punitive." 11 Sorry. So... 12 COMMISSIONER CARRILLO: I would say 13 just -- I mean, not do the letter, and then just 14 have it on the agenda last week (verbatim) that this 15 is a school back in good standing. 16 THE CHAIR: So do the -- you're saying do 17 the letter. 18 COMMISSIONER CARRILLO: We made a motion 19 that you have to do the letter. So maybe write a 20 word at a time over the next 30 days. 21 THE CHAIR: Okay. So this is what I'm 22 going to say. The school is online. If that is -- 23 if the concern is not having the opportunity for the 24 school to be present and comment on an agenda item, 25 the school is present.</p>	<p style="text-align: right;">160</p> <p>1 of Procedure Regarding Transcription and Minutes. 2 The updated Rules of Procedure have been 3 in our Google Drive. We did discuss this last 4 month. And I believe there's no -- we are going to 5 continue with transcription of minutes as we have 6 been doing historically. So that is going to be 7 what was considered today. 8 So any discussion on this item? 9 COMMISSIONER GIPSON: So I think I just 10 need some clarification, because I'm confused by 11 that. Is the intent that we have a motion? Because 12 you seem to indicate that we're -- that we're going 13 to continue. So that there doesn't need to be a 14 motion to continue. So I'm confused. 15 MS. JULIA BARNES: So this was discussed 16 at a work session, so no action was taken. There 17 was indication that it would be placed as an action 18 item in the event that the Commission wanted to 19 take -- wanted a change. 20 My reading of the Rules of Procedure is 21 that it was consistent with what you all discussed 22 in the working session. You did not -- you didn't 23 take any action. If you want to leave it the way it 24 is, then you just take no action on it. 25 COMMISSIONER GIPSON: Okay. Got you.</p>
<p style="text-align: right;">159</p> <p>1 COMMISSIONER CARRILLO: For me, the 2 concern is the OMA violation, because we've already 3 passed this agenda item. So anyone else that may 4 be -- have watched and wanted to comment on this 5 item, now this item has been closed, but now we're 6 opening it again. That would be my concern relative 7 to the OMA. I'm fine with putting them back in good 8 standing. 9 THE CHAIR: Okay. So this is what I'm 10 going to say. We're going to have our counsel look 11 up the OMA, see if it's a violation. We're not 12 going to do this for the -- how do I get them to -- 13 we've got to remove the motion; right? 14 We're going to need to remove the motion. 15 Stop on this item. We're going to have our counsel 16 look at this to see if it's an actual OMA violation 17 so we can make an informed decision based off of it. 18 COMMISSIONER ROBBINS: I will remove the 19 motion. 20 THE CHAIR: Thank you. All right. 21 So we're going to go ahead and move 22 forward, and we'll come back to our counsel on that 23 after we get a response. 24 Okay. No. -- we're going to be on Item 25 No. 10, Discussion and Possible Action on PEC Rules</p>	<p style="text-align: right;">161</p> <p>1 Thank you. 2 THE CHAIR: Any discussion? 3 Commissioner Carrillo. 4 COMMISSIONER CARRILLO: Remind me what the 5 way it is is. 6 THE CHAIR: So, currently, we do not do 7 transcription on work sessions, and we do 8 transcription for meetings. 9 COMMISSIONER CARRILLO: So for the work 10 session, it's just summary minutes. 11 THE CHAIR: Yes. 12 COMMISSIONER CARRILLO: So somebody can go 13 back and look at -- because that's been recorded 14 and -- okay. Okay. Yeah. Then we don't need a 15 transcription then. 16 THE CHAIR: I'm going to look up here. 17 Make sure -- 18 COMMISSIONER CARRILLO: And that's easy to 19 find on our website if somebody wants to -- okay. 20 Cool. 21 THE CHAIR: Commissioner Manis. 22 COMMISSIONER MANIS: I also wanted to ask 23 a clarification question. Are we also 24 live-streaming our meetings? Our actual meetings, 25 not just our work sessions?</p>

162	<p>1 THE CHAIR: Okay. So we are -- we are --</p> <p>2 we are on Zoom right now, and with the link. So</p> <p>3 that is how it is live to the public.</p> <p>4 It is then -- it's recorded and then</p> <p>5 placed onto --</p> <p>6 MS. MISSY BROWN: We're not recording the</p> <p>7 meeting. Sorry.</p> <p>8 THE CHAIR: We are not recording the</p> <p>9 meetings. The transcription is then posted based</p> <p>10 off of the meetings. So live-streaming, I guess --</p> <p>11 I don't know if -- we're not doing that live on</p> <p>12 YouTube or Facebook or anything right now. We are</p> <p>13 only doing it through Zoom.</p> <p>14 COMMISSIONER MANIS: Thank you for the</p> <p>15 clarification.</p> <p>16 I guess the reason why I ask is because I</p> <p>17 believe that while the transcription is nice, I</p> <p>18 think that we should also be able to view a</p> <p>19 recording of our meeting for those who may not be</p> <p>20 able to read those minutes. It needs to be</p> <p>21 accessible to all parties.</p> <p>22 THE CHAIR: All right.</p> <p>23 Ms. Barnes, if you could respond, and then</p> <p>24 Commissioner Robbins.</p> <p>25 MS. JULIA BARNES: The concern raised, I</p>	164	<p>1 staff.</p> <p>2 THE CHAIR: All right. Commissioner</p> <p>3 Voigt, then Commissioner Manis, then Commissioner</p> <p>4 Gipson, Commissioner Carrillo.</p> <p>5 COMMISSIONER VOIGT: Thank you,</p> <p>6 Madam Chair. As I recall from our work session last</p> <p>7 month, it was heavily favored that we live-stream</p> <p>8 the work session and have summary minutes and that</p> <p>9 we live-stream our PEC meetings and have</p> <p>10 transcription.</p> <p>11 And like Ms. Barnes was saying, we don't</p> <p>12 want transcription and a recorded video because of</p> <p>13 the inconsistencies that could be had on either end.</p> <p>14 So that's as I recall.</p> <p>15 THE CHAIR: All right. And you have to</p> <p>16 forgive me, Commissioner Manis. I do want to allow</p> <p>17 other folks who have not spoken to speak before we</p> <p>18 go back again.</p> <p>19 Thank you.</p> <p>20 All right. Commissioner Gipson.</p> <p>21 COMMISSIONER GIPSON: Thanks. And I agree</p> <p>22 that I think the -- I have no problem with a</p> <p>23 recording of the Friday meeting that just is a</p> <p>24 simple recording and that CSD staff doesn't have to</p> <p>25 go through and put any kind of stops or chaptering</p>
163	<p>1 think by the court reporting agency, is that that</p> <p>2 transcription is the formal transcription of this</p> <p>3 meeting. And to have both of them available,</p> <p>4 there's a question as to which would be the correct</p> <p>5 transcription of this meeting. Because you are</p> <p>6 choosing to have it transcribed by a court reporting</p> <p>7 entity, that -- that is the official transcription.</p> <p>8 We would need to look, Commissioner Manis,</p> <p>9 if we could do both, and indicate clearly that the</p> <p>10 transcription is right and that that is what we're</p> <p>11 following. And so it was just the confusion that</p> <p>12 might be caused by having both.</p> <p>13 THE CHAIR: Commissioner Robbins.</p> <p>14 COMMISSIONER ROBBINS: I believe in our</p> <p>15 work session last month, we talked about this. And</p> <p>16 the extra work that would place on the CSD to</p> <p>17 review, edit, parse it out or whatever, the full</p> <p>18 meeting, in addition to the work sessions, to have</p> <p>19 the full meetings also recorded and made available,</p> <p>20 that that puts an additional level of effort on CSD</p> <p>21 staff, which can get strained at times, even with</p> <p>22 the requirements that we have for our things.</p> <p>23 So I think that was another reason why we</p> <p>24 did not elect at that time to add that as a</p> <p>25 requirement, because they would probably need more</p>	165	<p>1 it in any way. It's just available for people to</p> <p>2 see. And that we clearly indicate, if we have to do</p> <p>3 that by motion, to say the official record of this</p> <p>4 meeting is the transcript, and that the recording is</p> <p>5 available for the convenience of people that want to</p> <p>6 look at it.</p> <p>7 If that's -- you know, if that's what you</p> <p>8 want to do on a Friday night with your popcorn, have</p> <p>9 at it, but that we simply notify that, and that the</p> <p>10 CSD staff does not have to do any additional work</p> <p>11 but putting the link up there.</p> <p>12 That's -- because I think the more access,</p> <p>13 the better. But I think it needs to be clear for us</p> <p>14 what will be used in legal matters as the official</p> <p>15 transcript.</p> <p>16 THE CHAIR: All right. I'm going to go to</p> <p>17 Commissioner Manis, and then Carrillo. But I do</p> <p>18 want to give the opportunity for anyone who has not</p> <p>19 spoken on this issue to speak at this point.</p> <p>20 All right. Commissioner Manis.</p> <p>21 COMMISSIONER MANIS: Following up on what</p> <p>22 Commissioner Voigt said, I recall exactly the same</p> <p>23 thing, that it was going to be live-streamed on both</p> <p>24 days; however, we would be using the transcription</p> <p>25 on Friday. That's -- that was why I asked the</p>

<p style="text-align: right;">166</p> <p>1 initial clarification question on what was going on, 2 because I thought that we were live-streaming. 3 Thank you. 4 THE CHAIR: Commissioner Carrillo. 5 COMMISSIONER CARR: I would agree with 6 Commissioner Gipson, having transcription of the 7 work session and then also a video available, and 8 then also video available with no doctoring, 9 editing, nothing, just a link posted to the meeting 10 of the Friday, of the meeting, and then the official 11 transcript be the document of record. 12 It's -- I -- we know who's going to be 13 watching that on a Friday night. But it -- it's -- 14 you can fast-forward different things and go back 15 and fast-forward and go back. I just think it's 16 good to have a visual. 17 Also you get a good -- more than just from 18 reading it, you get a much better sense of maybe the 19 debate that happened or different -- you know, 20 passions that were just unleashed or whatever it 21 might be. 22 So that would be my preference. And -- 23 but the key is no extra work for CSD. Just post it, 24 and if someone wants to watch eight hours, they're 25 certainly welcome to.</p>	<p style="text-align: right;">168</p> <p>1 MS. JULIA BARNES: And I think that it 2 would be simply posting that with some summary 3 meetings (verbatim) for a working session. But 4 summary meeting -- summary -- the summary minutes 5 are very -- very, very limited. So you can do 6 summary meetings (verbatim) with a link on a working 7 session. 8 Then for Friday, I suggest you clarify 9 that, you know, the Commission shall ensure that a 10 certified transcript of the regular monthly meeting 11 or special meeting is prepared, and is considered 12 the official record of the Commission. 13 The Commission -- I'd probably do it as a 14 "may," just to give you a little bit of room. You 15 can do "shall" or "may". 16 COMMISSIONER CARRILLO: How about a 17 "will"? 18 MS. JULIA BARNES: Well, they're all 19 "shall," so do "shall -- "shall post summary" 20 meetings -- "summary minutes of other -- of working 21 sessions with a link to a recorded transcript" would 22 work. 23 THE CHAIR: Commissioner Manis? 24 COMMISSIONER MANIS: I guess I just want 25 to clarify. Regarding the link, the link is -- it's</p>
<p style="text-align: right;">167</p> <p>1 THE CHAIR: Ms. Barnes? 2 MS. JULIA BARNES: Your Rules of Procedure 3 are -- are uploaded. And I'll just point to Page 7, 4 G3. 5 "The Commission shall ensure that a 6 certified transcript of the regular monthly 7 meeting..." -- which would be the Friday meeting -- 8 "...or special meeting is prepared." 9 So -- and maybe I misunderstood you, 10 Commissioner Carrillo. Obviously, there is no 11 transcription of a working session right now. And 12 it is not contemplated in your Rules of Procedure. 13 There clearly is a transcription on Friday. 14 COMMISSIONER GIPSON: Yeah. I was going 15 to make a clarification, because I think when you 16 were saying "transcription," that was for Friday. 17 COMMISSIONER CARRILLO: I misspoke 18 regarding Thursday. 19 COMMISSIONER GIPSON: Yeah. So let me 20 just ask a quick question. Would we need a motion 21 to include the video recording for Thursday and 22 Friday in our Rules of Procedure? 23 MS. JULIA BARNES: I would think you 24 would. 25 COMMISSIONER GIPSON: Okay.</p>	<p style="text-align: right;">169</p> <p>1 not really necessarily -- it is a recording in the 2 sense that we had a live-stream video of our meeting 3 that is now publicly available online on YouTube. 4 It's not necessarily anything different than that, 5 you know. 6 Once our live stream is finished, it 7 publishes on YouTube and is publicly available to 8 anyone who wants to access it. So the link that 9 we're referring to is to the specific YouTube video 10 is what I am understanding. 11 COMMISSIONER CARRILLO: Yeah. 12 THE CHAIR: Commissioner Carrillo. 13 COMMISSIONER CARRILLO: I would say yes. 14 So then I would make a motion just to put this baby 15 to rest. And that is I move that relative to 16 keeping records of our meetings -- I don't like the 17 way that that began. 18 I move that relative to recording our 19 meetings, that for our work sessions, we have 20 summary minutes and a link to the video of the 21 meeting, and that for our regular meetings or 22 special meetings, that we have the -- a 23 court-transcribed record to serve as the official 24 record of the meeting or special meeting and to have 25 a link to the video recording.</p>

170	<p>1 COMMISSIONER GIPSON: I'll second. 2 COMMISSIONER CARRILLO: What do you think, 3 KC? Does that work? 4 COMMISSIONER MANIS: Cool. 5 THE CHAIR: Okay. There is a motion from 6 Commissioner Carrillo, a second from Commissioner 7 Gipson. 8 Any discussion on the motion? 9 (No response.) 10 THE CHAIR: All right. Commissioner 11 Armijo, roll-call vote, please. 12 COMMISSIONER ARMIJO: Commissioner Gipson. 13 COMMISSIONER GIPSON: Yes. 14 COMMISSIONER ARMIJO: Commissioner Manis. 15 COMMISSIONER MANIS: Yes. 16 COMMISSIONER ARMIJO: Commissioner 17 Robbins. 18 COMMISSIONER ROBBINS: Yes. 19 COMMISSIONER ARMIJO: Commissioner Voigt. 20 COMMISSIONER VOIGT: Yes. 21 COMMISSIONER ARMIJO: Commissioner Armijo 22 votes "yes." 23 Chair Burt. 24 THE CHAIR: Yes. 25 COMMISSIONER ARMIJO: Commissioner</p>	172	<p>1 MS. JULIA BARNES: So looking at the Open 2 Meetings Act, it does not address things happening 3 during the meeting that might be a Roberts Rule of 4 Order issue. But it is not an Open Meeting Act. 5 The -- it was properly noticed. It was 6 identified here -- and there's nothing in the Open 7 Meetings Act that looks at -- other than going into 8 closed session and coming back out of closed 9 session, it doesn't address how you work through the 10 agenda. So it's not an Open Meetings Act issue. 11 COMMISSIONER ROBBINS: Madam Chair? 12 THE CHAIR: Commissioner Robbins. 13 COMMISSIONER ROBBINS: Since Mr. Matthews, 14 I think, is still with us, if he is, I would maybe 15 make the motion that barring an objection from The 16 GREAT Academy, I would move that we rescind the 17 Letter of Concern to The GREAT Academy since he 18 is -- if he's still online. 19 If he had a concern and said, "No, go 20 ahead and send it," then I would not make the 21 motion. 22 THE CHAIR: I second. 23 Can we -- before -- I'll call on 24 Commissioner Carrillo next. 25 Can we -- if Mr. Matthews would like to</p>
171	<p>1 Carrillo. 2 COMMISSIONER CARRILLO: Yes. 3 COMMISSIONER ARMIJO: And that passes, 4 seven to zero. 5 COMMISSIONER CARRILLO: A question for the 6 Chair. 7 THE CHAIR: Commissioner Carrillo. 8 COMMISSIONER CARRILLO: Since we've come 9 back from lunch, should we just -- should you, as a 10 matter of record say who isn't here? Because it 11 changed since we started at 9:00 in the morning. 12 THE CHAIR: We do have on record earlier 13 that Commissioner Chavez was no longer present. I 14 think when Commissioner Chavez -- if -- when 15 Commissioner Chavez returns, I could announce that. 16 COMMISSIONER CARRILLO: And we don't 17 have -- it just seems like -- Commissioner Davis 18 isn't here, and also Commissioner Taylor. 19 THE CHAIR: That was at the beginning of 20 the meeting. Uh-huh. 21 COMMISSIONER CARRILLO: Okay. Okay. 22 THE CHAIR: Okay. All right. We have an 23 update on Item No. 8. So I'm going to hand it over 24 to Ms. Barnes to let us know what we can and cannot 25 do about that.</p>	173	<p>1 speak at this time, if he can raise his digital hand 2 and we will put you on the panel if you would like 3 to speak. 4 Oh. We did just make a motion. Okay. 5 Commissioner Carrillo. 6 Sorry, Mr. Matthews. We -- okay. Sorry, 7 Mr. Matthews. 8 All right. Commissioner Carrillo. 9 COMMISSIONER CARRILLO: Yeah. I'm going 10 to support this. And -- but I would just have us 11 not make this a practice of wanting to go back to 12 stuff, because I think it's -- well, it may not be 13 an OMA violation. I think it skirts the intent, 14 because -- you know, by not giving the public a 15 chance to know that we're going back to this issue. 16 Because those things usually happen at the beginning 17 of the meeting where you move agenda items around. 18 That's all. 19 THE CHAIR: Any other discussion? 20 Commissioner Gipson. 21 COMMISSIONER GIPSON: Yeah, real quick. 22 This is -- I don't have an issue with rescinding it. 23 I think it's fine, except for the fact that I have a 24 real problem with going back after the fact. 25 And, like I said, to support it just</p>

174	<p>1 because it's a positive, we're -- I think is not 2 a -- is not a good move. I'm really -- I'm torn 3 with supporting it, not because I don't support the 4 concept, but I don't like the practice that this -- 5 yeah. Yeah, it's troubling for me.</p> <p>6 THE CHAIR: So I'm just reading the 7 Robert's Rules of Order because it is what is in our 8 Rules of Procedure that governs what we do. And it 9 does allow -- there is an option to reconsider. It 10 did say that only the member who -- only a member 11 who voted on the prevailing side can make a motion, 12 which I believe was all of us.</p> <p>13 So it does require a majority vote to 14 adopt. So I actually think we need to vote to 15 reconsider the item. I think that's the proper 16 process through Robert (verbatim) Rules of Order.</p> <p>17 So we need to -- a motion to reconsider 18 the item, a majority vote, and then the item can be 19 reconsidered.</p> <p>20 So if we can rescind the original motion, 21 Commissioner Robbins?</p> <p>22 COMMISSIONER ROBBINS: Well, I will -- I 23 will rescind my previous motion. But I will also 24 move for reconsideration of Item 8.</p> <p>25 THE CHAIR: Second. Any discussion on the</p>	176	<p>1 COMMISSIONER ARMIJO: Yes. Okay. 2 Commissioner Manis. 3 COMMISSIONER MANIS: Yes. 4 COMMISSIONER ARMIJO: Commissioner 5 Robbins. 6 COMMISSIONER ROBBINS: Yes. 7 COMMISSIONER ARMIJO: Commissioner Voigt. 8 COMMISSIONER VOIGT: Yes. 9 COMMISSIONER ARMIJO: Commissioner Armijo 10 votes "yes." 11 Chair Burt. 12 THE CHAIR: Yes. 13 COMMISSIONER ARMIJO: Commissioner 14 Carrillo. 15 COMMISSIONER CARRILLO: Yes. 16 COMMISSIONER ARMIJO: Commissioner Gipson. 17 COMMISSIONER GIPSON: Yes, with a question 18 mark. 19 COMMISSIONER ARMIJO: I'll put that down. 20 That is six for. The motion is approved. 21 THE CHAIR: Six in favor? Can you restate 22 the vote? 23 COMMISSIONER ARMIJO: Six in favor. 24 Can you restate the vote count? 25 COMMISSIONER ARMIJO: Six in favor. Is</p>
175	<p>1 reconsideration? 2 Commissioner Carrillo. 3 COMMISSIONER CARRILLO: I'm going to 4 support the reconsideration. But I have the same 5 concern that Commissioner Gipson has. I don't want 6 to make this a practice where we go back on stuff. 7 I just think it's bad form.</p> <p>8 THE CHAIR: Any other discussion? 9 All right. What I'll say is that I am -- 10 I am not going -- if it -- I feel good that it is 11 not an OMA violation. I feel good that it's part of 12 Robert's Rules of order. And it's probably part of 13 Robert's Rules of Order in this specific scenario in 14 which staff was able to find different information 15 that would have possibly led to a different vote 16 earlier.</p> <p>17 I do not want to -- because we made a 18 decision, we need to go through with the work of a 19 decision that may not need to be done, if it's 20 allowable, which I do feel confident that it is 21 allowable now.</p> <p>22 Any other discussion? 23 All right. Commissioner Armijo, can you 24 call roll vote for -- this is to reconsider 25 Item No. 8.</p>	177	<p>1 that what you mean? 2 THE CHAIR: There should. 3 COMMISSIONER ARMIJO: Seven in favor. I 4 don't know how to add. 5 THE CHAIR: Motion passes. 6 All right. So we're back to Item No. 8. 7 COMMISSIONER CARRILLO: Was there a no? 8 THE CHAIR: There was not a "no." It was 9 seven zero. She did. She fixed it. 10 Okay. So we're back to Item No. 8. 11 Director Chavez did already speak of the error that 12 was made in the original document that we saw this 13 morning. That error has been corrected. Three of 14 the five governing board members have, as of today, 15 received 100 percent of their governing board 16 training. So I would entertain a motion. 17 COMMISSIONER CARRILLO: I'll move that we 18 rescind the Letter of Correction for The GREAT 19 Academy relative to their board training. 20 COMMISSIONER ROBBINS: Second. 21 THE CHAIR: Thank you. And any 22 discussion? 23 (No response.) 24 THE CHAIR: All right. And so if we could 25 do a roll-call vote, Commissioner Armijo.</p>

178	<p>1 COMMISSIONER ARMIJO: Commissioner 2 Robbins. 3 COMMISSIONER ROBBINS: Yes. 4 COMMISSIONER ARMIJO: Commissioner Voigt. 5 COMMISSIONER VOIGT: Yes. 6 COMMISSIONER ARMIJO: Commissioner Armijo 7 votes "yes." 8 Commissioner Burt. 9 THE CHAIR: Yes. 10 COMMISSIONER ARMIJO: Commissioner 11 Carrillo. 12 COMMISSIONER CARRILLO: Yes. 13 COMMISSIONER ARMIJO: Commissioner Gipson. 14 COMMISSIONER GIPSON: Yes. 15 COMMISSIONER ARMIJO: And Commissioner 16 Manis. 17 COMMISSIONER MANIS: Yes. 18 COMMISSIONER ARMIJO: The motion passes, 19 seven to zero. 20 THE CHAIR: Thank you. 21 All right. We're moving on to Item 22 No. 11, Discussion and Possible Action on Upgrades 23 to Mabry Hall and Inclusion in the Budget. 24 And so I would like to first turn this 25 over to Director Chavez to talk about these possible</p>	180	<p>1 and folks to be able to be online or in person, and 2 for there to be some seamless -- I am not going to 3 use the right language -- technology, I would say, 4 for the use of this room. 5 And so those are the quotes that are in 6 your inbox and under your consideration. This was 7 discussed with the Finance Committee. And so I 8 actually am happy to answer whatever questions I can 9 about this. This was supposed to be discussed, I 10 think, at the work session yesterday, where -- was 11 it? 12 No. Okay. 13 All right. There's going to be some 14 technical questions, and I may or may not be able to 15 answer them. 16 THE CHAIR: Right. I'll say from the 17 Budget Committee, this was brought to the Budget 18 Committee to talk about. This is also part of the 19 movement towards ensuring we're spending -- we're 20 not reverting monies that this year would go back 21 into the General Fund, especially in absence of any 22 other solution to that right now. 23 And so in order to allow this work to 24 happen before June 30th, which is the end of the 25 fiscal year, we would need to make some kind of</p>
179	<p>1 updates. 2 DIRECTOR CORINA CHAVEZ: Thank you, 3 Chair Burt. 4 First of all, I would like to just direct 5 the -- the Commission -- just remind the Commission 6 that I have uploaded some of the quotes for the work 7 and put into the -- the Google Drive under -- hold 8 on a second -- CSD folder. 9 There are two -- there are two documents. 10 One -- and both of them are quotes that have been 11 obtained by a colleague at the PED. 12 One is to do some electrical work in 13 Mabry. Just this morning, we were -- one of the 14 Commissioners was saying, "Wouldn't it be nice if 15 there was an outlet to plug in our computers?" 16 This quote would include not only 17 electrical outlets, but a USB port, so that that 18 would correct the electrical need for this space 19 that we utilize. 20 I don't think there's anybody else that 21 utilizes the U-shape; although, indeed, this room is 22 used by others at the PED. 23 The other quote is a bid for creating a 24 hybrid meeting space, similar to what we are 25 contracting with right now, that allows for cameras</p>	181	<p>1 decision as a Commission on this. And, you know, 2 maybe -- an allowable amount is what we talked about 3 in the Budget Subcommittee is up to a certain amount 4 be allowed to do it, to allow some flexibility to 5 get the work done by June 30th and be able to -- not 6 that -- I mean, the Santa Fe Audiovisual, you all 7 just close your ears. It's not that we don't want 8 to keep using you for forever, but it would be 9 permanent solutions for being able to follow our 10 rules of procedure in doing that live-streaming and 11 recording with fixed technology. 12 So that's kind of the Budget Subcommittee. 13 And anyone -- Commissioner Gipson, if you have 14 anything else from the Budget Subcommittee, feel 15 free to add to that as well. 16 DIRECTOR CORINA CHAVEZ: And, Chair Burt, 17 I actually found the notes to more properly describe 18 the webcasting work, which is what the second quote 19 is. And that would be for one camera that would be 20 used in the center of the room. And it would be 21 just a view of the room. And then Pearl Mini to put 22 camera feed live on whatever social media that we 23 want to use. 24 And the system is basic. And it wouldn't 25 necessarily require someone to be there to maintain</p>

<p style="text-align: right;">182</p> <p>1 the webcast.</p> <p>2 THE CHAIR: All right. Any discussion</p> <p>3 from Commissioners?</p> <p>4 Commissioner Robbins.</p> <p>5 COMMISSIONER ROBBINS: I looked at the</p> <p>6 quote. And it -- it says recommendations are for a</p> <p>7 projector, a screen, and AV control systems. That's</p> <p>8 not in this.</p> <p>9 The other question I have, because the</p> <p>10 total cost is \$41,000. Is this firm on a price</p> <p>11 agreement with the State if -- they are?</p> <p>12 THE CHAIR: Yes. They are on a price</p> <p>13 agreement.</p> <p>14 COMMISSIONER ROBBINS: For this size of</p> <p>15 contract, though, even when they're on price</p> <p>16 agreements, my past practice, when you're getting --</p> <p>17 if you're getting something so sophisticated, is to</p> <p>18 get more than one quote. I always recommend it,</p> <p>19 even if someone is on price contract.</p> <p>20 When I was at Workforce, we had a</p> <p>21 contractor that gave us a price quote. They were on</p> <p>22 price contract. And their -- their approved price</p> <p>23 contract with the State allowed for hourly charges</p> <p>24 for a person, and also a mileage charge of three and</p> <p>25 a half dollars a mile.</p>	<p style="text-align: right;">184</p> <p>1 maybe more to actually have the right system for us.</p> <p>2 And just having one camera, to me, really is not --</p> <p>3 it's not even comparable to what we have now. And</p> <p>4 so I think it's somewhat lacking.</p> <p>5 THE CHAIR: Commissioner Gipson.</p> <p>6 COMMISSIONER GIPSON: So correct me if I'm</p> <p>7 wrong. But I do believe when this process first</p> <p>8 started, that Ms. Friedman did solicit quotes from</p> <p>9 companies. And this was the only company that</p> <p>10 responded to the quote that met our needs, and that</p> <p>11 these needs were created based on the conversations</p> <p>12 with the folks in Doña Ana County and the system</p> <p>13 that they had, that this is based -- this is -- for</p> <p>14 the most part, for those that were live there, this</p> <p>15 is the same system, except you don't have the</p> <p>16 drop-down computers that we had, which had the</p> <p>17 screens with us, because that would be -- that's a</p> <p>18 lot of work, but that it accommodates that same</p> <p>19 system, but that this was the only company that</p> <p>20 responded to the request for quotes that was put out</p> <p>21 there when we first started this. That's my</p> <p>22 understanding.</p> <p>23 DIRECTOR CORINA CHAVEZ: May I respond?</p> <p>24 THE CHAIR: Yes, Director Chavez.</p> <p>25 DIRECTOR CORINA CHAVEZ: So, Commissioner</p>
<p style="text-align: right;">183</p> <p>1 So on a 60-mile trip, it would actually --</p> <p>2 just for the driving on a 60-mile trip, would have</p> <p>3 cost well over \$200. That's just to drive.</p> <p>4 Now, you know, that, to me, was excessive.</p> <p>5 So, yeah, we got a quote. But when I saw</p> <p>6 that, I said, "No. I'm going to get other quotes."</p> <p>7 And I found -- and I found out that I</p> <p>8 could use my own staff for one-tenth the cost. And</p> <p>9 that was even paying them per diem to drive from</p> <p>10 Albuquerque down to Carlsbad to do the work and</p> <p>11 everything.</p> <p>12 So just because they're on a price</p> <p>13 contract doesn't mean you're getting a really good</p> <p>14 deal or that it's going to fully meet the needs that</p> <p>15 we have; because, again, we're not IT professionals</p> <p>16 here, you know, with the exception of perhaps</p> <p>17 Mr. Manis.</p> <p>18 But unless you are very clear in spelling</p> <p>19 out what you need and what the options are, we could</p> <p>20 get something that, yes, it meets the specs that</p> <p>21 they gave us in a quote, but we find out it really</p> <p>22 doesn't meet our needs.</p> <p>23 So I appreciate getting this quote, but I</p> <p>24 would like to see at least two other quotes. And</p> <p>25 we're looking at spending upwards of \$40,000 and</p>	<p style="text-align: right;">185</p> <p>1 Gipson, that is right. And I apologize that the</p> <p>2 person that obtained the quote that works with both</p> <p>3 me and Ms. Friedman was unavailable today.</p> <p>4 So I would like to be more articulate</p> <p>5 about this. But I trust that the person who has the</p> <p>6 technology knowledge who was asked to -- to obtain</p> <p>7 the quotes did so.</p> <p>8 And you are correct. Ms. Friedman is here</p> <p>9 if we would like to promote her. She might have</p> <p>10 additional information to add to the conversation.</p> <p>11 But one of the things that I wanted to say</p> <p>12 in response to Commissioner Robbins' concern about</p> <p>13 obtaining multiple quotes is that if we delay a</p> <p>14 decision today on approving a budget, then it delays</p> <p>15 our ability to engage a contractor and potentially</p> <p>16 to be able to spend the funds before the end of the</p> <p>17 fiscal year, which is already a concern with the</p> <p>18 timeline that we are looking at today.</p> <p>19 So I know that my lack of technology</p> <p>20 knowledge and being very articulate about the quote,</p> <p>21 I hope is not a barrier, Commissioner Robbins, to</p> <p>22 the work that has been done by my colleagues who</p> <p>23 aren't here today, but who have done the legwork and</p> <p>24 have a lot more technology knowledge.</p> <p>25 THE CHAIR: Commissioner Carrillo.</p>

<p style="text-align: right;">186</p> <p>1 COMMISSIONER CARRILLO: I want to have the 2 kind of system they had in Doña Ana County. I 3 thought that was great, except that drop-down 4 computer stuff. It worked beautifully. Being up 5 here online, the way -- I mean, it's great to -- I 6 mean, having -- I don't have the technology 7 knowledge. But I could say that I have the 8 composition and film knowledge, because, Lord knows, 9 I went to film school. 10 But, anyway, it's nice to have the greater 11 shot of the -- of Mabry but then have the ability to 12 actually go to somebody who is speaking. 13 And I just thought that was done so well 14 in Doña Ana County. And I -- I don't want to make 15 the wrong decision, because it's an expensive 16 decision based on timing. But there's probably a 17 way that we can, you know, make sure everything is 18 completed by the next meeting. 19 But the idea that we just have to go with 20 this one quote seems a little outrageous. 21 And then also the idea that there's not a 22 lot of others that can do the work. Lord knows 23 there's a lot of others that can do this work and 24 want the work. 25 THE CHAIR: All right. I'm going to</p>	<p style="text-align: right;">188</p> <p>1 have them get it for us by today. 2 And he was, like, "I'm so sorry. I do 3 want to work with them." 4 But he said he did talk to them. And he 5 said, "Can you give me like just a roundabout -- I 6 know it's not going to be exact. But what about did 7 Santa Fe County spend?" And they said \$250,000 is 8 what it would be for something similar to the 9 Doña Ana County setup. So it's very 10 high-functioning. It's definitely the latest 11 technology, right? We're not skimping on the 12 upgrades. 13 And so I think, in the absence of a 14 specific quote, like exact quote, what I think -- 15 and the concern is -- and so Woody, when he talked 16 to this company, said, "Would you be able to do this 17 by June 30th, like actually have it completely 18 done?" 19 And they said, "Yes, but it's going to 20 take several months." 21 So we do need to -- if we want to have any 22 upgrades to Mabry Hall done this year, I think we 23 should consider a range of funds that we might be 24 comfortable with. 25 And then, also, I feel comfortable with</p>
<p style="text-align: right;">187</p> <p>1 speak, and then Commissioner Robbins, I'll call on 2 you right after. 3 I did have a very lengthy conversation 4 with Woody yesterday or the day before. Now that it 5 snowed, I can't remember my days. He said -- this 6 is actually the quote that he obtained -- is for 7 bare bones. 8 He was thinking, "Okay, what's the minimum 9 amount of money we can spend in order to make sure 10 that the PEC has the ability to live-stream, have 11 this ability to do the hybrid?" 12 That's what this quote is for is actually 13 for not the best setup. 14 He did say he is working with this -- with 15 the company -- he has talked to the company that set 16 up the Santa Fe County chambers. And their chambers 17 are very similar to the -- to the Doña Ana County. 18 So it has the -- the wide-pan camera. It also has a 19 camera that follows people. But it is all, once 20 again mounted, permanent, like, it stays. 21 He believes that -- he tri- -- he called 22 them -- this was on Wednesday. And he called them. 23 He tried to get that level of a quote from at least 24 one company so we could kind of at least have some 25 knowledge of what that could look like. He tried to</p>	<p style="text-align: right;">189</p> <p>1 the directive of including multiple quotes as part 2 of that, but maybe not approve a singular quote 3 today or a singular amount, and instead maybe a 4 range or up to. 5 My suggestion would be up to the reversion 6 amount. Any amount that is unencumbered right now 7 and is likely going to be reverted, it can go up to 8 that reversion amount, and that way it kind of 9 leaves the flexibility, and it's not pulling from 10 things that are encumbered elsewhere right now. 11 That would be -- we're not in a place 12 right now for the entire Commission to give a 13 specific dollar amount. But I think if we could 14 consider a range, and if that's something the PEC 15 could consider and then allow the Budget 16 Subcommittee to then go in and ensure that we stay 17 under or in that range, that is something I would 18 ask for consideration. 19 All right. Commissioner Robbins. Then 20 we're going to do Commissioner Armijo, then 21 Commissioner Manis. 22 COMMISSIONER ROBBINS: Well -- and, again, 23 we were -- you know, I trust that, you know, a 24 couple of companies were contacted. 25 But one thing that we're lacking -- and</p>

<p style="text-align: right;">190</p> <p>1 this is a clear process. We get into, you know, 2 having clear processes. 3 One, we didn't send out a spec. This 4 Commission didn't see what the spec was of what 5 we're asking for. "Well, give us audiovisual 6 capability." 7 Well, that's not what you ask someone to 8 bid on. You have to give them something very 9 specific. 10 I would also like to know -- because we 11 have the one company from Santa Fe, it's very 12 possible -- Woody may have done a great job and 13 everything. But it takes time to call people to say 14 "Hey, would you bid on this," things like this. 15 It's real easy to call two or three places 16 that you're familiar with that you worked with. 17 They say "Yes" or "No, we're too busy, we have so 18 much," and you just end it at that point. 19 If we have to wait until July before we 20 award something, I would rather wait and know 21 exactly what we're getting, knowing exactly what the 22 amount that we're approving, rather than some range 23 from \$40,000 to \$250,000. 24 I mean, my goodness. I mean, you talk 25 about lack of transparency to the public about how</p>	<p style="text-align: right;">192</p> <p>1 company. 2 I was just talk- -- I mentioned to 3 Commissioner Carrillo, I would imagine there are 4 probably a dozen AV companies in Albuquerque and 5 probably a dozen more around the state that would 6 love to know if we posted a Request for Proposals. 7 But we'd have to come up with the specs. And you 8 could do an RFI, Request for Information. What 9 would you recommend? 10 And that's really, for something like 11 this, even if we're considering something in the 12 area of \$200,000 or \$300,000, get a Request for 13 Information. What would you recommend we have? 14 Then you develop the spec and go out for a bid. 15 But with, you know, tech companies, you 16 know, they're not cheap. And, you know, this is in 17 the realm of a tech company. 18 But I would rather spend \$250,000 and have 19 it done right than \$40,000 for us to sit here 20 saying, "Boy, I wish we had," and to not really know 21 exactly what we're getting. 22 I have a question. On this spec here, it 23 calls for three 8-channel microphone mixers. That's 24 24 channels. Well, you know, I see 12 people in 25 here. When we're all here, there would be 12 or 13</p>
<p style="text-align: right;">191</p> <p>1 we're spending public funds. That's not a real good 2 way to do something. Even though you can give 3 someone the authority to do that, that's not an 4 appropriate way to do this. 5 And without -- without a technical 6 specification that someone can actually bid on, that 7 may have been why someone said, well, bare bones. 8 Well, bare bones could be a \$2,000 system. You 9 know, they give you -- they give you a laptop with a 10 camera on it. Okay. you have it. You can go Zoom 11 and we can take that and live-stream it. Or cameras 12 that can do the things they did down in Doña Ana. 13 There's a wide range when -- but if you 14 give someone a written spec, everyone's bidding on 15 exactly the same thing. And you -- in that spec, 16 you can also have a deadline that we want it 17 installed by "X" date, okay? 18 So you can buy -- one thing I know you can 19 do. You can buy equipment in one year for 20 installation in another year. That can happen. You 21 can buy the equipment up front. 22 But I understand that, you know, here we 23 are, the middle of February. But for one company to 24 say it's going to be really hard for them to get it 25 done and built by the end of June, that's one</p>	<p style="text-align: right;">193</p> <p>1 people and a couple of more microphones. 2 I'm thinking why do we need 24 -- 24 3 channel mixers? I mean, that seems like it's 4 overkill. Seems to me you could have two 5 eight-channels and meet our needs fine. 6 So there's something -- some things in 7 this spec -- and that's one of the most expensive 8 items, single items, other than the camera and 9 the -- the -- the Mini -- the Pearl Mini, I guess, 10 is the camera. And then there's this RoboSHOT. 11 And I don't know if that's the camera 12 or -- again, without knowing -- you know. Kind of 13 scanned down. 14 But, you know, 24 channels, that's an 15 awful lot, you know. I know concert centers that 16 don't have 24 channels and microphones for 17 musicians. So I think that's a little bit of an 18 overkill. 19 Thank you. 20 THE CHAIR: Commissioner Armijo. 21 COMMISSIONER ARMIJO: Thanks. I know 22 nothing about technology. But I did notice that 23 there's a gentleman that was in the Q-and-A named 24 Rob Hunter, who I'm thinking is somebody who -- he 25 said that he would make himself available if the PEC</p>

194

1 wishes for him to speak. So I just wanted to --

2 THE CHAIR: Commissioner Armijo, we can't

3 refer to the chat. It's not a part of the public

4 record.

5 COMMISSIONER ARMIJO: It wasn't the chat.

6 It was Q-and-A.

7 THE CHAIR: We can't refer to that.

8 COMMISSIONER ARMIJO: I just wanted to put

9 that out there. Thanks.

10 Commissioner Manis?

11 COMMISSIONER MANIS: I am also along the

12 lines of Commissioner Robbins. I think that it

13 would be helpful if -- because I -- I've heard a few

14 different things, one from Commissioner Gipson,

15 where this is supposed to be almost identical to

16 what was in Doña Ana, and then from Chair Burt that

17 it's bare bones.

18 And we've had a few different things where

19 it's been a mix of what exactly is. So I think,

20 along the same lines of Commissioner Robbins, if we

21 were able to get a Request for Information and then

22 a Request for Proposal, if we were still able to, in

23 the next two to four months, we might be able to

24 spend the funds on the equipment.

25 But we may not be able to spend the funds

195

1 on the labor portion. But a large portion of the

2 expense is going to be the equipment. So if we're

3 still able to meet that deadline, which, they could

4 purchase the equipment if they make an order in one

5 day. As long as we had our deadline by our June

6 meeting, we should be able to make a -- a motion or

7 a vote on whatever it is we're going to be trying to

8 procure for Mabry Hall as far as the audio and

9 visual equipment.

10 So that's my two cents on the matter.

11 Thank you.

12 THE CHAIR: Commissioner Voigt.

13 COMMISSIONER VOIGT: Thank you,

14 Madam Chair. I agree that we should have some specs

15 moving forward, or else we could be having apples

16 and oranges. And we need all the same fruit when we

17 go forward on getting equipment. It needs to be the

18 same thing.

19 So if this one quote that came in is bare

20 bones and it's functional, we could use this as the

21 spec.

22 I think there needs to be someone from the

23 Commission, maybe Commissioner Manis, as an expert

24 that could scrutinize this bid as a functional,

25 viable, workable tech system for us going forward,

196

1 and then start getting quotes ASAP.

2 I think having a not-to-exceed amount is

3 not a good way to go. I think we need to really

4 have our specs in place and start getting quotes,

5 three of them.

6 THE CHAIR: All right. So I am hearing

7 what everyone is saying. I'm wondering if we could

8 consider looking at the electrical quote and maybe

9 approving that today. Because no matter what we end

10 up doing, we're going to need -- we're going to need

11 electric -- we will need electrical no matter what.

12 So if maybe we consider doing that part

13 today, and then moving forward with some of the

14 recommendations otherwise, that could be also a way

15 to start moving the ball forward without feeling

16 like we're approving something or doing something

17 that we're not completely sure of.

18 And then get more information by next

19 month for the big amount and for -- or for even

20 breaking it into phases maybe: The equipment phase

21 and then the installation phase, because we are

22 getting close to the -- we are getting close to the

23 fiscal year ending, and so we do have to consider

24 what can actually be delivered.

25 Because it's not just putting in the order

197

1 for the equipment. The equipment has to be

2 delivered. And there is supply chain issues across

3 the globe right now. I mean, it takes a long time

4 to get things shipped right now. So we just have to

5 be mindful that maybe it's easy to go to a big-box

6 store and grab a piece of equipment now. But if

7 we're going to get specialty equipment, it could

8 take a lot longer than we're used to.

9 So something else to consider.

10 Commissioner Gipson, then Robbins, then

11 Manis, then Carrillo.

12 (Inaudible due to speaking

13 without microphone.)

14 THE CHAIR: Commissioner Gipson, then

15 Carrillo, then Manis.

16 COMMISSIONER CARRILLO: Just do it right

17 and do it once. Underlying philosophy. If you're

18 going to do the electrical quote, make sure you're

19 planning for whatever is needed on back walls and

20 maybe up there. That's all.

21 THE CHAIR: Commissioner Gipson.

22 COMMISSIONER GIPSON: I'm confused on a

23 number of pieces, because my understanding, when it

24 was presented to the Budget Committee, was that the

25 quote was for what was comparable to Doña Ana except

<p style="text-align: right;">198</p> <p>1 for the drop-down. Now I'm hearing that it was bare 2 bones.</p> <p>3 So I think, speaking as part of the Budget 4 Committee, that wouldn't have been our 5 recommendation going forward, if that's what we had 6 been told, because we were told something completely 7 different. So I'm concerned about that.</p> <p>8 I'm concerned about not having a specific 9 direction today as to what the Commission wants for 10 the AV. I think we need to be very clear as to what 11 we want. If we want to go out and get more quotes 12 and get those specs that are similar to Santa Fe and 13 Doña Ana and say, "This is -- this is what we're 14 basing our needs on, and we need quotes for that," I 15 think we have to move on that now and not wait till 16 next month, because if we wait till next month, then 17 that's not going to go out for a while, and now it's 18 April, and we can't wait till June to make a 19 decision, because April is almost too late when 20 you're looking at -- it is. It's too late.</p> <p>21 If we don't act on something next month -- 22 and next month is even cutting it close. But if we 23 don't act on something by next month, we will not 24 get it.</p> <p>25 Whether it's the equipment and we split it</p>	<p style="text-align: right;">200</p> <p>1 why couldn't we get a spec sheet of what the -- 2 where we had the meeting in Doña Ana, what they 3 exactly have and be able to go off their spec sheet 4 or go off a spec sheet from what Santa Fe has? If 5 we have their spec sheets and have their 6 information, we should be able to easily go through 7 something and get quotes.</p> <p>8 I think if -- as Commissioner Gipson 9 stated, if the Budget Committee was told one thing 10 but it meant another, it's difficult to discern what 11 exactly we do need at this point.</p> <p>12 So that's what the -- I guess my issue 13 would be is it's hard to say what exactly we're 14 needing unless somebody is giving us guidance as to, 15 "Okay, this is what this is going to be used for, 16 this is what this is going to be used for," because 17 it's kind of -- right now it's kind of open to 18 interpretation, based on the quote, what they're 19 going to be building the things for.</p> <p>20 So that's -- two, I guess, concerns: One, 21 if we're wanting to vote on the electrical, is the 22 electrical going to be contingent -- or the AV 23 contingent on the electrical type of thing, because 24 some of those electrical issues are going to have to 25 be taken care of to meet our AV needs.</p>
<p style="text-align: right;">199</p> <p>1 and we look at those quotes and say, "Okay, we know 2 we can get this, we'll buy the equipment, and we'll 3 wait for the -- for the labor," that's -- that's a 4 different issue.</p> <p>5 But I think we have to have that specific 6 direction today so that we can take an action in 7 March; otherwise, we're not moving forward. And it 8 impacts other budget issues for these meetings and 9 going forward for future meetings for the budget.</p> <p>10 So...</p> <p>11 THE CHAIR: Commissioner Manis and then 12 Commissioner Robbins.</p> <p>13 COMMISSIONER MANIS: So two things: One, 14 along the lines of what Commissioner Carrillo was 15 mentioning about making sure that we have the 16 electrical needs for the -- the AV, I didn't know if 17 our electrical quote is contingent upon some of 18 those AV -- that AV equipment needing that type of 19 electrical. So I didn't know if they were tied hand 20 in hand as far as that, you know, some of our 21 electrical needs are going to be worked through due 22 to some of the extra AV stuff. So that was a 23 question.</p> <p>24 But also along the lines of what 25 Commissioner Gipson had mentioned was I -- I guess</p>	<p style="text-align: right;">201</p> <p>1 And so are they going to have to come back 2 out to address that, or what's the situation 3 involved with that?</p> <p>4 THE CHAIR: Commissioner Robbins, then 5 Director Chavez.</p> <p>6 COMMISSIONER ROBBINS: Well, I agree with 7 what Commissioner Manis just said, that, you know, 8 perhaps if we like the system that either the 9 Santa Fe Commission or the Doña Ana County 10 Commission uses, that would be a good first step.</p> <p>11 Breaking a single contract into equipment 12 and then installation across two fiscal years is 13 problematic. I think if they cannot get the 14 equipment in and install it in one year, you -- if 15 you wait until having a install contract separately, 16 even if it's with the same company, one, you're 17 going to have to bid that out separately. And, 18 then, two, what if someone comes in as low bid, and 19 they say, "Oh, now you need all this other 20 equipment, because I don't work with this equipment. 21 I have to work with this equipment."</p> <p>22 So it's better to do the equipment 23 purchase and install in one -- in one contract, one 24 bid, and get the specs, post it on the GSD website, 25 the State Purchasing, because a lot of larger</p>

202

1 companies that would be willing to do this type of
2 work look at the GSD website, State Purchasing's
3 website, to look for opportunities for business.

4 If you call two or three businesses, you
5 can get quotes or no quotes. But you're really not
6 putting it out there.

7 And, really, if we're talking about a
8 system -- Doña Ana County, if it costs a quarter
9 million dollars, I would like as many people to give
10 us a quote and really do it well. And if -- you
11 know, the specs that you give are the minimum. They
12 can go above that, and we can always say, "Yes, your
13 system meets the specs," and it gives us all these
14 other things. It doesn't mean we're limited to
15 that, because we can choose the best option for the
16 Commission and for our needs.

17 But, you know, what Commissioner Manis
18 said, it's probably the most expeditious thing is to
19 just get that spec if we can get it in the next week
20 or so, put that on the State Purchasing website for
21 a bid. And, I mean, I look at it this way. You put
22 a specification in it, it has to be equipment
23 acquired and installed by June -- and billed by
24 June 30th. You make it as simple as that. And if
25 they cannot do that, if you don't get bids for that,

203

1 then we rebid it at the beginning of the year and we
2 set a deadline of when that can be done.

3 Because you don't want to have something
4 that, you know, you start even in July, and you
5 don't give them a deadline of when you want the
6 equipment in place.

7 And I understand. We would like to have
8 it by July 1st. But at this point in time, I don't
9 know that we can have an adequate, necessary system
10 by that time.

11 Yeah, we can have bare bones. But I don't
12 know that that's what the Commission or the public
13 would want.

14 THE CHAIR: Director Chavez?

15 DIRECTOR CORINA CHAVEZ: I think delaying
16 it means it's not going to happen this fiscal year.
17 And I apologize. I did ask for some help from folks
18 at PED who requested the bid and understand the bid
19 and were unable to make it today.

20 But we do have a meeting -- this is coming
21 up later on. We have -- we have time set aside in
22 early March. Perhaps we could revisit this then.
23 And I don't think that's probably within my purview
24 to suggest that, but that would be my
25 recommendation.

204

1 THE CHAIR: All right. And then I'll say,
2 you know, I -- I -- anyone who knew me when I was a
3 director at PED could tell you how much of, like, a
4 money saver I was; right? Like, I wanted to save
5 every -- like, really stretch every governmental
6 dollar to the maximum.

7 I have a really big concern. If you
8 look -- the current fiscal year's budget is in our
9 Google Drive right now. You can see what's in it
10 right now, reserved just for budgeting purposes, was
11 \$175,000 for these upgrades.

12 There's still -- which I'm going to start
13 by saying it is a massive huge improvement from last
14 year's reversion. But right now, there's about
15 \$200,000 unencumbered money. If we take that 175-
16 and that 200- and put it back into the General Fund
17 because we want to save, you know, \$50,000, I would
18 prefer that we use next year's fiscal money to
19 support charter schools and use that lump of money
20 this year to do these upgrades.

21 For me, pushing it into the next fiscal
22 year is taking the money away from charter schools
23 that we can be creative and utilize it better with
24 next year.

25 We are going to be giving back, reverting,

205

1 willingly, \$400,000, because we want to save 50-? I
2 mean, we're going to be spending more -- that does
3 not make -- it's not responsible to me if you look
4 at it that way.

5 So I think -- once again, I think if --
6 what I would feel most comfortable with -- I mean,
7 nobody -- I don't believe there's a single person
8 here that wants to revert money back into the
9 General Fund that our charter schools have put into
10 CSD's 2 percent. I don't think that's the wish of
11 anybody.

12 And I fullheartedly [ph] believe that it
13 is very beneficial to our charter schools to have
14 access and ease of access to our PEC meetings for
15 years to come so they do not have to drive up to
16 Santa Fe and spend a whole day away from their
17 school communities in order to have easy access to
18 our meetings.

19 This -- I do believe this is supporting
20 charter schools. And to say, "Well, we need to know
21 the exact dollar amount, and we need to know exactly
22 this," before we can approve a -- a -- the idea of
23 moving forward on this, to me is a little
24 irresponsible.

25 I think what -- like I said when I first

206

1 talked about Woody and my conversation this week, he
2 did ask -- the company he is getting a quote from --
3 and he was -- like I said, he really wanted it for
4 today, so we could look at it; we could discuss it;
5 we could be more -- a little bit more exact than we
6 are, which we're just not going to be able to be
7 because we don't have these multiple quotes.

8 But he is basing -- he is talking to the
9 company that put in the system in the Santa Fe
10 County Commission that is the same as Doña Ana
11 County Commission. Those are the specs that they're
12 using, someone who already has, like, high
13 technology. They've been using this. It does the
14 things that we want it to.

15 They are going to copy and paste it here.
16 That's what -- that's the idea behind this new quote
17 that's coming. That's the quote I said that they
18 told him. It's probably going to be around
19 \$250,000. And we can do it by June 30th if we do it
20 now. They have a price. They are on the State
21 pricing agreement, so we do not have to go out to
22 bid.

23 And, once again, I hear that -- maybe we
24 could go out to bid and maybe we could get it
25 cheaper by someone else. I hear you. My fiscally

207

1 conservative heart is really -- like, it's hard for
2 me to be, like -- okay, we could save money. We're
3 going to end up spending our charter schools' money
4 more by giving it back to General Fund and now using
5 another \$25,000 again.

6 We are wasting charter school money by not
7 doing it this fiscal year. And that, to me, is a
8 little disappointing because of a principle, I
9 guess, if that's the reason we're doing it.

10 So I saw Commissioner Carrillo first.
11 Then Gipson. Then Voigt.

12 COMMISSIONER CARRILLO: Chair Burt,
13 Commissioners, Chair Burt. I think that was very
14 eloquently put. And I agree.

15 So, then, to me -- so we aren't here till
16 4:00 on this one issue, what do we need to do now to
17 move this forward? I mean, if we've got the exact
18 specs, and that's what he was looking at for
19 Santa Fe County Commission, and if KT wants to hit
20 the road and go to Las Cruces, Doña Ana and look at
21 theirs -- and we'll pay mileage and dinner and a
22 hotel for the night, if you want; and -- but,
23 anyway -- and just get that exact information.

24 But what do we need to do today to meet
25 these requirements to get this thing installed by

208

1 June 30 and not take money from next year?

2 THE CHAIR: Commissioner Gipson.

3 COMMISSIONER GIPSON: I think at this
4 point in time -- and I agree. I've already said we
5 need to move on this. But I'm not comfortable with
6 not seeing the quote knowing what I'm voting on to
7 say yes, we're going to approve this money for --
8 and we see the specs.

9 I'm disappointed that we're at this point
10 in time and now we're getting the specs when we were
11 told before that we had the specs.

12 So my recommendation would be that those
13 specs be to us for the work session in March -- I'm
14 not putting a date on.

15 COMMISSIONER CARRILLO: March 2nd; right?

16 COMMISSIONER GIPSON: The work session in
17 March, and then we can vote on it at the March
18 meeting. And just wait for when that date is. I
19 haven't given a date for the March work session.
20 But I think it can happen that there's a work
21 session in March, and there would be time for people
22 to process and then vote.

23 THE CHAIR: Commissioner Voigt?

24 COMMISSIONER VOIGT: Thanks. You know, I
25 think there is something to be said for a vendor to

209

1 be on the State Purchasing Agreement. And, you
2 know, vendors and contractors clamor over each other
3 to get on the State Purchasing Agreement.

4 So I think that could supersede -- if this
5 contractor is already a vendor and approved by the
6 State, then that should -- that should give them
7 priority.

8 So -- but I think that it would be good to
9 know what this is going to look like, you know, with
10 the specs. Like, what is this going to look like?
11 Is there a ceiling projector? Are there outlets
12 here? Just really basic things like that.

13 I think that in an ideal world and with --
14 if we had time immemor- -- we could get three
15 quotes; it would be nice to. But I think just
16 having specs that we all understand in a way that we
17 can move forward would be really, really great at
18 this point.

19 THE CHAIR: Commissioner Manis, I -- yeah,
20 okay. You do still want to -- all right.

21 COMMISSIONER MANIS: Yeah. And I think,
22 following Commissioner Voigt's point, you know, even
23 having some of these vendors with this big of a
24 contract, they should be more than willing to come
25 and explain what they're going to be doing to the

210

1 Commission. It's a big contract.
 2 If I got a contract like this, I mean, I
 3 would be right there saying, "Hey, yeah. This is
 4 what I'm going to do, and I'm going to walk you
 5 through the whole shebang," because that's a -- it's
 6 a big contract. And we shouldn't consider that
 7 lightly.
 8 THE CHAIR: Commissioner Carrillo.
 9 COMMISSIONER CARRILLO: Can we decide on
 10 this on March 2nd? Do we have a placeholder on
 11 March 2nd for a work session?
 12 THE CHAIR: We have it for a work session.
 13 We do not have anything for a meeting.
 14 COMMISSIONER CARRILLO: Can we just make
 15 that -- we have the ability, because it's certainly
 16 more than five days or whatever it is before.
 17 Anytime we want to have a meeting, we have the
 18 ability, as long as it's properly noticed, to do
 19 anything we want to do; so -- within reason.
 20 And so we could do this March 2nd,
 21 hopefully have quotes by then, have somebody maybe
 22 walk us through it up here and -- it's -- the motion
 23 is what? (Inaudible due to microphone not used.)
 24 Oh, okay. I don't know, just trying to,
 25 again, move it along.

211

1 THE CHAIR: Commissioner Gipson.
 2 COMMISSIONER GIPSON: We're only talking
 3 an additional two weeks for the regular meeting. So
 4 do it March 2nd, have it available for a work
 5 session for March 2nd. Someone can come, talk with
 6 us, walk us through it and so on. That would still
 7 give people a little bit of time to process it.
 8 And then we vote on it at the regular
 9 March meeting, which is only, like, a week and a
 10 half later. It's not -- you know, in the scheme of
 11 that kind of time -- but that gives people, you
 12 know, that opportunity to process it, think about if
 13 they have an additional question about it, because
 14 that happens all the time with us, that it's,
 15 like -- after I get home, it's, like, I never
 16 thought about that. Or what about this?
 17 So -- but I fully support the March 2nd
 18 work session, a March 2nd work session to be able to
 19 walk through this and have that information and be
 20 able to vet that information at that point in time.
 21 THE CHAIR: I'm going to go first, and
 22 then you, Commissioner Voigt.
 23 I'm very concerned about losing four
 24 weeks. I mean, I'm very concerned about losing four
 25 weeks. And, once again, maybe it's just me, and you

212

1 all feel differently. But if someone came and told
 2 me, "Oh, we're going to do this here, this here,
 3 this here," I'm not going to be, like, okay. I'm
 4 not going to be like, "Oh, no. I want you to do
 5 this corner, and I want an electric outlet here, and
 6 I want"-- I don't have -- what am I going to say to
 7 someone who's going to present it to me?
 8 I think for me, I'm not worried about -- I
 9 think a contract is going to hold them accountable
 10 for the idea of what we want. Are we -- do -- am I
 11 going to get into the specs of all these things?
 12 Absolutely not.
 13 What I care about is ensuring that we're
 14 not being irresponsible with spending this money.
 15 And so that's where my decision -- I don't need
 16 to -- for me, I am not interested in waiting to hear
 17 from someone, "Come walk us through Mabry Hall and
 18 tell us about it."
 19 I think we have had discussions multiple
 20 times about what we want in Mabry Hall. I think
 21 there's a pretty clear understanding. We've been in
 22 a place where we really liked the setup and the
 23 system. It's in the same state. It's very easy to
 24 be able to -- to contract someone on the State
 25 Pricing Agreement to where we do not have to wait in

213

1 order to get this done this year. Tell them, "We
 2 want that. Copy and paste it here."
 3 And, once again, I think if -- as a
 4 Commission, we can say, "We do not want to spend any
 5 additional charter money that is not already
 6 unencumbered"; right? We are not going to take from
 7 anything that CSD has saved aside for charter school
 8 support. we are not okay with using that money.
 9 Like, if they say, "Oh, it's going to be
 10 \$750,000," we don't have that. We do not have that
 11 money. It is already encumbered and is going to be
 12 spent.
 13 There is money that is saved for this and
 14 is unencumbered. We do not need to -- I feel
 15 strongly that we could say, "We are -- we would be
 16 willing to support this Mabry Hall upgrade in this
 17 fiscal year up to the unencumbered funds, and that's
 18 it," to where the only thing we're taking away is
 19 money that would be reverted to the General Fund.
 20 That is the only monies that we would be spending.
 21 And that's what -- once again, I would --
 22 I think that that's a fair way to look at it,
 23 because if it's going to go back to the General Fund
 24 and we're going to take more money from charter
 25 schools next year, that sits very, very wrong with

214

1 me.

2 Commissioner Voigt, then Carrillo.

3 COMMISSIONER VOIGT: Thanks. You know, it

4 just seems that -- I mean, how long have we been

5 talking about this? This is at least the third

6 month, right, that we've been talking about

7 upgrading Mabry Hall.

8 I feel that if we -- I understand about

9 specs and getting price quotes. And, you know, I

10 originally -- in understanding best practices in

11 purchasing, of course, that's what you do.

12 But if this IT Connect is on the

13 purchasing agreement for the State, and I know

14 there's been a lot of legwork done already, and God

15 knows we have talked about it forever, I would like

16 to make a motion that we approve the procedure --

17 that we approve the upgrade as submitted by IT

18 Connect for Mabry Hall.

19 THE CHAIR: We don't want to approve

20 those. What we want to do is approve --

21 COMMISSIONER CARRILLO: We don't want the

22 Ford Pinto; we want the Cadillac.

23 COMMISSIONER VOIGT: Okay. I would like

24 to -- we need to, like, move on this. We really

25 just need to move on getting our upgrades in place.

215

1 And I don't know if there's a motion that we can

2 make on that to move forward with getting our

3 upgrades in action.

4 THE CHAIR: I'll make a motion to approve

5 upgrades to Mabry Hall in the allowable -- with an

6 allowable amount in the CSD budget that does not

7 exceed any unexpended funds or current budgeted

8 money for the upgrades.

9 COMMISSIONER VOIGT: I'll second that

10 then.

11 THE CHAIR: Commissioner Gipson. Then --

12 COMMISSIONER CARRILLO: ¡Hijole! It was me

13 and then her, that way.

14 THE CHAIR: I saw Commissioner Gipson

15 first. Then Carrillo. Then Robins.

16 COMMISSIONER GIPSON: I have a problem

17 with that, only because we -- when we started this

18 process, we said we wanted the -- we wanted the

19 system that was in place in Doña Ana. And this is

20 what we ended up with.

21 So we just make a motion that says, "We're

22 going to approve this expenditure." We don't know

23 what we're getting with that expenditure, because

24 when we asked for the quotes for what was comparable

25 to Doña Ana, this is what we -- we didn't get what

216

1 we wanted.

2 So now if we say, "Well, we're going to

3 spend no more than this amount of money," we don't

4 know what we're getting for that money. And that's

5 where I have -- I don't -- I agree to a great

6 extent. I don't see where every camera is going.

7 But I need to know that what we said, "This is what

8 we want it comparable to," that that's what we're

9 getting. And that's what we got with that original

10 quote. And it ends up, no, it wasn't anything like

11 that.

12 So I've got a problem with just saying,

13 "Sure, go out and spend that much money," without

14 seeing what we're getting and guaranteeing that what

15 we're spending that money for is exactly what we

16 asked for.

17 And that's where I've got that there's too

18 big a gray area in a motion like that.

19 THE CHAIR: Okay. I'll -- based off of

20 that feedback, I would amend my motion to say to

21 ensure that the upgrades are comparable and the same

22 or similar to our experience at Doña Ana County

23 chambers, minus the screens that come up.

24 Everything else, we would like to be same or similar

25 to Doña Ana County chambers.

217

1 Commissioner Carrillo, then Robbins.

2 COMMISSIONER CARRILLO: I was going to --

3 I was going to make an amendment kind of just like

4 that.

5 I have a question. And it -- it was

6 stated. Is the system at Santa Fe County the same

7 as Doña Ana minus the computers that go up and down?

8 COMMISSIONER ROBBINS: We don't know.

9 COMMISSIONER CARRILLO: What do you mean,

10 "We don't know"? I've heard -- but I've heard that

11 that -- we've -- it's been said several --

12 THE CHAIR: Yes, that's what we've been

13 told. We can look into it further before we follow

14 that suit directly. But that's what we've been told

15 is that it's similar to that without the screens.

16 COMMISSIONER CARRILLO: If you want to

17 just change your motion to just say Santa Fe County

18 Commission instead of Doña Ana, because Doña Ana

19 does have that really complex computer up-and-down

20 thing, and we don't want anyone getting a quote

21 getting confused on that, because of the electrics

22 and everything that that has.

23 But somebody second the motion already?

24 Okay. And the amendment I think is great. And

25 let's just get the old ball rolling.

218

1 THE CHAIR: So I would accept that
 2 friendly amendment to exclude the pop-up monitors.
 3 COMMISSIONER CARRILLO: Have it mirror
 4 Santa Fe County.
 5 THE CHAIR: Well, I don't know exactly
 6 Santa Fe -- I would feel more comfortable because
 7 we've been there.
 8 COMMISSIONER CARRILLO: That's fine.
 9 THE CHAIR: I want to keep it as Doña Ana
 10 County. It's what we know, what we like, what we
 11 want, minus the pop-up screens.
 12 So that is the motion. Any other
 13 discussion? Commissioner Robbins.
 14 COMMISSIONER ROBBINS: Well, again, we're
 15 getting the cart before the horse. We talked about
 16 getting specs. We talked about getting -- what are
 17 the exact specs of Doña Ana County or Santa Fe
 18 County? We don't even have that, and we're now
 19 approving an unlimited dollar amount, which you
 20 don't do that.
 21 I'm sorry. That -- reverting the funds
 22 back to the General Fund would be better than
 23 spending money needlessly. There's no reason to
 24 revert the money.
 25 When we get into our budget discussion,

219

1 I'll go through that out of \$1.3 million that was
 2 budgeted for CSD this year, they've only spent
 3 \$470,000, or \$63,000 a month.
 4 They're not going to spend \$1.3 million.
 5 They'll be doing good to spend \$900,000, which means
 6 there's another \$400,000 that potentially could
 7 revert.
 8 But they know what their spending is year
 9 to date on a monthly average and what you're going
 10 to spend for the rest of the year.
 11 We should take steps right now, as a
 12 Commission, that that money doesn't revert. But
 13 they stop drawing it out of the 2 percent from the
 14 charter schools. Let them have the money, because
 15 it's their money to begin with.
 16 So I'm going to vote against this motion,
 17 because, again, we're trying to rush through to get
 18 something. That is not better than nothing.
 19 Nothing is better than just getting something you
 20 don't know and just spending money -- it's --
 21 it's -- it's very poor.
 22 And even with that, we don't know that
 23 someone that can give us the bids and guarantee that
 24 they can get it installed and built and everything
 25 by June 30th, we don't know that unless we go out

220

1 and get bids, because we don't have the bid now.
 2 THE CHAIR: Any other discussion?
 3 Commissioner Carrillo.
 4 COMMISSIONER CARRILLO: Aren't we getting
 5 all this information on March 2nd and then making a
 6 decision on March, whatever it is, like that?
 7 THE CHAIR: So my motion would be to go
 8 ahead and start that process, and on March 2nd, or
 9 March 17th, 18th, would be, ideally, that they're
 10 showing, "This is what we're going to move forward
 11 with," instead of, "Would you like to now vote on
 12 this?"
 13 It would be allowing the flexibility for
 14 the CSD and PED to start working with GSD to
 15 actually get this going.
 16 But, yes, I would like to see this
 17 presented throughout -- from now until June 30th, I
 18 would like to see this -- updates and what it looks
 19 like and what is going to be installed, all those
 20 things. And I do believe Budget Subcommittee should
 21 be reviewing these things and ensuring it's
 22 following the Commission's intent and what the
 23 Commission wants and ensuring that that process is
 24 followed as well. But it would be to move forward
 25 on it.

221

1 COMMISSIONER CARRILLO: Move forward is --
 2 you know how sometime you ask a friend, "How long
 3 will you be here?"
 4 "I'm on my way."
 5 "Well, are you on your way from Española?
 6 Or are you on your way from, like, the Plaza," okay?
 7 I don't want to be on our way. I want
 8 something on March 2nd, and then we make a decision
 9 on March 18th. I think that's the date of our
 10 regular meeting. Because that way, we're not --
 11 there's the potential, as we've seen, that if
 12 whatever is presented to us on the 18th, if we don't
 13 have something on the 2nd, we're having this
 14 discussion. And then before we know it, it's April
 15 meeting. And then by then, you know, the sun has
 16 set on this for this fiscal year.
 17 So I would want you to consider in your
 18 motion adding March 2nd as the first kind of
 19 check-in around what this is going to cost and what
 20 it's going to look like so we can discuss things,
 21 make a final on March 18.
 22 THE CHAIR: Commissioner Gipson.
 23 COMMISSIONER GIPSON: I'm confused,
 24 because I thought -- me, too. Because I thought
 25 from this vote, we're not moving -- nothing gets

222

1 done on March 2nd or whatever because it's a done
 2 deal. They're moving forward. They get quotes, and
 3 there's no additional vote needed, because we've
 4 already voted to expend the funds.
 5 So if -- that's why we've got two
 6 different expressions of what's going on right now.
 7 And that's why I'm confused about what my vote is.
 8 Because if I vote "yes," I don't see this again.
 9 There's no other vote that's going to take place
 10 about this, that we've -- we've closed the door.
 11 We've authorized the expenditure of up to this
 12 amount of money.
 13 Quotes get gathered. If someone comes in
 14 with that quote, then that quote gets awarded,
 15 because it fell within these specs.
 16 That's what this vote does. This vote
 17 doesn't give us -- we may see it somewhere down the
 18 road, "This is what the spec was," but you're going
 19 to have no opportunity to stay, "No, I didn't -- I
 20 don't want that." So...
 21 COMMISSIONER CARRILLO: But this gives us
 22 Doña Ana County.
 23 THE CHAIR: Yes. That is -- that is the
 24 part of the motion of the vote, that that is what we
 25 would be approving.

223

1 And I do think -- Commissioner Gipson is
 2 correct that there would no longer be -- based off
 3 my motion, there would no longer be votes.
 4 However, I do believe there would be --
 5 and I can amend my motion again to say there are
 6 required updates at every meeting regarding this
 7 process and what it is to allow for input during
 8 that time.
 9 But what I am -- what my motion is is to
 10 approve up to a certain amount to go ahead and start
 11 the process today. And so that way, we can come
 12 back -- ideally -- like I said, on March 2nd, it
 13 would be, "Hey, we have this person, these are the
 14 specs they gave" -- like, I wish that we could have
 15 gotten that -- that is what we were asking for for
 16 today.
 17 That's what Woody asked for for today is
 18 to get that -- the -- I don't know how to say it --
 19 the good high-tech version, quality version of
 20 Mabry Hall updates. It was supposed to -- it could
 21 have come today, but it's not ready yet.
 22 So my -- my motion is to allow CSD/PED to
 23 start the -- we also have to get approval through
 24 GSD. They have to approve all the updates to this
 25 as well. It is a very time-lengthy process.

224

1 My motion is to let them go ahead and get
 2 the process started up to a certain amount of money
 3 and not expend any additional funds -- yeah, to do
 4 it within that certain amount of money, and that
 5 they can report back to us with, "This is what we're
 6 doing," and allow for input at that point. But no
 7 more vote on it, no.
 8 COMMISSIONER CARRILLO: Okay. And to have
 9 it mirror Doña Ana County minus the pop-up
 10 computers.
 11 THE CHAIR: Yes, ensuring that it mirrors
 12 that, minus the pop-up computers. That is part of
 13 the motion.
 14 COMMISSIONER CARRILLO: Then I would
 15 ask -- I understand. Thank you. Then I would ask
 16 that the motion be read back to us, just -- because
 17 it's been piecemeal --
 18 THE CHAIR: Yes, totally.
 19 COMMISSIONER CARRILLO: -- that there be a
 20 motion in entirety that is read back to us that we
 21 can then vote on.
 22 THE CHAIR: Okay. She thinks she has it.
 23 I don't know if -- okay. Okay.
 24 So it might be worded a little bit
 25 differently, but we'll see as I read it.

225

1 I move to approve upgrades to Mabry Hall
 2 with an amount in the CSD budget that is not
 3 currently encumbered in FY22, along with the
 4 currently encumbered funds for Mabry Hall updates,
 5 as long as the upgrades are same or similar to
 6 Doña Ana County chambers without the ability of the
 7 screens to rise or lower in the dais.
 8 COMMISSIONER VOIGT: Second.
 9 THE REPORTER: I'm sorry. Who seconded?
 10 THE CHAIR: Commissioner Voigt.
 11 Any discussion?
 12 (No response.)
 13 THE CHAIR: All right. Commissioner
 14 Armijo, could you do a roll-call vote, please?
 15 COMMISSIONER ARMIJO: Commissioner Voigt.
 16 COMMISSIONER VOIGT: Yes.
 17 COMMISSIONER ARMIJO: Commissioner Armijo
 18 votes "yes."
 19 Chair Burt.
 20 THE CHAIR: Yes.
 21 COMMISSIONER ARMIJO: Commissioner
 22 Carrillo.
 23 COMMISSIONER CARRILLO: Yes.
 24 COMMISSIONER ARMIJO: I see you're back,
 25 Commissioner Chavez.

226	<p>1 COMMISSIONER CHAVEZ: No.</p> <p>2 COMMISSIONER ARMIJO: Commissioner Gipson.</p> <p>3 COMMISSIONER GIPSON: Yes.</p> <p>4 COMMISSIONER ARMIJO: Commissioner Manis.</p> <p>5 COMMISSIONER MANIS: No.</p> <p>6 COMMISSIONER ARMIJO: Commissioner</p> <p>7 Robbins.</p> <p>8 COMMISSIONER ROBBINS: No.</p> <p>9 COMMISSIONER ARMIJO: The motion passes,</p> <p>10 five to three.</p> <p>11 THE CHAIR: All right. Thank you. That</p> <p>12 moves us forward to Item No. 12, Report from Charter</p> <p>13 Schools Division.</p> <p>14 COMMISSIONER MANIS: Chair Burt?</p> <p>15 COMMISSIONER GIPSON: Yeah.</p> <p>16 COMMISSIONER MANIS: Could I just ask you</p> <p>17 something right quick? I'm going to be transferring</p> <p>18 to my phone, and I wanted to make sure that Missy</p> <p>19 could get me into the session, please.</p> <p>20 THE CHAIR: Okay. Thank you, Commissioner</p> <p>21 Manis.</p> <p>22 COMMISSIONER MANIS: Okay. Thank you so</p> <p>23 much.</p> <p>24 THE CHAIR: Commissioner Gipson.</p> <p>25 COMMISSIONER GIPSON: So I just have a</p>	228	<p>1 COMMISSIONER CARRILLO: But this is the</p> <p>2 guy that did our training. The quorum is six, and</p> <p>3 you need a majority of the seated people at a</p> <p>4 meeting.</p> <p>5 COMMISSIONER GIPSON: I'm just saying</p> <p>6 that's not what we were informed by the --</p> <p>7 Commissioner Robbins was there when it happened.</p> <p>8 COMMISSIONER ROBBINS: It takes a vote of</p> <p>9 six positive votes for anything of the Commission to</p> <p>10 be approved. It takes six positive votes.</p> <p>11 Regardless of the number of people present, it takes</p> <p>12 six positive votes to approve anything on the</p> <p>13 Commission. But you could have six people here, and</p> <p>14 you get a four-two vote to -- to revoke a charter.</p> <p>15 That's not --</p> <p>16 COMMISSIONER CARRILLO: That would</p> <p>17 encourage people to show up for their meetings.</p> <p>18 COMMISSIONER ROBBINS: No. No. No. The</p> <p>19 AG said, "You have to have six in the affirmative to</p> <p>20 pass anything."</p> <p>21 I would ask that we check -- I am certain</p> <p>22 as I am gray-haired that --</p> <p>23 THE CHAIR: So right now, we're going</p> <p>24 to -- the majority has voted to pass that item. Our</p> <p>25 counsel can look and confirm or talk to us later.</p>
227	<p>1 question, because on our votes before, our votes</p> <p>2 have always been based off of what our quorum is,</p> <p>3 which is ten, so that it has to pass by six. That's</p> <p>4 what the AG has always told us, so that a "five"</p> <p>5 vote doesn't pass it.</p> <p>6 COMMISSIONER CARRILLO: The quorum is six;</p> <p>7 the number of seats is ten.</p> <p>8 COMMISSIONER GIPSON: So five doesn't give</p> <p>9 you a majority.</p> <p>10 COMMISSIONER CARRILLO: It does, because</p> <p>11 five and three equals eight. The quorum sitting</p> <p>12 here right now, including those online, is a quorum.</p> <p>13 COMMISSIONER GIPSON: That's what I've</p> <p>14 been told. That's what I'm saying, because we were</p> <p>15 chastised.</p> <p>16 COMMISSIONER CARRILLO: I think wrongfully</p> <p>17 chastised. I hope there are no scars.</p> <p>18 COMMISSIONER GIPSON: I have a concern</p> <p>19 about that. But that's okay, if we're okay --</p> <p>20 COMMISSIONER CARRILLO: I mean, as long as</p> <p>21 a total of six of us shows up, that's a quorum.</p> <p>22 COMMISSIONER ROBBINS: We were told by the</p> <p>23 AG over a year ago.</p> <p>24 (Discussion inaudible due to lack of</p> <p>25 microphone usage.)</p>	229	<p>1 But we are going to move on to No. 12, the</p> <p>2 Report from the Charter Schools Division.</p> <p>3 DIRECTOR CORINA CHAVEZ: Thank you,</p> <p>4 Chair Burt, Commissioners. Long meeting. And we're</p> <p>5 talking about the update on staffing.</p> <p>6 So, Missy, will you please promote</p> <p>7 Maricela?</p> <p>8 And so I would like to introduce the most</p> <p>9 recent addition to the Charter Schools Division</p> <p>10 team, Maricela Rincon is joining us from Las Cruces.</p> <p>11 And I just would like for her to say a few words so</p> <p>12 that you all can get to know Mari.</p> <p>13 If you can -- and while she's getting her</p> <p>14 camera and her speaker on, the other person that's</p> <p>15 joining our team starts on Monday. I am getting an</p> <p>16 administrative assistant, finally. So I'm super</p> <p>17 happy that also Ana Garduño will be joining on</p> <p>18 Monday, and next month, you can meet her.</p> <p>19 But I'd like to introduce you all to Mari.</p> <p>20 MS. MARICELA RINCON: Madam Chair,</p> <p>21 Commissioners, and Directors, my name is Mari</p> <p>22 Rincon. I am very, very lucky to be a part of the</p> <p>23 CSD Authorizing Practices team.</p> <p>24 I have been in the field of education for</p> <p>25 over 18 years, as a teacher, a coach, and as a</p>

<p style="text-align: right;">230</p> <p>1 school principal. And I am really excited to learn 2 and look forward to working with all of you. 3 I really love what I hear so far about, 4 you know, the autonomy and the innovative practices 5 that our schools have happening right now. So I 6 just -- I'm just very proud to be here, and I thank 7 you for the opportunity. 8 DIRECTOR CORINA CHAVEZ: Thank you, Mari. 9 We're happy you're here, too. 10 Next I'll talk about updates from our 11 work. And there's been a lot of work that this team 12 has been working on, as you know. 13 And as part of Commissioner Voigt's 14 presentation, we have been working on revising the 15 Performance Framework through a facilitated process 16 that people have had input into. And so that, we're 17 very excited about that work. And there's 18 implications on the timeline for you all in terms of 19 your time to get together and hear about the revised 20 framework and also eventually to vote on it. 21 We have a Renewal Application draft that 22 was going to be discussed yesterday during the work 23 session. I actually would like to turn the mic over 24 to my colleague, Dr. Brigitte Russell, to walk you 25 through the changes.</p>	<p style="text-align: right;">232</p> <p>1 So the -- we were going to talk about this 2 in detail going through the redlines in yesterday's 3 work session that didn't take place. So we will 4 look at this in detail at the March 2nd work 5 session. 6 But in the meantime, Madam Chair and 7 Commissioners, you have -- you have these documents 8 in redline form available in your Google Drive. So 9 the application is -- this is what the -- sorry, I 10 can't share screen yet. Okay. 11 Join as a panelist. Okay. 12 I'm so sorry. 13 All right. And share my screen. 14 Thank you. 15 So this is last year's -- am I on mute? 16 Okay. So this is last year's application 17 with my -- with my comments and redline edits in it. 18 So, Commissioners, if you could take a 19 look at these over the -- the next couple of weeks 20 up to the March 2nd work session, and do feel free 21 to send me feedback by e-mail, or we can have a 22 phone call or a Zoom if you want to provide 23 additional -- additional input. 24 Sorry? 25 COMMISSIONER VOIGT: I have a question.</p>
<p style="text-align: right;">231</p> <p>1 And for those of you that are in person, 2 you should have a hard copy that talks about the 3 Renewal Application from 2021 in comparison to the 4 proposed changes for 2022. 5 DR. BRIGETTE RUSSELL: Yes. Missy, if you 6 could make me a panelist, I'll share screen. 7 So what I have a screen now is in the 8 PEC's Google Drive folder, and it's an overview of 9 the 2021 Application, Renewal Application, and the 10 proposed changes in the 2022 application. 11 So just -- just as we divided the new 12 application from a single document that contained 13 the instructions and the rubric and the applicant 14 responses, we did the same thing with the Renewal 15 Application, so that the main document will contain 16 the instructions and the rubric and the overview and 17 the timeline. 18 And then there will be a separate 19 document, Part B, that has the questions and the 20 applicant responses, and a separate Part C with what 21 applicants submit for that. 22 So Commissioners who are here today have a 23 hard copy of this. And if -- if you're not here 24 today, it is in the Google Drive in the work session 25 materials.</p>	<p style="text-align: right;">233</p> <p>1 So Ms. Russell, so this summary sheet that 2 compares 2021 to 2022 proposed changes, is that in 3 the Google Drive? 4 DR. BRIGETTE RUSSELL: Yes, it is. 5 COMMISSIONER VOIGT: It's a lot more 6 straightforward than this document to look at. 7 DR. BRIGETTE RUSSELL: It is, 8 Commissioner. So this is the overview document. 9 This is the one you have a hard copy of. And this 10 is -- this is the overview. 11 So what I have done, in last year's 12 application, there were -- there were four sections. 13 There was Innovative and Distinctive Education 14 Program, then Academic Performance, Financial 15 Compliance, and then Contractual Organizational 16 Governance, and Charter Material Terms. 17 And the Comprehensive Educational Program 18 response under No. 4 last year overlapped in a lot 19 of ways with the 1.a., School or Mission Specific 20 Contributions. And so I combined the language from 21 those two questions in the new draft, just 22 Educational Program, which aligns with indicator 23 1.a. 24 And because the Academic Performance 25 Framework is always the first of the three portions,</p>

234

1 instead of having that as No. 2 the way it was last
2 year, I moved it up to No. 1; so Student Outcomes
3 and Accountability.

4 And making certain changes, too, in the
5 redline document, everywhere it said the A to F
6 Grading System, there were a number of questions
7 that said, "If schools had not maintained a C on
8 A-to-F grading," I edited that. And you can review
9 the edits made, because I don't think, Madam Chair
10 and Commissioners, that I have time today to go over
11 details.

12 DIRECTOR CORINA CHAVEZ: No. We are
13 introducing -- I wanted to share the work that we
14 did to update the Renewal Application, because there
15 are schools that are wanting to work on it as soon
16 as possible. And they know that they are renewing
17 in October.

18 And since we lost the work session
19 yesterday, this was just a broad overview and an
20 alert to you that there's documents to take a look
21 at it. They're redlined, as requested by the PEC --
22 actually, it's green -- so that you know the changes
23 that were made. But that's the large overview.

24 And so we certainly understand that you
25 want time between when something is first presented

236

1 plans or the attachment to the renewal contracts
2 look like for those schools that were renewed with
3 conditions.

4 But we are engaging with them -- they are
5 looking at their areas that were conditional and
6 already starting to create goals and improvement
7 steps moving forward.

8 We've also strengthened our process for
9 receiving complaints. We have a person within our
10 division who now receives them and processes and
11 tracks them, so that we are very clear about our
12 record of addressing them. Our current Performance
13 Framework talks about complaints a lot, and so this
14 will ensure that our records are crystal clear.

15 Similarly, we have a process in place for
16 reviewing and responding to waivers in a more robust
17 way than what we have in the past. We're
18 coordinating that with the Secretary of Education.
19 So schools are hearing back sooner.

20 We've restarted the Charter Advisory and
21 the Charter Voice meetings. We've had two of the
22 Charter Voice meetings, and we're systematizing how
23 we're doing that. So we now have a planned agenda.

24 The last meeting that we had, there were
25 26 charter leaders in attendance. Our Technical

235

1 to you and you vote on it. And we can have a more
2 lengthy discussion later. But we just wanted to
3 share that we had spent some -- some good time
4 working on this.

5 And I appreciate -- I appreciate
6 Dr. Russell's work on it, because she did some
7 really good thinking.

8 So I'll continue to move on with my
9 report.

10 In terms of the work that the team has
11 been doing, as you know, there has been ongoing
12 training for governing council members. We've held
13 prospective applicant training for folks that
14 submitted Notices of Intent and are interested in
15 submitting a new charter school application.

16 For the Planning Year schools, we were
17 able to provide the Charter Schools Program Grant
18 award letters to them. So we are very happy about
19 progress in that regard.

20 The team continues to work with the
21 schools that were renewed with conditions to
22 consider the improvement plans for this year. And
23 we're looking forward to work with the -- the
24 Executive Committee and with our counsel to have a
25 format, a defined format, for what the improvement

237

1 Assistance and Training team has started to conduct
2 governing board observation -- observations -- as
3 part of their work. And that's -- that's part of
4 how they provide technical assistance to governing
5 board members.

6 And I was able to participate in that
7 with -- with Ms. Brown for one of the schools, which
8 was great to sit in on one of the school's board
9 meetings and get to know their board members.

10 We hosted a three-part series on Avoiding
11 Audit Findings for school leaders and their
12 governing council members with the aim of helping
13 them be on the same page with budget managers.
14 Sometimes head administrators might not know the
15 details of why they got an audit finding or what
16 they could do to avoid the audit findings.

17 And so this was a really robust three-part
18 series. The sessions that I attended had more than
19 50 attendees. And so we're hoping to do something
20 similar at the Spring Budget Workshop, which is
21 coming up soon.

22 We are also in the process of planning
23 site visits to schools. Next week, we're doing a
24 calibration training with our team and with our
25 external partners. And when I say "external," I

238

1 mean some contractors, but also some colleagues at
2 PED who we are inviting to attend the school visit
3 with us.

4 So, for example, it may be someone from
5 the Special Ed Bureau, someone from Language and
6 Culture. We -- we have some standard ways of
7 conducting the visits. But, to some degree, they're
8 individualized by school if there's an area that we
9 want to take a little bit deeper look at.

10 So we are so happy to be partnering with
11 colleagues who will go with us on these site visits.

12 And in preparation for them, we're also
13 conducting desktop monitoring. And I uploaded both
14 the memo to school leaders and the site visit
15 protocol into your work session folder.

16 And the site visit protocol is very
17 similar to the renewal site visit protocol which you
18 approved, only with the annual visits, there's a
19 little bit more technical assistance that occurs.

20 I -- I know that we didn't have a chance
21 to talk about this yesterday during the work
22 session. But there has -- there was, on the agenda,
23 an idea to form some committees. And so in
24 anticipation of a PEC committee that might be formed
25 to look at foundations, we're starting to improve

240

1 about peer reviewers for the applications.

2 Last month when I reported on the Notices
3 of Intent, I said that we received five. However,
4 we actually received six. There is one group of
5 founders that sent the Notice of Intent to two
6 separate districts, and we thought that it was a one
7 or the other. But they clarified with us that it
8 could be both.

9 So there's actually a potential for six
10 applications; although, we've already held some
11 training sessions for the folks that submitted
12 Notices of Intent, and not everybody has come to the
13 training. So, as usual -- and this is not
14 uncommon -- we received more Notices of Intent than
15 what we receive actual applications, and we
16 anticipate that that will be the case this year as
17 well.

18 THE CHAIR: Commissioner Carrillo.

19 COMMISSIONER CARRILLO: Madam Chair,
20 Commissioners, and Director. You said there was a
21 sixth one. Is it okay -- you don't have to tell us
22 the who? Can you tell us the districts?

23 DIRECTOR CORINA CHAVEZ: Correct. So they
24 may submit an application to Westside Albuquerque
25 and Rio Rancho, or one or the other. They're not

239

1 our documentation of what we know of foundations,
2 which schools have foundations, and what are the
3 questions that we have.

4 As a result, I sent out a memo to schools
5 that have foundations, just to make sure that our
6 records are all up to date with their membership of
7 the foundation board members. You know that that is
8 one of two amendments to the charter contract that
9 are in your Policies and Amendments page.

10 So just making sure that that information
11 is up to date in terms of our records.

12 We are also -- we know that one of the
13 areas that is a growth area for us as authorizers is
14 authorizing an oversight of virtual schools. So
15 another staff member is doing some research on what
16 are other authorizers doing, what do we know about
17 the field of authorizing and having oversight of
18 virtual schools. And I hope that, again, that's
19 another PEC subcommittee that could be formed and we
20 would come to the table with some knowledge that we
21 can share.

22 Also my team is starting to plan the
23 annual charter schools conference. We're thinking
24 that it'll be sometime in June. And as we get ready
25 to receive charter applications, we are thinking

241

1 sure. But that is the clarification.

2 COMMISSIONER CARRILLO: And to the best of
3 your knowledge, of the five that we did get, are the
4 folks that didn't attend any kind of training, is
5 your sense that there's folks already dropping out?
6 Or you can't really comment?

7 DIRECTOR CORINA CHAVEZ: In the past, I
8 can say that people have submitted Notices of
9 Intent. And when they don't go to the training,
10 they're less equipped to submit an application.

11 I think I might turn that question over to
12 Ms. Brown. Is there ever a time when a Notice of
13 Intent was submitted and nobody showed up for the
14 training but an application was submitted?

15 MS. MISSY BROWN: Not in my experience
16 since 2017.

17 COMMISSIONER CARRILLO: Okay. So my next
18 question --

19 COMMISSIONER GIPSON: In my time, there
20 hasn't been.

21 COMMISSIONER CARRILLO: Where somebody
22 showed up for no training at all, but still
23 submitted an app. I don't know if you're allowed to
24 say. I was curious about the one that's planning on
25 chartering with Santa Fe Public Schools.

<p style="text-align: right;">242</p> <p>1 COMMISSIONER VOIGT: Commissioner 2 Carrillo, they're all on the website. 3 COMMISSIONER CARRILLO: No. I know that, 4 but -- 5 COMMISSIONER VOIGT: It says which one. 6 COMMISSIONER CARRILLO: No. I want to 7 know which one -- I want to know if the people that 8 are trying to do the Santa Fe Public Schools did not 9 attend the trainings. I'm just curious. 10 DIRECTOR CORINA CHAVEZ: Have the Santa Fe 11 group attended the training? 12 COMMISSIONER CARRILLO: That's what I'm 13 more curious about. 14 MS. MISSY BROWN: What's the name of that 15 applicant team? (Response inaudible.) 16 No, they did not attend. 17 COMMISSIONER CARRILLO: Thank you. 18 DIRECTOR CORINA CHAVEZ: And when they 19 submit the Notice of Intent to us, we don't know if 20 they're going to submit it to us or the local 21 district. They don't have to let us know. 22 COMMISSIONER CARRILLO: The reason I was 23 curious about that, it's on the site and everyone 24 can look at it. If everyone looks at this 25 particular Notice of Intent and the, I would say,</p>	<p style="text-align: right;">244</p> <p>1 this point, I feel like it would be premature to 2 issue Notices of Concern and start them down the 3 pathway of -- of getting the Notices of Concern 4 as -- I'm studying how many of the schools are in 5 that boat. 6 And so I just wanted to say that we didn't 7 bring that to the table. Although it is a 8 compliance issue, I don't want to single out a 9 particular school right now until I am fully aware 10 of what this looks like. So stay tuned. 11 This month we've also received additional 12 guidance from our -- our counsel about how we might 13 accommodate boards during the time of COVID when 14 obtaining documentation from the schools so that 15 there's a little bit more flexibility in terms of 16 the -- the documentations that are submitted not 17 having to all be signed by the -- the same -- by the 18 board on the same piece of paper. 19 We're going to look into that a little bit 20 more and see how much of a delay that may be causing 21 schools for submitting their -- their notices on 22 time. 23 I also just wanted to say that although 24 there's not Notices of Concern that I am bringing 25 forward, it is an area that is under consideration</p>
<p style="text-align: right;">243</p> <p>1 stark lack of information and carelessness in 2 filling it out -- 3 THE CHAIR: Commissioner Carrillo, I don't 4 think we can discuss that -- 5 COMMISSIONER CARRILLO: Oh, I'm sorry. 6 Okay. 7 THE CHAIR: We'll go back to Director 8 Chavez. 9 COMMISSIONER CARRILLO: I take it all 10 back. 11 DIRECTOR CORINA CHAVEZ: Thank you. So 12 that's the report on Notices of Intent. 13 I wanted to say a few things about 14 reporting of governing board changes, because with 15 this issue, I just wanted to recognize that there 16 are schools that have not all been 100 percent in 17 compliance with the notification timeline. 18 Our policy gives boards 30 days to notify 19 us of any governing board changes. They can ask for 20 an extension. But it's a rather short turnaround, 21 and some schools have bylaws that say the 22 resignation of a board member needs to be recognized 23 in order for it to be official, and some don't. 24 In any case, there are some schools that 25 have not submitted their notification to us. And at</p>	<p style="text-align: right;">245</p> <p>1 with the annual performance review of schools. And 2 we're just getting ready to do the look at all of 3 the indicators, and that will be a consideration. 4 In terms of Item E, I know that Chair Burt 5 sent you an e-mail about the AIMS MOU, so you have 6 that already. 7 And then, finally, with Item F, I just 8 wanted to highlight a couple of schools and to state 9 some appreciations. 10 You know that Public Charter Schools 11 New Mexico just recently handed out some awards and 12 that J. Paul Taylor was named School of the Year. I 13 don't know if they're in the audience, but big 14 shout-out to J. Paul Taylor and all of the other 15 PSNM -- PCSNM awardees. 16 Also at our Charter Voice meeting, one of 17 the charter schools offered some information about 18 how they have PMG. And I'm not sure what that 19 acronym stands for, but that's the entity that does 20 COVID testing. They have a site at their school. 21 And they offer testing every day. And they offer it 22 to the other charter leaders to be able to send 23 anybody to their school in Albuquerque. 24 So big shout-out to 21st Century for 25 offering that at this time.</p>

246	<p>1 So with the Albuquerque Sign Language 2 Academy -- and I know that Rafe Martinez is in the 3 audience -- just wanted to recognize that the work 4 that the Sign Language Academy is doing on the 5 national stage stems from being part of a grant that 6 they received.</p> <p>7 And so they are leading the national 8 discussions right now around deaf education reform 9 in association with their partners from Penn State, 10 University of Arizona, and University of Minnesota.</p> <p>11 Commissioners, you should know that you 12 have some charters that you've authorized that are 13 doing work at the national level that is making a 14 difference.</p> <p>15 Also want to give a shout-out to Middle 16 College High School in Gallup and Dr. Rob Hunter, 17 who is their leader, and want to recognize that 18 they're New Mexico's oldest continuously operating 19 early college high school. They were authorized in 20 2002.</p> <p>21 One of their mission goals involves 22 tracking students' post-secondary locations after 23 they graduate. And they intentionally wait until 24 the following February to document if the students 25 are in college so that they know if students who</p>	248	<p>1 cannot conduct business without a quorum. But the 2 majority does fluctuate, and it is based off of 3 whoever is present at the meeting.</p> <p>4 Okay. All right. Moving on. So we're 5 going to go to No. 13, Reports from PEC Liaisons, 6 Including Reports from Former Liaisons and 7 Discussion of Vacant Position, No. 8, LESC and LFC.</p> <p>8 I know before -- I am now the liaison. 9 The LESC and LFC did meet right after our meeting. 10 So, Commissioner Gipson, I don't know if you have 11 anything about that meeting back in January. But I 12 want to open the floor to you if you do.</p> <p>13 COMMISSIONER GIPSON: They're an interim 14 committee, so they don't meet.</p> <p>15 THE CHAIR: I saw they did meet 16 January 17th, so I wanted to see if there was 17 anything important.</p> <p>18 The next one is Commissioner Armijo. And 19 just -- once again, we just received these last week 20 or a -- a couple of days ago. So if there -- if the 21 new liaisons have not yet been able to participate, 22 that's fine.</p> <p>23 COMMISSIONER ARMIJO: Yes. I did send an 24 e-mail to Lashawna Tso, because I was appointed the 25 liaison for New Mexico Indian Education, and have</p>
247	<p>1 were enrolled were still enrolled.</p> <p>2 And when they started doing this tracking 3 of their graduation class in 2017, they have five 4 years' worth of data, and they're averaging 5 83 percent graduation rate. So big shout-out to 6 Middle College High School.</p> <p>7 And any charter school leader that's 8 listening, know that if you have something that 9 you'd like me to highlight and appreciate about your 10 school, I would love to share the really good news 11 and the great things that you're doing.</p> <p>12 Thank you.</p> <p>13 THE CHAIR: Thank you. I do want to go 14 back to the vote on Item No. 11 and let the 15 Commission know that the Open Meetings Act does 16 designate a quorum. The quorum does not ever change 17 for the PEC.</p> <p>18 The quorum remains six, regardless of how 19 many sitting members there ever are. So if there's 20 nine members on the Commission, the quorum is six.</p> <p>21 The majority does change. So whoever is 22 present at the meetings, the majority then votes, 23 and that is based off of Robert's Rules of Order.</p> <p>24 Am I missing anything, Ms. Barnes?</p> <p>25 Okay. So the quorum does stay six. We</p>	249	<p>1 not received word back from her yet when their 2 meetings are. So as soon as I hear back from her, 3 then I will start attending the meetings.</p> <p>4 And I don't have anything to report from 5 the -- I was previously on the New Mexico Library 6 Association, and I don't have anything to report 7 from them.</p> <p>8 THE CHAIR: Okay. Thank you. 9 Commissioner Voigt.</p> <p>10 COMMISSIONER VOIGT: I have nothing to 11 report.</p> <p>12 THE CHAIR: Commissioner Robbins. 13 COMMISSIONER ROBBINS: Nothing to report. 14 They don't meet during the Legislative Session; 15 PSCOC doesn't.</p> <p>16 THE CHAIR: Commissioner Chavez. Or 17 sorry. Director Chavez.</p> <p>18 DIRECTOR CORINA CHAVEZ: I was just going 19 to ask Commissioner Voigt if she was going to 20 present on the Performance Framework project later 21 then?</p> <p>22 COMMISSIONER VOIGT: I think we tabled 23 that to the work session, because that was going to 24 be on the workday.</p> <p>25 DIRECTOR CORINA CHAVEZ: Well, let me just</p>

<p style="text-align: right;">250</p> <p>1 call -- can I -- may I call attention to a document 2 in the work folder so -- 3 THE CHAIR: Not right now. Because 4 it's -- we're not -- I don't know where that would 5 fall. I can talk about March 2nd in my Chair 6 comments. 7 Commissioner Manis. 8 COMMISSIONER MANIS: Thank you. Yeah. 9 Yeah, I have a couple of updates. One is we are 10 still holding our meetings virtually, and we're 11 planning to continue to do that for a little bit 12 longer. We switched, I would say, for our 13 January -- it wasn't January. We said for February, 14 we were going to do virtual, and we are continuing 15 to do that for a little bit longer. But we are 16 discussing having an in-person meeting in July for 17 NMPSIA. 18 One of the big things that affects not 19 only charter schools, but all public schools in 20 New Mexico, is there -- our Risk Committee has been 21 advised that many of the schools, that is, including 22 administrators, teachers, and students, are being 23 hit significantly with phishing scams. And if 24 you're not familiar with those phishing scams, 25 they're getting pretty sophisticated.</p>	<p style="text-align: right;">252</p> <p>1 cyber security issue being a big risk and it being a 2 concern, not only for NMPSIA, but also those 3 carriers that we go through to be insured. 4 And the only remaining thing that we 5 discussed was standard reporting of finances and 6 which includes any of our spending and investments, 7 et cetera. 8 So if you have any questions, I'd be happy 9 to take it. But that was the majority of our 10 conversation. 11 THE CHAIR: Thank you. 12 Commissioner Carrillo. 13 COMMISSIONER CARRILLO: Nothing at this 14 time. 15 THE CHAIR: Commissioner Taylor is not 16 present. 17 And I do want to point out that we do have 18 a vacancy right now for the New Mexico Association 19 of School Budget Officials. So if anybody would 20 like to do that, you may volunteer right now, or 21 feel free to send Bev an e-mail letting her know 22 that's something that you're interested in. 23 All right. Next item is Report from the 24 Chair. 25 The first report I have is that there was</p>
<p style="text-align: right;">251</p> <p>1 I know that my university e-mail, we get 2 phishing scams probably, I would say, at least two 3 to three times per week. And they can seem quite 4 convincing. 5 And so many of these schools, they have 6 been getting targeted with these phishing-related 7 scams. And so that's something that, from an 8 insurance perspective, that NMPSIA is having to look 9 at further. 10 And so it's all related to cyber security, 11 because some of these schools, they could be -- 12 their information could be held ransom. And in that 13 case, they have to pay these individuals or groups 14 that are targeting them money to be able to get that 15 information back. So there's all kinds of cyber 16 security-related issues. 17 And, you know, some schools are much more 18 secure than others. 19 So what's going to be happening over the 20 next six months or so is there's going to be a 21 statewide assessment of cyber security vulnerability 22 for all schools. Like I said, sometime in the next 23 six months, we'll be discussing it further at our 24 next NMPSIA meeting. 25 But that was the really big thing is the</p>	<p style="text-align: right;">253</p> <p>1 an update in The GREAT Academy case in District 2 Court. And the court did rule in favor of the 3 school. And so the ruling is in the Google Drive in 4 Folder No. 6. You can take a look at that. All 5 Commissioners can take a look at that ruling. 6 We will be placing that item up for the 7 agenda next month. 8 The next report is going to be the Budget 9 Subcommittee Update. This is also based off of the 10 request that was received from two Commissioners to 11 get a detailed report on the budget. 12 So you can take a look in the Google 13 Drive. The request was for a report of 20- FY21 14 spending, FY22, and submission to LFC and -- 15 submission to the Legislature from the PED for this 16 fiscal year. 17 Those items are in the Google Drive for 18 further review. The report that we have is it is a 19 very interesting budget that Director Chavez has to 20 deal with. 21 And it is -- it has been historical that 22 the PED has been under-projecting the 2 percent 23 money. And, traditionally, just -- departments 24 within the agency are scrapping for money; right? 25 They're really -- "I need money," "I need money."</p>

254

1 This Department, CSD, is instead given a
 2 specific amount. And that amount is projected and
 3 then updated throughout the fiscal year based off of
 4 the 40-day, 80-day count, 120 days; so it's
 5 fluctuating, which is not necessarily something that
 6 many directors have to deal with.

7 That fluctuation really doesn't get
 8 right-sized until February. And so there was
 9 actually -- based off of the initial projections and
 10 then based off of what was received in February,
 11 there was an additional \$500,000 put into the budget
 12 for this year.

13 You can see -- I know when we did go
 14 over -- we went over FY21, we went over FY22 -- I'm
 15 sorry -- FY21, when that was finalized and we saw
 16 that reversion amount, that was very startling to
 17 all of us, no one more so than Director Chavez
 18 herself.

19 We talked in the Budget Subcommittee that
 20 historically CSD directors really haven't paid mind
 21 to that. So it's really -- because it's being
 22 focused on and brought to light, it's something that
 23 is a large goal of the Budget Subcommittee and of
 24 the Director to ensure we're not reverting those
 25 funds, because right now, how it stands, whether we

255

1 like it or not, it is a reverting fund. And so
 2 that's something we've also discussed is really
 3 trying to get it to where it is a non-reverting fund
 4 and then being able to creatively figure out how
 5 best to support charter schools with that money.

6 There are some highlights in there. You
 7 can see that, as of right now, especially compared
 8 to last year, there's only 199,000 unencumbered
 9 dollars right now. And that's still going to be
 10 considered as how can we utilize funding to best
 11 support charter schools. That's really a big
 12 conversation of the Budget Subcommittee with the
 13 Director at all times. How can we utilize this
 14 money to support charter schools?

15 There is -- we do want to start
 16 conversations about what the PEC's portion of the
 17 budget looks like so we can start working in the
 18 spring to start developing what that looks like for
 19 our July budget so that those encumbered amounts can
 20 already be set aside and known going into the next
 21 fiscal year.

22 And that's really the big highlights of
 23 where we're at.

24 The Charter School staff has been able --
 25 the staff has been building up. So it's been using

256

1 a lot more of the encumbered funds for employees and
 2 staff than it was last year or the year before,
 3 probably. And so that's really helpful in helping
 4 to staff up the CSD, and making sure they have the
 5 support that the charters need and everyone needs
 6 for each other.

7 The other part about the budget is that
 8 there is -- we are -- we are basing these reports
 9 off of the MOU as it currently stands. And so
 10 that's really what is driving this -- the report
 11 that you see now is based directly off of the
 12 agreement that was agreed to in the MOU.

13 That being said, we are already having
 14 those conversations about looking at the MOU. And,
 15 really, we all talked about it last year when we all
 16 decided on the MOU last year, that this would be a
 17 starting point. So now that we've been able to see
 18 the reports based off of the current MOU, that is
 19 really something to consider moving forward.

20 I know Secretary Steinhaus -- well,
 21 initially, Secretary Stewart -- was open for more
 22 transparency and was interested in moving in that
 23 direction into really doing even more detailed
 24 accounting of this money.

25 And Secretary Steinhaus is following suit

257

1 in that, more transparency, more details.

2 And so I think that being more specific in
 3 the MOU in the months to come, as we look at it,
 4 reevaluate, is something that would be beneficial
 5 for PEC, for charter schools, for CSD, for
 6 everybody. And that is the report.

7 The next is report from Public Charter
 8 Schools of New Mexico. I know I don't have my Zoom
 9 up anymore; so...

10 MS. MISSY BROWN: He's here. So --
 11 THE CHAIR: That's okay.

12 Good afternoon, Mr. Pahl. All right. I
 13 was worried that you've ghosted us since you are on
 14 your first day of not being in the Legislative
 15 Session, and you're just, like, "I'm done." So, all
 16 right. Thank you.

17 MR. MATT PAHL: I may say that shortly
 18 after my comments today, that I'm done. But thanks
 19 for having me today.

20 Just quick legislative items that's been
 21 our world for the last couple of months here.

22 House Bill 43 passed and is on the
 23 Governor's desk. Unanimous votes on both floors,
 24 only one dissenting vote throughout committees.

25 That's a big deal. We did get the \$10

<p style="text-align: right;">258</p> <p>1 million for the revolving loan fund at NMFA. That's 2 a big deal. I suspect these will -- we're okay. 3 That money will stay there; the bill will be signed. 4 And this actually comes together with 5 another bill that really speaks to some real 6 positive things for charter schools right now. 7 In House Bill 43, you know, it's going to 8 take a little bit to work with NMFA to get that 9 revolving loan fund set up and ready to make loans 10 to charter schools. But what House Bill 43 did is 11 now does not allow the PSCOC to do square footage 12 portions of leases. And what that means is we're 13 either giving them these \$700-plus CPI per student, 14 or the cost of their lease. 15 There was previously an in-between on 16 this, which is damaging. And that's particularly 17 true, because the CPI right now is at 7 percent, 18 which means everybody should get a 7 percent hike on 19 their lease assistance. 20 I know, Commissioner Robbins, you've been 21 fighting. For many of those past years, we didn't 22 get anything. I'd love to see more than 7 percent. 23 But 7 percent more than what they're getting right 24 now is a big deal, in addition to House Bill 119, 25 which increases SB9 distributions significantly</p>	<p style="text-align: right;">260</p> <p>1 It was an interesting bill, in that it was 2 trying to cap the amount of growth in administrative 3 costs in school districts and charter schools. 4 And you can think what you will about 5 that. It does post a -- two issues: One is if 6 administrative costs are particularly high at a 7 school district or charter school, it allows them to 8 continue to be high and then just agree at a 9 moderated rate. 10 So I think their issue is just the amount 11 of administrative costs in some school districts and 12 charter schools. 13 This is a pretty big, bad thing for 14 charter schools. In administrative costs, they 15 include facility costs, which we're paying more out 16 of our operational dollars than just about anybody 17 else's charter schools. 18 And then, secondly -- and just note -- 19 that charter schools are -- you know, we have a lot 20 of places that are kind of one-person shows. And I 21 would not begrudge a charter school for finally 22 hiring that assistant principal that they've never 23 had to help with the administrative paperwork, to 24 help with student discipline, to do all those 25 things. That would count against a school under</p>
<p style="text-align: right;">259</p> <p>1 across the state. That bill increases the State 2 match for SB9 by 50 percent. 3 Not everybody is going to see their -- 4 their SB9 go up 50 percent. It will be targeted 5 towards low income communities. That said, everyone 6 will see increases. 7 But we're looking at a world where we're 8 going to have more money that is designated for 9 facilities going towards facilities. For us, that 10 means less classroom funds going to facilities. 11 So I think there's -- a real -- a real 12 bright spot this session in the world of facilities, 13 including just working on that bill for a long time. 14 And, Commissioner Robbins, now that the -- 15 that middle path of having a reduced amount of lease 16 assistance due to square footage calculations is 17 eliminated, we're ready to start having a 18 conversation about recouping those CPI dollars from 19 years prior. 20 A couple of other bills I did want to 21 highlight. Senate Bill 75 was regarding 22 administrative costs. And we opposed that bill and 23 we did -- it died in its first committee. But it is 24 a Think New Mexico bill. And so, you know, it'll be 25 back.</p>	<p style="text-align: right;">261</p> <p>1 this framework that was proposed. 2 So I just wanted to mention that, because, 3 again, we'll see it again. And for those who have 4 been around, like we've seen these kinds of things 5 around a lot. But oftentimes when we get a specific 6 proposal, we can really get a feel for how would 7 that impact us. 8 And that lack of administrative capacity 9 with our -- many of our schools, particularly those 10 that are less than 300 or 350 students, it really 11 wouldn't allow them to ever add that extra person to 12 be able to help them. So it's particularly bad for 13 our charter schools. 14 I do want to give a big special thanks to 15 Commissioner Gipson. She gave -- she was a great -- 16 and I think I only saw her a couple of times. But 17 on House Bill 43, that facility bill, her support 18 commentary was really great. 19 And I do think that it captured the will 20 of the Commission accurately and always added 21 something to the conversation. 22 So Commissioner Gipson, I can't see you on 23 the screen right now, but I just want to thank you 24 for that. It was compelling commentary and was 25 never repeating anything; it was just adding.</p>

<p style="text-align: right;">262</p> <p>1 So just want to thank you for that work 2 that you put in during the session. I do think it 3 made a difference. 4 The other thing I just note is that the 5 Public School Capital Outlay Chair, Joe Guillen, was 6 also supporting the bill publicly. So just another 7 space in which we're bringing folks together. And 8 us passing this bill, I think, is really a 9 culmination of a lot of people's work over the last 10 four years. Four years ago, I don't think we could 11 have gotten anything out of House Education that was 12 good for a charter school. 13 And a lot of people have been doing a lot 14 of good work on remedying some misinformation and 15 ensuring that people understand what our charter 16 school movement looks like, which is localized and 17 meeting the needs of communities based on what they 18 need. So we're real proud of that. 19 And I think everybody -- everybody on this 20 Zoom played a role in that. We've all at least put 21 some small contributions to making sure people's 22 understanding of charter schools is such that it's 23 at least closer to what is reality. 24 So want to just appreciate all of you. 25 Dan Hill and I will be conducting a</p>	<p style="text-align: right;">264</p> <p>1 Advisory Committee online? 2 MS. MISSY BROWN: Not that I see. 3 THE CHAIR: Okay. All right. 4 So then we're going to go ahead and move 5 on to PEC Comments. And I'm going to kind of go 6 around a circle. So Vice Chair Voigt. 7 COMMISSIONER VOIGT: Okay. Thank you, 8 Madam Chair. I'll go ahead and provide the 9 Performance Framework project work at this time, 10 since we didn't have our work session yesterday, 11 just to catch us up a little bit in preparation for 12 March 2nd. 13 So the project team has been meeting, 14 gosh, it seems like forever, but it's probably only 15 been maybe a month and a half. And this is finally 16 culminating work of the surveys that went out to 17 charter school leaders last year and all of the 18 input that we took from charter school leaders last 19 year to look at updating an outdated system, which 20 is the Performance Framework, and bringing it into a 21 more relevant space, and then also to look at it 22 more holistically about schools, what they're doing, 23 their value, and their quality. 24 So the project team has consisted of 25 myself, Director Chavez, Dr. Russell, and Deborah</p>
<p style="text-align: right;">263</p> <p>1 training on just all the things that happened in the 2 legislative session that might impact policies that 3 might need to be adopted or other practices from 4 charter schools. That will be in mid-March. And 5 we'll put out a Save the Date for that. 6 And we're just looking forward to diving 7 in together on what the actual language is in some 8 of these bills and how that might impact schools 9 administratively, trying to do that as soon as we 10 can. 11 All the bills will be signed by mid-March. 12 It's March 16th. And we'll be able to dive in so 13 people can really start planning for next school 14 year, or, in the case of them immediately being 15 changed, making those changes that they might need 16 to there. 17 So want to thank everybody here at the 18 Commission, staff as well, and Corina also, just a 19 shout-out. Thanks for highlighting some of our 20 award winners. We're really excited to put that on, 21 give folks an opportunity to just see the work that 22 we're doing. So thank you. 23 And thank you, Madam Chair. 24 THE CHAIR: Thank you, Matt. 25 Missy, is anybody from the Charter School</p>	<p style="text-align: right;">265</p> <p>1 Good, who is facilitating the work through Future 2 Focused Education, and doing an astute job and 3 taking a big lift, I'm sure, off the Charter School 4 Division's shoulders. 5 So everyone has this in their timelines. 6 Corina shared a document in the Google Drive under 7 CSD -- it's a CSD folder. But the working group 8 also has been involved with fleshing out some of the 9 components that will move forward with the 10 framework. 11 And the working group consists of charter 12 leaders, Commissioner Gipson, Burt, and Carrillo, 13 and staff. And I think -- have I captured everybody 14 for the working group? And then some specific 15 charter leaders. 16 I don't know if anyone is able to see the 17 document that was in the Google Drive. 18 Okay. Great. So there's dates -- key 19 dates. 20 And, Corina, did you want to tag off some 21 of the information I might be leaving off? But 22 there are some key dates coming up. And Future 23 Focused will have a draft to our working group by 24 the 28th; is that right? 25 DIRECTOR CORINA CHAVEZ: That's correct.</p>

266

1 COMMISSIONER VOIGT: Yeah. So at that
2 time, we should have a new draft of the Performance
3 Framework, which is pretty exciting.

4 And then it would be voted on in the March
5 meeting in time for the renewal schools coming up in
6 April.

7 Go ahead. Is that right?

8 DIRECTOR CORINA CHAVEZ: Yes. So,
9 Commissioners Carrillo, Gipson --

10 THE CHAIR: I'm sorry, Director Chavez.
11 This is a PEC Comment, so I don't think it's
12 appropriate to do.

13 COMMISSIONER VOIGT: Oh. I wanted her to
14 chime in about some of the information I might have
15 missed.

16 THE CHAIR: I think it's your comment,
17 though, that you have to make.

18 COMMISSIONER VOIGT: Okay. if there's any
19 questions, the document is in our drive about the
20 work that's been done so far. There's a timeline of
21 the work that's going forward.

22 And it's exciting work, because from all
23 of the input of stakeholders, which includes school
24 leaders, parents, and community and students, the --
25 the framework is going to reflect that input. And

268

1 services right now for anybody.

2 But I wanted us to send something, and
3 there was no budget to do so. And I found out --
4 first off, thank you very much, all of you who sent
5 something after Leo died. And I understand a
6 collection had to be taken.

7 And that, to me, was, like, we shouldn't
8 have to take up collections. For God's sake, we're
9 the PEC. We should have a little bit of money, just
10 a little bit of money set aside so if someone like
11 Floyd Trujillo passes, we can just send money
12 from -- we can just talk to the, you know, Executive
13 Committee, talk to the Chair, and say, "Chair, you
14 know, this person was instrumental in the school for
15 the last 20 years. Be great if we sent a bouquet or
16 something to the funeral home," and to not ever have
17 to take a collection. That seems just really
18 inappropriate.

19 So maybe in the next meeting, there can be
20 an item or -- you know, there can just be a little
21 bit of money set aside for when these things happen
22 so that we can be gracious as a Commission to those
23 that have served us -- served the communities for so
24 long.

25 THE CHAIR: All right. Commissioner

267

1 it should be more equitable than it has been in the
2 past, and updated.

3 And I will just say that -- right. So on
4 next steps -- and everybody has the document --
5 there's dates that are coming up that are pretty
6 important. I'm not going to read them because
7 everybody has the document.

8 That's it.

9 THE CHAIR: All right. I'm going to
10 switch back and forth from here to virtual.

11 So we'll do Commissioner Chavez.

12 COMMISSIONER CHAVEZ: I have no comment.
13 Thank you.

14 THE CHAIR: All right. Thank you.

15 Commissioner Carrillo.

16 COMMISSIONER CARRILLO: No comments per
17 se. But so -- you know, Floyd Trujillo, long-time
18 board member and founder of Turquoise Trail, died.
19 And I had called -- I don't know who I called.
20 Maybe it was Bekka, I asked. I can't remember,
21 because I wanted to send, at that time, flowers.
22 But they wanted something for the foundation. I
23 wanted, from the Commission, to send something to --
24 what?

25 For obvious reasons, I can't go to

269

1 Armijo?

2 COMMISSIONER ARMIJO: Thank you. No, I
3 just want to start by thanking everybody. It was my
4 first time being secretary. So that was a fun job
5 of making sure that I got all that stuff right. So
6 thank you for your patience in allowing me the
7 opportunity to serve as your secretary.

8 I also want to thank CSD and Corina and
9 her staff. They do a tremendous amount of work, and
10 I'm really glad that they're getting some help, and,
11 you know, with the couple of hires that she was able
12 to get recently.

13 I also want to thank Matt Pahl for all the
14 updates. I saw updates on my personal e-mail, on my
15 PEC e-mail, on e-mail everywhere. So he always does
16 a tremendous amount of work, especially during the
17 session, and, you know, all the time.

18 I also want to mention that I'm really
19 looking forward to serving on the -- the New Mexico
20 Indian Education Advisory Council. I am very, very
21 interested in the Yazzie-Martinez case, and I want
22 to make sure that, as Commissioner Voigt said a
23 little while ago, that education across the state of
24 New Mexico is equitable. So I'm looking forward to
25 serving on that -- on that council.

270

1 And with that, I think that's all I have.
 2 Thank everybody for this meeting.
 3 THE CHAIR: Commissioner Robbins?
 4 COMMISSIONER ROBBINS: Well, I have a few
 5 things.
 6 The request for an agenda item was for the
 7 budget, not to be covered in the Chair's comments.
 8 We actually asked for specific budget item -- to
 9 look at the budget, to look at the spending, to look
 10 at what's been done as an agenda item.
 11 That was not put on. And our rules say if
 12 two Commissioners would do it, it will be put on.
 13 So we violated our own rules by not putting it on
 14 the agenda for a full discussion. So I'm going to
 15 cover it right now.
 16 To say that PED is always scrambling for
 17 money is really not accurate. Last May, I received,
 18 from the LFC, fund reversions for 2018, '19, and '20
 19 unaudited. PEC reverted \$7.2 million in Fiscal Year
 20 '18. They reverted \$9 million in Fiscal Year '19.
 21 Unaudited, they reverted \$19 million in Fiscal
 22 Year '20. Because of the pandemic, so many things
 23 closed down and everything, \$20 million.
 24 Public school support, of which they could
 25 be hiring budget analysts, IT people, things like

271

1 that, that they're using the 2 percent money for.
 2 Public school support: \$6 million reverted in 2000-
 3 Fiscal '18; \$7.5 million reverted in '19.
 4 \$9.9 million reverted in FY20.
 5 To say they're not reverting money is
 6 actually wrong.
 7 They also reverted capital outlay of
 8 \$295,000 last year; not '21, but in '20.
 9 I'm asking for an update, which David
 10 Abbey -- I sit right next to him on the PSCOC, and
 11 I'll probably have that for our next meeting. So
 12 I'd like to go over this a little bit more.
 13 We got a data dump. Some of the
 14 information on CSD and PEC was a little more
 15 detailed, kind of along the lines of the budgets I
 16 used to prepare up until this last year, because I
 17 wasn't requested or asked to help.
 18 But the PED basically gave me a 400-line
 19 data dump. For the P- -- for the CSD, we got all of
 20 the salaries; it was all spelled out. But for all
 21 of the payroll items for PED, they didn't -- I don't
 22 need names, because they're not even on the Sunshine
 23 Portal unless you are a GovX.
 24 But I don't know how much of this money
 25 went to cover cabinet secretaries, deputy

272

1 secretaries. I don't know what areas of the
 2 Department the money was spent. They spent \$1.3
 3 million on salaries. We have no idea what areas it
 4 was spent in.
 5 Again, it's for administrative support of
 6 the CSD and the PEC, not administrative support of
 7 the public schools or the charter schools.
 8 The statute says it's for administrative
 9 support to CSD and PEC. So the data dump shows a
 10 total of \$1,989,000, a combined amount, because
 11 that's not PEC money.
 12 But then when I go and look at what they
 13 reported to us in October, the sheet in October, I
 14 have a discrepancy, because -- you know, \$1.9
 15 million. But when I add up the monies, I only come
 16 up with \$2,004,000, but a combined total of
 17 \$2,124,000. So I have \$80,000 that's unaccounted
 18 for in the documents they provided, unless it's
 19 mixed in somewhere else and double-counted or
 20 triple-counted.
 21 The other thing that's a concern, and it's
 22 a huge concern. When we start looking at actual
 23 budgets for this year and what is out there -- and
 24 this was -- again, it's part of the -- the files
 25 that were sent -- the -- CSD/PEC combined budget --

273

1 and I think that's a combined budget, if I'm looking
 2 at this right -- is \$2.4 million.
 3 Now, there's no way that CSD can spend
 4 anywhere near \$2 million. And the PEC doesn't spend
 5 anywhere near \$400,000. So that's how much is
 6 sitting there. That's how much is sitting there.
 7 I look at what has been spent as of
 8 February 17th. Now, that's unusual, because we
 9 don't -- you know, that's just what's in the system.
 10 They haven't closed out February.
 11 So let's just assume that that's true.
 12 You know, we can go back and look at January.
 13 But through the 17th, out of a budget --
 14 now, this is the -- I think the CSD budget -- of --
 15 go down -- \$1.1 million, they've spent \$474,000.
 16 However -- that was the original budget.
 17 They added \$331,000 to their budget, okay? This was
 18 in the budget adjustment done on the 9th, okay?
 19 So now they have a budget of \$1.4 million
 20 for CSD/PEC, and only \$494,000 has been spent seven
 21 months into the year, because I'm not even counting
 22 February. I'm just saying through January, because
 23 these numbers should be at least accurate through
 24 January.
 25 So there's a million-dollar -- almost a

<p style="text-align: right;">274</p> <p>1 million dollars remaining. And it would be 2 virtually impossible to spend the money in the areas 3 identified. They added \$300,000 to salaries alone. 4 They've only spent \$470,000 of a \$1,090,000 original 5 budget. 6 Why was \$300,000 added? Are you going to 7 add ten more staff people? Because to spend that 8 type of money between now and the end of the year, 9 you'd have to have ten more people on staff. 10 So, again, I'm getting numbers that really 11 don't make any reality to what's going on. 12 They added a lot of money to the budget. 13 It doesn't mean it's going to be spent. 14 You know, my history with two very large 15 State agencies is you track your monthly spend, and 16 then you track what you're going to spend for the 17 rest of the year. 18 Assuming you're going to spend twice as 19 much in the next five months as you have in the 20 first seven months is not reasonable, under any 21 circumstance. 22 And that virtually goes through every 23 category, virtually every category. So something is 24 a little bit off in these numbers, and that they're 25 exce- -- the budgets were set excessively high.</p>	<p style="text-align: right;">276</p> <p>1 transactions, your debit card, your credit card, and 2 everything for the last year, and try to make hide 3 nor hair of how much you spent on utilities and how 4 much you spent on food, it would take you forever. 5 This is not a report. That data dump of 6 the PED's spending is a data dump; it's not a 7 report. 8 So I would request they kind of give it to 9 us in the format -- and, again, it's unusual, 10 because they say -- this one thing I'm looking at 11 says, "PEC Actuals FY22 budget," but it has "PEC and 12 CSD," which is not part of -- the heading of the 13 chart says "PEC Actuals." Well, it's a combined 14 PEC/CSD. And CSD is actually part of PED. 15 So, again, numbers are mixed. And I 16 really have a feeling that the Budget people here 17 may not be familiar with what you can do with 18 budgets. Just because you budgeted some money 19 doesn't mean you have to leave it there and you just 20 keep adding and adding, and then you revert it at 21 the end of the year, because those funds can be 22 moved around and disencumbered. 23 Personnel money is never encumbered, okay? 24 If you look at -- at financials for state 25 government, personnel expenditures are not</p>
<p style="text-align: right;">275</p> <p>1 Excessively high. 2 We talk about how we reverted over 3 \$900,000 to the General Fund. And, yes, you know, 4 that's 2 percent money. But if they're putting it 5 into their -- if they're commingling it with their 6 funds, it becomes revertible money. 7 I don't believe statutorily it's 8 revertible money. It's the way PEC -- or PED -- is 9 handling those funds that it becomes revertible, 10 because they put it into their -- they make it 11 fungible. They just put it in there, and it's all 12 mixed together. 13 But the LFC can give me breakouts of the 14 actual different categories of funds that PED has 15 reverted. And it's millions, if not tens of 16 millions, of dollars that they revert. 17 So I'm really concerned that even our MOU, 18 which I think was done in good faith by nine of the 19 Commissioners last year, and that, you know, we 20 felt -- I say "we," as a group, felt that, you know, 21 we would get good responses and everything. 22 But the detail that we got for CSD, it's 23 very nice. But we didn't get anything similar for 24 PED. They just gave us a data dump. It would be 25 like if you take all your checking account</p>	<p style="text-align: right;">277</p> <p>1 encumbered. You get a budget, but you don't really 2 encumber them, because you'd have to be doing POs 3 every pay period. And they don't do that. 4 So to have so much money in personnel 5 which you know is not going to be spent, it's like, 6 well, they got this \$500,000 extra in the 2 percent, 7 they just threw it in in places, rather than just 8 leaving the budget where it's at so you get a better 9 idea now of what's going to be spent. 10 And, you know, again, PED, because many 11 positions -- what I've heard, they have dozens of 12 positions that are unfilled in PED. There's no way 13 they can spend their budget even for this year, 14 because they have so many positions open. 15 So, again, I question the use of the 16 2 percent money to supplant other funds that the 17 State gives them when they revert those funds. 18 So I'll leave it at that. But I really do 19 hope we open up this MOU, that PED figures out that 20 they set these funds aside so that they would return 21 to the charter schools and that they could return 22 those funds to the charter schools in June or July, 23 so they would have those funds available for the 24 next fiscal year. 25 Because, really, over the years, it's been</p>

<p style="text-align: right;">278</p> <p>1 millions of dollars that the State charter schools 2 have been deprived of, in addition to monies that 3 they had used for lease assistance. Thankfully, 4 as -- as Matt Pahl says, that's been fixed 5 partially. But thank you for the time. 6 THE CHAIR: Commissioner Manis. 7 COMMISSIONER MANIS: I don't have any 8 comments at this time. Thank you. 9 THE CHAIR: Commissioner Gipson. 10 COMMISSIONER GIPSON: And I've risen 11 again. So I can't lean back -- if I lean back, it's 12 just -- I become a Lilliputian. 13 Just a couple of things: I wanted to 14 thank the Public Schools New Mexico for the great 15 event that they hosted in Cruces on the Plaza to 16 bring awareness of schools. All of the charters had 17 a table set up, and there were demonstrations of 18 what they did. And they did performances for some 19 of the schools. And I got some nice swag out of it. 20 So, you know, that's always -- you know, 21 it was a great event, because we could have it 22 outside. And there was a lot of energy and a lot of 23 people came out to learn about the schools. So 24 that's really important. 25 And I just want to make sure. My comments</p>	<p style="text-align: right;">280</p> <p>1 about that, and it wasn't there. So thank you. 2 THE CHAIR: Thanks. I'm happy to have 3 that conversation with you all offline outside of 4 this. 5 The only -- I just want to say I'm -- this 6 has been a whirlwind of a month since starting as 7 the Chair. And, definitely -- I know I said thank 8 you to Commissioner Gipson last time for having been 9 Chair over so many years. 10 I'm going to just say it another time, 11 because just this month; right? So, like, thank you 12 again. 13 I'm also really grateful. Thank you to 14 the CSD staff for being so flexible. And, honestly, 15 like, I think there's many times that we've 16 experienced where they are ahead of the game, which 17 I know is a really great reflection of not -- of 18 Corina's leadership and also of the skill and 19 aptitude of the CSD team that is involved in 20 everything. So I'm just so grateful for the way 21 it's moving forward. 22 I am also very -- I am very -- very 23 pleased, hopeful, excited, all the positive words, 24 about conversations that I've had with PED over the 25 last month. It is -- it has been a -- even when</p>
<p style="text-align: right;">279</p> <p>1 for House Bill 43 were my comments. I did not 2 comment for the Commission, because that's not my 3 role. 4 So they were done. So I don't want 5 Matt -- I hope people didn't think, because I didn't 6 speak for the Commission. So I just want to make 7 that clear, because that was not my intention. 8 So thank you. 9 THE CHAIR: All right. I just want to -- 10 I have one -- you can go first. Go ahead. 11 Commissioner Carrillo. 12 COMMISSIONER CARRILLO: Oh. So if you 13 want to wrap it up. So I think that Commissioner 14 Robbins' concern about the agenda item not being on 15 the agenda, I'm concerned about that as well, 16 because it was supposed to be on the agenda. And we 17 did have the two people to do that. 18 The other thing is it's incumbent, I 19 think, upon all of us, because the agenda is posted 20 on the Friday before the Thursday, if we don't see 21 something there, then we -- we can bring it up 22 because there are several days where an agenda can 23 be revised and re-sent out. 24 But I was just concerned that -- because 25 David and I -- Commissioner Robbins and I talked</p>	<p style="text-align: right;">281</p> <p>1 there's been disagreement, they disagree, you know, 2 with something, it has been a very collaborative 3 approach to it. 4 I think that it is -- it is not -- not 5 trying to clash with the PEC. And I think that 6 gives me a lot of motivation and momentum moving 7 forward in opening up the MOU with full confidence. 8 I think there's always that kind of 9 hesitancy and a little scared, like we talked about. 10 What if the Secretary changes; right? We're going 11 to sign it with this one. What if; right? 12 And that happened right after we signed 13 this MOU. 14 So it does bring up those, like -- those 15 fears we had as a Commission of, you know, doing 16 this, and is it going to stick. 17 And I feel very confident in doing this 18 process again moving forward. And I'm very grateful 19 for the collaboration that the PED has shown in the 20 last month. Having the Secretary, you know, come 21 this morning, I was very grateful for. And those -- 22 those -- any ask that, you know, I've made of them, 23 they've been gracious and helped with it. 24 So I just want to say thanks for that. 25 And I think it's a -- I think -- I don't want to</p>

282	<p>1 speak for the Executive Committee. But it feels 2 like we have really great momentum moving forward 3 and in this really collaborative -- a really 4 collaborative time and to doing things that's best 5 for our charter schools, our Charter School Division 6 staff, and our students of charter schools. 7 So that's all I have. 8 Okay. We're going to go -- we're doing 9 one more PEC comment, Commissioner Voigt, and finish 10 this off. 11 COMMISSIONER VOIGT: Thanks. Because 12 Commissioner Carrillo reminded me when he mentioned 13 Floyd Trujillo, I don't know if any of you knew 14 Jerald Snider from North Valley Academy. Jerald 15 Snider passed away before January, actually. And he 16 had been a charter school educator for so long. 17 He was at Walatowa, I believe, Charter 18 School -- either that or Jemez Valley. He was at 19 North Valley Academy. And he -- before that, he was 20 with APS for many years as a teacher and coach. 21 And I had found out late that he had 22 passed away. But I just wanted to publicly 23 recognize the work and the service that he did with 24 youth and with charter schools especially. 25 Thanks.</p>	284	<p>1 COMMISSIONER ARMIJO: Commissioner Voigt. 2 COMMISSIONER VOIGT: Yes. 3 COMMISSIONER ARMIJO: That passes, eight 4 to zero. 5 THE CHAIR: All right. Thank you, 6 everyone. We will see you on March 2nd. 7 (Proceedings concluded at 3:47 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
283	<p>1 THE CHAIR: Thank you, Commissioner Voigt. 2 And that'll take us to Item No. 16, which I move to 3 adjourn. 4 COMMISSIONER GIPSON: Second. 5 THE CHAIR: There is a motion by Chair 6 Burt and a second by Commissioner Gipson. 7 If we could do roll-call vote, 8 Commissioner Armijo. 9 COMMISSIONER ARMIJO: Yes. 10 So we will start with Commissioner Armijo 11 votes "yes." 12 Chair Voigt -- excuse me -- Chair Burt. 13 THE CHAIR: Yes. 14 COMMISSIONER ARMIJO: Commissioner 15 Carrillo. 16 COMMISSIONER CARRILLO: Yes. 17 COMMISSIONER ARMIJO: Commissioner Chavez. 18 COMMISSIONER CHAVEZ: Yes. 19 COMMISSIONER ARMIJO: Commissioner Gipson. 20 COMMISSIONER GIPSON: Yes. 21 COMMISSIONER ARMIJO: Commissioner Manis. 22 COMMISSIONER MANIS: Yes. 23 COMMISSIONER ARMIJO: Commissioner 24 Robbins. 25 COMMISSIONER ROBBINS: Yes.</p>	285	<p>1 BEFORE THE PUBLIC EDUCATION COMMISSION 2 STATE OF NEW MEXICO 3 4 5 REPORTER'S CERTIFICATE 6 I, Cynthia C. Chapman, RMR, CCR #219, Certified 7 Court Reporter in the State of New Mexico, do hereby 8 certify that the foregoing pages constitute a true 9 transcript of proceedings had before the said NEW 10 MEXICO PUBLIC EDUCATION COMMISSION, held in the State 11 of New Mexico, County of Santa Fe and virtually, in 12 the matter therein stated. 13 In testimony whereof, I have hereunto set my 14 hand on March 2, 2022. 15 16 17 18 19 20 21 22 23 24 25 Cynthia C. Chapman, RMR-CRR, NM CCR #219 BEAN & ASSOCIATES, INC. 201 Third Street, NW, Suite 1630 Albuquerque, New Mexico 87102 License Expires: December 31, 2022 Job No.: 6267N</p>

1 BEFORE THE PUBLIC EDUCATION COMMISSION

2 STATE OF NEW MEXICO

3
4
5 REPORTER'S CERTIFICATE

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

13 In testimony whereof, I have hereunto set my
14 hand on March 2, 2022.

15
16 *Cynthia Chapman*

17 Cynthia C. Chapman, RMR-CRR, NM CCR #219
18 BEAN & ASSOCIATES, INC.
19 201 Third Street, NW, Suite 1630
20 Albuquerque, New Mexico 87102
21 License Expires: December 31, 2022

22
23
24
25 Job No.: 6267N

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

BEAN
ASSOCIATES, Inc.
PROFESSIONAL COURT
REPORTING SERVICE

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